

## Wisconsin Constitution

**The state does not have the statewide initiative process and so therefore the following provisions discuss the procedures used by the state legislature to place constitutional amendments on the ballot.**

### **Article XII, §1 Constitutional Amendments.**

Any amendment or amendments to this constitution may be proposed in either house of the legislature, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published for three months previous to the time of holding such election; and if, in the legislature so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people in such manner and at such time as the legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments by a majority of the electors voting thereon, such amendment or amendments shall become part of the constitution; provided, that if more than one amendment be submitted, they shall be submitted in such manner that the people may vote for or against such amendments separately.

### **Article XII, §1 - ANNOT.**

It is within the discretion of the legislature to submit several distinct propositions to the electorate as one constitutional amendment if they relate to the same subject matter and are designed to accomplish one general purpose. *Milwaukee Alliance v. Elections Board*, 106 Wis. 2d 593, 317 N.W.2d 420 (1982).

### **Article XII, §1 - ANNOT.**

The several propositions contained in the amendment to sec. 7, art. VIII, are dependent upon or connected with each other and are all related to the single subject of authorizing limited state debt. Under such circumstances the several propositions were properly submitted to the people as a single amendment. 58 Atty. Gen. 194.

### **Article XII, §1 - ANNOT.**

1971 Enrolled Joint Resolution 26 includes 2 propositions that may be submitted to the electors as one amendment to the Wisconsin Constitution. 63 Atty. Gen. 28.

### **Article XII, §1 - ANNOT.**

The taking of yea and nay votes and the entry on the journals of the senate and assembly can be complied with by recording the total aye vote together with a listing of the names of those legislators who voted no, were absent or not voting or were paired on the question. Art. V, sec. 10; Art. VIII, sec. 8; Art. XII, sec. 1 discussed. 63 Atty. Gen. 346.

**Article XII, §1 - ANNOT.**

The legislature must resubmit a proposed amendment to the people where previous referendum was voided by court order, notwithstanding an appeal there from. 65 Atty. Gen. 42.

**Article XII, §2 Constitutional conventions.**

If at any time a majority of the senate and assembly shall deem it necessary to call a convention to revise or change this constitution, they shall recommend to the electors to vote for or against a convention at the next election for members of the legislature. And if it shall appear that a majority of the electors voting thereon have voted for a convention, the legislature shall, at its next session, provide for calling such convention.

<b>Wisconsin Statutes</b>
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**9.20**

**Direct legislation.**

(1) A number of electors equal to at least 15% of the votes cast for governor at the last general election in their city or village may sign and file a petition with the city or village clerk requesting that an attached proposed ordinance or resolution, without alteration, either be adopted by the common council or village board or be referred to a vote of the electors. The individual filing the petition on behalf of the electors shall designate in writing an individual to be notified of any insufficiency or improper form under sub. (3).

(2) The preparation and form of the direct legislation petition shall be governed by s. 8.40.

(2m) After the petition has been offered for filing, no name may be erased or removed. No signature may be considered valid or counted unless the date is less than 60 days before the date offered for filing.

(3) Within 15 days after the petition is filed, the clerk shall determine by careful examination whether the petition is sufficient and whether the proposed ordinance or resolution is in proper form. The clerk shall state his or her findings in a signed and dated certificate attached to the petition. If the petition is found to be insufficient or the proposed ordinance or resolution is not in proper form, the certificate shall give the particulars, stating the insufficiency or improper form. The petition may be amended to correct any insufficiency or the proposed ordinance or resolution may be put in proper form within 10 days following the affixing of the original certificate and notification of the individual designated under sub. (1). When the original or amended petition is found to be sufficient and the original or amended ordinance or resolution is in proper form, the clerk shall so state on the attached certificate and forward it to the common council or village board immediately.

(4) The common council or village board shall, without alteration, either pass the ordinance or resolution within 30 days following the date of the clerk's final certificate, or submit it to the electors at the next spring or

general election, if the election is more than 6 weeks after the date of the council's or board's action on the petition or the expiration of the 30-day period, whichever first occurs. If there are 6 weeks or less before the election, the ordinance or resolution shall be voted on at the next election thereafter. The council or board by a three-fourths vote of the members-elect may order a special election for the purpose of voting on the ordinance or resolution at any time prior to the next election, but not more than one special election for direct legislation may be ordered in any 6-month period.

(5) The clerk shall cause notice of the ordinance or resolution that is being submitted to a vote to be given as provided in s. 10.06 (3) (f).

(6) The ordinance or resolution need not be printed in its entirety on the ballot, but a concise statement of its nature shall be printed together with a question permitting the elector to indicate approval or disapproval of its adoption.

(7) If a majority vote in favor of adoption, the proposed ordinance or resolution shall take effect upon publication under sub. (5). Publication shall be made within 10 days after the election.

(8) City ordinances or resolutions adopted under this section shall not be subject to the veto power of the mayor and city or village ordinances or resolutions adopted under this section shall not be repealed or amended within 2 years of adoption except by a vote of the electors. The common council or village board may submit a proposition to repeal or amend the ordinance or resolution at any election.

**9.20 - ANNOT.**

This section implements legislative powers reserved by the people. Subject to certain conditions, a common council has no authority to make an initial judgment of the constitutionality or validity of proposed direct legislation. *State ex rel. Althouse v. Madison*, 79 Wis. 2d 97, 255 N.W.2d 449.

**9.20 - ANNOT.**

A proposal that is administrative, rather than legislative in character, is not the proper subject of initiative proceedings. *State ex rel. Becker v. Common Council*, 101 Wis. 2d 680, 305 N.W.2d 178 (Ct. App. 1981).

**9.20 - ANNOT.**

A city clerk has a mandatory duty to forward to the common council a sufficient petition and ordinance in proper form. *State ex rel. North v. Goetz*, 116 Wis. 2d 239, 342 N.W.2d 747 (Ct. App. 1983).

**9.20 - ANNOT.**

The power of initiative does not extend to legislative decisions that have already been made by the legislative body. *Schaefer v. Potosi Village Board*, 177 Wis. 2d 287, 501 N.W.2d 901 (Ct. App. 1993).

**9.20 - ANNOT.**

If statutes establish procedures for the accomplishment of legislation in a certain area, an initiative may not effect legislation that would modify the statutory directives that would bind a municipality if it were legislating in

the same area. Section 62.23 establishes such procedures for zoning; zoning may not be legislated or modified by initiative. An ordinance constituting a pervasive regulation of, or prohibition on, the use of land is zoning. *Heitman v. City of Mauston*, 226 Wis. 2d 542, 595 N.W.2d 450 (Ct. App. 1999).