

HJR 41 -- REFERENDUM ON FEDERAL LAWS

SPONSOR: Pogue

Upon voter approval, this proposed Constitutional amendment allows voters to decide whether a federal law has exceeded the scope of the permissible enumerated powers of the federal government. The mechanism for voting is a referendum conducted in the same manner as submitting a question to the voters either by the General Assembly or by initiative petition.

If a majority of the voters vote in favor of the constitutionality of the federal law, then it shall be enforced by this state and its agencies, courts, and political subdivisions. However, if a majority of the voters vote in opposition to the constitutionality of the federal law, then it shall not be enforced by any agency, court, or political subdivision of this state and no state moneys shall be expended for the enforcement of the federal law. Furthermore, if a federal law is declared unconstitutional by majority vote of a referendum in this state, then the courts of this state shall be stripped of jurisdiction to enforce such a particular federal law with the understanding that the federal courts are not stripped of such jurisdiction by this state and that the courts of this state shall automatically transfer any case involving such federal laws to the federal courts for vindication of any federal rights created under such federal laws. The courts of this state shall hear and apply federal laws vindicating federal constitutional rights and shall also hear and interpret all claims arising directly under the Constitution of the United States. Also, if a majority votes in opposition to a federal law, then the courts of this state shall lack jurisdiction to enforce any substantially similar state law or law of another state and shall decline to enforce any such law. The question of substantial similarity is delegated to the judiciary for judicial review.

The General Assembly or the people via the referendum process authorized under this section may submit multiple requests on the same federal law and the last in time vote shall prevail or, if conflicting referenda are presented at the same election and each achieves a majority vote, then the referendum having the highest vote total shall prevail.

This bill is the same as HJR 62 (2016).