

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

DEPARTMENT OF STATE

PART XVI. LEGISLATIVELY ORDERED MATERIAL

[4 PA. CODE CH. 801]

Procedures for Receiving, Processing and Advertising Non-emergency Proposed Constitutional Amendments

Under section 801(b)(4) of The Administrative Code of 1929 (71 P.S. § 201(b)(4)), the Department of State established Procedures for Receiving, Processing and Advertising Non-emergency Proposed Constitutional Amendments, effective August 29, 2022. This document, set forth in Annex A as Appendix I, is published under 45 Pa.C.S. § 702(7) (relating to contents of *Pennsylvania Code*) as a document general and permanent in nature which shall be codified in the *Pennsylvania Code*.

VINCENT C. DeLIBERATO, Jr.,
Director
Legislative Reference Bureau

Annex A

TITLE 4. ADMINISTRATION

PART XVI. LEGISLATIVELY ORDERED MATERIAL

Subpart A. DEPARTMENT OF STATE

CHAPTER 801. LEGISLATIVELY ORDERED MATERIAL RELATING TO PROPOSED CONSTITUTIONAL AMENDMENTS

APPENDIX I. Procedures for Receiving, Processing and Advertising Non-emergency Proposed Constitutional Amendments.

*(Editor's Note: Under section 801(b)(4) of The Administrative Code of 1929 (71 P.S. § 201(b)(4)), the Department of State established Procedures for Receiving, Processing and Advertising Non-emergency Proposed Constitutional Amendments as set forth in Appendix I. This document is published under 45 Pa.C.S. § 702(7) (relating to contents of *Pennsylvania Code*) as a document general and permanent in nature which shall be codified in the *Pennsylvania Code*.)*

Introduction

Article XI, § 1 of the Pennsylvania Constitution (Article XI) requires the Secretary of the Commonwealth to publish proposed amendments to the Pennsylvania Constitution. Article XI states that if an amendment is agreed to by the majority of the members of both the Senate and House of Representatives, the Secretary of the Commonwealth shall cause the proposed amendment to be published three months before the next general election (November election in an even numbered year), in at least two newspapers in every county in which such newspapers shall be published; and if, in the General Assembly next afterwards chosen, such proposed amendment or amendments shall be agreed to by a majority of the members elected to each House, the Secretary of the Commonwealth shall cause the same again to be published in the same manner and the proposed amendment will be submitted to the voters as prescribed by the General Assembly.

Article XI imposes a mandatory duty on the Secretary of the Commonwealth to advertise amendments proposed by the General Assembly. Failure to advertise in strict compliance with Article XI is fatal to the amendment process.

Supplemental to the requirements enumerated in Article XI, the Pennsylvania Election Code and Administrative Code of 1929 (as amended) impose statutory obligations upon the Secretary related to the constitutional amendment process.

Thus, the primary responsibilities of the Department of State in the constitutional amendment process are:

- 1) Advertise the proposed amendments in newspapers after each passage;
- 2) Draft the ballot question to be put forth to the voters on second passage; and
- 3) Administer election on the ballot question and certify results.

Purpose and Objectives

Department of State (DOS) staff must initiate, coordinate, monitor, and verify publication of constitutional amendments to ensure timely and proper advertisement of constitutional amendments in accordance with the requirements of Article XI. This document outlines the process that DOS will use to effectuate its duties under Article XI, the Administrative Code and the Election Code pertaining to constitutional amendments.

Background

Amendments to the Pennsylvania Constitution may be proposed in either the Senate or the House of Representatives but must pass in both by a majority vote of the members elected. Pursuant to Article XI of the Pennsylvania Constitution, a proposed constitutional amendment must be passed in identical form in two consecutive sessions of the General Assembly before the amendment can be submitted to the voters for approval.

First Passage

After the first passage of a proposed constitutional amendment, the Secretary of the Commonwealth is required to have the proposed amendment published once in each of the three months (August, September and October) prior to a November general election (even numbered years) in at least two newspapers in every county. The advertisements do not need to be published on the same date, but each advertisement should be published on or before the day of the month on which the November election will occur. For example, if the November election is on November 7th, the advertisements should be published on or before August 7th, September 7th, and October 7th.

Second Passage

The next succeeding session, the General Assembly may at any time pass a joint resolution proposing the identical constitutional amendment. The General Assembly shall direct the Secretary of the Commonwealth at what election to present the proposed amendment to the voters in the form of a ballot question, so long as the primary or election in which voters will vote on the ballot question is at least three months after second passage. After second passage, the proposed amendment, ballot question, and plain language statement must be advertised once in each of the three months prior to the election at which the

amendment is to be voted for, which could be either a municipal (odd numbered years) or general (even numbered years) or primary election. The amendment is voted on by the entire electorate. If passed by a majority vote, the amendment becomes part of the Pennsylvania Constitution. The advertisements do not need to be published on the same date, but each advertisement should be published on or before the day of the month on which the primary or election will occur. For example, if the question is to be presented to the voters at a May 17th Primary, the advertisements should be published on or before February 17th, March 17th, and April 17th.

Pre- and Post-Advertisement Notification to the General Assembly and Legislative Reference Bureau

Under Section 801 of the Administrative Code of 1929 (as amended), 71 P.S. § 271, the Secretary of the Commonwealth must provide written notice to the following individuals of the date that the advertisements required under Article XI are scheduled to be completed for a proposed amendment:

- 1) Every member of the General Assembly;
- 2) The Secretary of the Senate;
- 3) The Chief Clerk of the House of Representatives;
- 4) The Parliamentarian of the House of Representatives; and
- 5) The Legislative Reference Bureau.

The written notice must be given no later than 14 days before the date on which publication is scheduled to begin, or as soon as practicable.

Likewise, after the publication process is complete, the Secretary of the Commonwealth must certify to the above referenced officials that the requirements of Article XI have been completed. The Secretary is required to certify no later than 14 days after the last advertisement occurs.

Ballot Question and Plain Language Statement

Under Section 201.1 of the Election Code, when a proposed constitutional amendment is submitted to the voters in referendum, the Attorney General is required to prepare a statement “in plain English” that indicates “the purpose, limitations and effects of the ballot question on the people of the Commonwealth.” See 25 P.S. § 2621.1. The Secretary of the Commonwealth drafts the ballot question itself with approval by the Attorney General. See 25 P.S. § 2755. The Secretary then includes the ballot question and the plain language statement in the constitutional amendment advertisement. See 25 P.S. § 2621.1. The ballot question and the plain language statement is sent to each of the county boards of elections as part of the notice of elections published not earlier than ten (10) days nor later than three (3) days before the primary or election. See 25 P.S. §§ 2621.1, 3041. The county boards of elections are also required to post copies of the ballot question and plain English statement at the polling places and in specimen ballots. See 25 P.S. § 2621.1.

Emergency Amendments under Article XI, § 1(a)-(b)

Article XI also delineates a truncated process for amendment “in the event a major emergency threatens or is about to threaten the Commonwealth and if the safety or welfare of the Commonwealth requires prompt amendment” to the Pennsylvania Constitution.

An emergency amendment subject to the process set forth in Article XI, § 1(a)(b) only needs to be considered and passed once by the General Assembly, as opposed to the two consecutive session passages required for non emergency amendments.

Amendments under subsections a and b of Article XI may be proposed in either a regular or special legislative session, but they must be agreed upon by two thirds of the members of each the Senate and House of Representatives.

Once the General Assembly passes the proposed amendment, DOS must promptly advertise the proposed amendment in two newspapers of general circulation in every county.

The proposed amendment can be put to the voters at any time at least one month after it is passed by the General Assembly.

Process terminology and references

<i>Term Reference</i>	
DOS	Department of State
SOC	Secretary of the Commonwealth
DDS	Designated Deputy Secretary
DSEC	Deputy Secretary for Elections & Commissions
OCP	DOS Office of Communications and Press
OCC	DOS Office of Chief Counsel
BE	DOS Bureau of Elections
BCNL	DOS Bureau of Commissions, Notaries and Legislation
OLA	DOS Office of Legislative Affairs
Advertising Materials	1) Preamble 2) Text of Joint Resolution 3) Ballot question (only applicable on second passage) 4) Plain language statement
XO	DOS Executive Office
EOA	Executive Office Assistant (Assistant to the SOC)
OGC	Governor’s Office of General Counsel
GO	Office of the Governor
OAG	Office of Attorney General
OP	Office of Policy

Department of State Employees Covered by this Procedure

Designated Deputy Secretary (DDS)

Pursuant to Section 801 of the Administrative Code of 1929 (as amended), 71 P.S. § 271, the Secretary of the Commonwealth must designate a deputy secretary to oversee implementation and training on the procedure for advertising constitutional amendments. The Secretary shall so designate the pertinent deputy in writing, and a copy of the designation can be obtained by contacting the Executive Office Assistant or referring to the Executive Office SharePoint folder entitled “Joint Resolutions.”

The Secretary should update this designation at the following occurrences and intervals:

- When a new Secretary is appointed,
- Upon departure of a deputy who has been designated responsibility under this policy, and
- As otherwise necessary to reflect a change in designation.

Other Owners and Stakeholders

The following owners (white boxes) and stakeholders (shaded boxes) share responsibility for the publication of the process. Unless otherwise noted the documents should be shared with the head of the bureau.



Process

The Office of Legislative Affairs tracks and monitors all legislation impacting DOS, including legislation proposing amendments to the Pennsylvania Constitution. A proposed constitutional amendment, when agreed upon by the Senate and the House of Representatives, is filed with DOS in the form of a Joint Resolution.

The outline, below, sets forth the tasks and parties responsible for completing each. Each action item has been assigned an owner who is accountable to the team for ensuring completion of the action item. The owner is responsible for working with and/or obtaining the approval of those identified to be consulted for each action item. Where the identified “Owner” of each action item is an office, bureau or program area, the accountable individual is the manager responsible for oversight of that office, bureau, or program area, unless said manager has designated another employee from within that office, bureau, or program area to serve as proxy in an email to the DDS.

Pre-passage tasks

Tracking proposed legislation

The Department’s Office of Legislative Affairs (OLA), is responsible for tracking legislation proposing one or more constitutional amendments during the time the legislation is under consideration by the General Assembly.

OLA notifies the XO by email (SOC, DDS, OCC, and DSEC) when a Joint Resolution crosses from one chamber to another, passes both chambers, and is signed by both chambers in the General Assembly.

In addition to OLA, the Designated Deputy Secretary will assign others to monitor joint resolutions introduced in the General Assembly through Pennsylvania Legislative Services.

Maintaining contact lists

The following contact lists are utilized to notify parties in this process. They should be reviewed for accuracy and updated bi-annually, and if possible, upon information regarding separation/hiring:

- BCNL Legislative contact list
- Internal Constitutional Amendment contact list

Post-passage process

<i>ACTION</i>		<i>OWNER</i>	<i>CONSULTED</i>
1.	The General Assembly delivers the signed joint resolution to BCNL, and BCNL immediately assigns the Joint Resolution # and date stamps original document.	BNCL	
2.	BCNL emails legislative contacts to provide assignment of joint resolution number.	BNCL	
3.	BCNL logs the joint resolution in the legislative log, prepares and retains a certified copy, routes original copy of the joint resolution to Executive Office (SOC, DDS, and DSEC) via the Executive Office Assistant (EOA).	BNCL	

STATEMENTS OF POLICY

6707

<i>ACTION</i>		<i>OWNER</i>	<i>CONSULTED</i>
4.	The EOA logs receipt of the joint resolution electronically, scans the joint resolution, uploads it to the internal tracking system for joint resolutions passed by the General Assembly.	EOA	
5.	The EOA transmits (via email) the Assignment of Joint Resolution Message to all internal contacts.	EOA	
6.	The EOA provides the original joint resolution to the DDS who acknowledges receipt of the joint resolution and returns it to the EOA. The EOA retains the original joint resolution.	DDS, EOA	
7.	No later than 10 days of receipt of the joint resolution, or sooner depending on the circumstances, DDS initiates a kickoff meeting for internal staff (OLA, BE, BNCL, OCC, BFO, DSEC, OP, OCP, and SOC) to discuss a timeline (including both internal and external deadlines) and requirements of advertising the proposed constitutional amendment. After the meeting, DDS works with the EOA to update the internal tracker with pertinent internal deadlines.	DDS	
8.	Promptly after the kickoff meeting, OCP submits the required form to Commonwealth Media Services (CMS). CMS notifies the department's contracted advertising vendor to schedule meeting between all parties and the DOS team (OCP, BFO, DDS, OCC, and DSEC) to discuss requirements and deadlines for advertising the proposed constitutional amendment. The vendor will provide a proposed schedule for advertising. Subsequently, the vendor will provide a list of publications and a quote for advertising services based on information provided during the meeting. CMS will provide, in writing, an approval for BFO to proceed with executing a purchase order to advertising vendor.	OCP	BFO, OCP, BE, OCC
9.	BE reviews and approve list of proposed newspapers.	BE	OCC, DSEC, DDS, and SOC
10.	BFO obtains a quote from the vendor and reviews it to ensure that DOS has funding in its current budget available for advertisement. If funding is unavailable, BFO sends a letter for Executive Authorization to the Governor's Budget Office (GBO) to request additional funds to advertise.	BFO	
11.	DSEC drafts advertisement preamble and submits to OCC for review.	DSEC	OCC
12.	DSEC obtains signoff from DDS and SOC.	DSEC	DDS and SOC
13.	DSEC forwards the approved preamble with text of proposed amendments to BFO.	DSEC	
STEPS 14 THROUGH 16: SECOND PASSAGE ONLY			
14.	DDS drafts the question to be presented to voters on the balloting materials at the next election.	DDS	BE, OCC, DSEC, SOC, GO, and OGC
15.	DDS obtains the necessary internal approvals of the question from DOS Executive Office, Governor's Office, and OGC.	DDS	OCC
16.	OCC submits ballot question to OAG for approval and requests the plain language statement from OAG that will accompany the proposed constitutional amendment. Upon approval of the ballot question and receipt of the plain language statement, OCC forwards final documents to BFO.	OCC	
<i>ACTION</i>		<i>OWNER</i>	<i>CONSULTED</i>
17.	BFO provides final copies of all documents received from DSEC and/or OCC to established Commonwealth vendors for Spanish and traditional Chinese translation (as currently required for certain counties under Section 203 of the VRA). Translated materials are also professionally verified and also reviewed by community verifiers in consultation with Community Engagement (where time permits). Changes recommended by community verifiers should be vetted with professional translators.	BFO	Community Engagement, OCC

ACTION		OWNER	CONSULTED
18.	Once translated documents are finalized, BFO transmits the following Advertising Materials to the contracted advertising vendor and requests draft ad copy for publication: <ul style="list-style-type: none"> • Preamble; • Text of the Joint Resolution; • Text of the approved Ballot Question (2nd passage only); • Text of the approved Plain Language Statement (2nd passage only); • Text of <i>Paid for with PA Taxpayer Dollars</i> disclaimer; and • Translations of the Advertising Materials. 	BFO	BE
19.	BFO receives ad copy templates (English, Spanish, and Chinese) from the advertising vendor and obtains review and approval of the templates from internal team.	BFO	OCC, DSEC, OCP
20.	BFO communicates approval of the ad copy templates and then receives sized ad copy for each publication from the advertising vendor.	BFO	
21.	DSEC coordinates review teams to review and approve sized ad copy for each publication as provided by the advertising vendor.	DSEC	OCC, BE, OCP
22.	No later than 14 days prior to the date of publication, OLA transmits notice from SOS to all of the following of the dates on which publication in newspapers will be completed: <ol style="list-style-type: none"> (1) each member of the PA Senate; (2) each member of the PA House; (3) the Secretary of the Senate; (4) the Chief Clerk of the House of Representatives; and (5) the Parliamentarian of the House of Representatives. 	OLA	OCC, SOC, DDS, DSEC
23.	No later than 14 days prior to the date of publication, OCC notifies the Legislative Reference Bureau of the dates on which publication in newspapers will be completed.	OCC	OLA, SOC, DDS, DSEC
24.	OCP posts electronic copies of English, Spanish, and Chinese ad copy on DOS website.	OCP	BE
25.	BFO tracks progress of advertisements and collects and stores 1) proofs of publication and 2) tear sheets as they are received by the advertising vendor.	BFO	BE, OCC
26.	Advertising Materials published for first time in approved newspapers	DOS	
27.	Advertising Materials published for second time in approved newspapers	DOS	
28.	Advertising Materials published for third time in approved newspapers.	DOS	
29.	BFO promptly notifies OCC, BEN, OLA, DSEC, DDS, and SOC if any newspaper failed to properly publish the advertisement. In the event of such a failure, obtain form affidavits (see Appendices) from both the newspaper and the advertising vendor documenting that DOS provided the advertisement in ample time.	BFO	OCC, OLA, DSEC, DDS, SOC
30.	BFO obtains invoice for payment of advertising services submitted by vendor after each round of publication and processes payment.	BFO	DDS, SOC
31.	Within 7–10 days of each publication, BFO obtains list from advertising vendor confirming actual dates of publication.	BFO	OCC
32.	No later than 14 days after the last advertisement, SOC via OLA certifies to all of the following of the dates on which publication in newspapers was completed: <ol style="list-style-type: none"> (1) each member of the PA Senate; (2) each member of the PA House; (3) the Secretary of the Senate; (4) the Chief Clerk of the House of Representatives; and (5) the Parliamentarian of the House of Representatives. 	OLA	OCC, SOC, DDS, DSEC
33.	No later than 14 days after the last advertisement, SOC via OCC certifies to the Legislative Reference Bureau of the dates on which publication in newspapers was completed.	OCC	OLA, SOC, DDS, DSEC

STEPS 34 THROUGH 39: SECOND PASSAGE ONLY			
34.	If second passage, BE includes in the ballot certification to the county boards of elections in the form of the ballot question and the Plain Language Statement in accordance with timing requirements for ballot certification under state and federal law.	BE	OCC
35.	BE compiles and prepares the election returns pertaining to the proposed constitutional amendment for certification by the SOC.	BE	OCC, SOC
36.	The SOC certifies the results of the election on the proposed constitutional amendment.	SOC	BE
37.	OCC prepares a proclamation for the Governor's signature indicating whether or not the proposed amendment has been adopted by the voters. (See Appendix E)	OCC	EOA, BE
38.	The SOC delivers the certified results for the proposed constitutional amendment to the Governor and obtains the Governor's signature on the proclamation.	SOC	OCC
39.	OCC delivers the original proclamation to the Legislative Reference Bureau (LRB) for publication in the next volume of the Laws of Pennsylvania (i.e., Pamphlet Laws) and the <i>PA Bulletin</i> . OCC returns a time stamped copy of the proclamation to DOS for the agency's files. OCC follows hard copy delivery with an email notification to the LRB's Code & Bulletin Office and the LRB's Editing and Publishing Office, including the Word version of the proclamation with the email.	OCC	BCNL
40.	DDS retains all records related to the publication of the Constitutional Amendment in accordance with the records retention schedule.	DDS	EOA, OCC, BFO

Training and Questions Regarding this Procedure

The DDS must ensure that all owners and their designated staff members are trained at the time of onboarding and at least once annually thereafter on these procedures.

At the completion of training, all staff members will understand:

- How to identify a joint resolution
- How to track the progress of a proposed joint resolution
- How to assign a joint resolution number
- Who is responsible and accountable for each task
- How to track the joint resolution through completion of every task

Specific staff members with specialized tasks will also receive training relating to:

- How to track proposed legislation
- How to assign a joint resolution number and route it to the Executive Office and DDS publication and financing for a joint resolution
 - Publication requirements
 - Process for selecting newspapers for publication
 - Rules regarding language access
- The process for certifying a proposed constitutional amendment
- The process for certifying the results of the election on a proposed constitutional
- Reviewing ad copy

Employees who have questions related to this process and these procedures should address them to the Designated Deputy Secretary (DDS).

Appendices

- A. Sample Constitutional Amendment Advertisement (First Passage)
- B. Sample Constitutional Amendment Advertisement (Second Passage)
- C. Form Affidavit for Completion by Newspaper for Missed Publication

- D. Form Affidavit for Completion by Advertising Vendor for Missed Publication
 E. Sample Proclamation of the Governor

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Version History:

<i>Version</i>	<i>Date</i>	<i>Description</i>
1.0	April 2021	Initial document release
1.1	July 2021	Minor revisions
2.0	August 2022	Act 86 of 2022 update

Appendix A. Sample Constitutional Amendment Advertisement (First Passage)

• PUBLIC NOTICE •

PROPOSED AMENDMENT TO THE CONSTITUTION OF PENNSYLVANIA

The following is a true and correct copy of a joint resolution of the General Assembly regarding an amendment to the Constitution of Pennsylvania that was proposed in the General Assembly during the 2018 session. The proposed amendment was agreed to by a majority of the members elected to the Senate and the House of Representatives. Pursuant to Article XI, Section 1 of the Constitution, the Secretary of the Commonwealth has caused the proposed amendment to be published here. If this proposed amendment is agreed to by a majority of the Senators and Representatives elected to the General Assembly at the upcoming November 6, 2018 General Election, the proposed amendment so approved will be published again and then submitted to the voters of Pennsylvania for approval. If approved by a majority of the voters voting on it, the corresponding amendment becomes part of the Constitution. If the proposed amendment is approved, the words UNDERLINED in the joint resolution will be added to the Constitution.

Anyone who needs help reading this advertisement or needs the text of the proposed amendment in an alternative format may call or write the Pennsylvania Department of State, Bureau of Commissions, Elections and Legislation, Room 210 North Office Building, Harrisburg, PA 17120, 1-877-868-3772, ra-BCEL@pa.gov.

Robert Torres, Acting Secretary of the Commonwealth

Joint Resolution 2018-1

Proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, providing for rights of victims of crime.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following amendment to the Constitution of Pennsylvania is proposed in accordance with Article XI:

That Article I be amended by adding a section to read:

§ 9.1. Rights of victims of crime.

(a) To secure for victims justice and due process throughout the criminal and juvenile justice systems, a victim shall have the following rights, as further provided and as defined by the General Assembly, which shall be protected in a manner no less vigorous than the rights afforded to the accused: to be treated with fairness and respect for the victim's safety, dignity and privacy; to have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the accused; to reasonable and timely notice of and to be present at all public proceedings involving the criminal or delinquent conduct; to be notified of any pretrial disposition of the case; with the exception of grand jury proceedings, to be heard in any proceeding where a right of the victim is implicated, including, but not limited to, release, plea, sentencing, disposition, parole and pardon; to be notified of all parole procedures, to participate in the parole process, to provide information to be considered before the parole of the offender, and to be notified of the parole of the offender; to reasonable protection from the accused or any person acting on behalf of the accused; to reasonable notice of any release or escape of the accused; to refuse an interview, deposition or other discovery request made by the accused or any person acting on behalf of the accused; full and timely restitution from the person or entity convicted for the unlawful conduct; full and timely restitution as determined by the court in a juvenile delinquency proceeding; to the prompt return of property when no longer needed as evidence; to proceedings free from unreasonable delay and a prompt and final conclusion of the case and any related postconviction proceedings; to confer with the attorney for the government; and to be informed of all rights enumerated in this section.

(b) The victim or the attorney for the government upon request of the victim may assert in any trial or appellate court, or before any other authority, with jurisdiction over the case, and have enforced, the rights enumerated in this section and any other right afforded to the victim by law. This section does not grant the victim party status or create any cause of action for compensation or damages against the Commonwealth or any political subdivision, nor any officer, employee or agent of the Commonwealth or any political subdivision, or any officer or employee of the court.

(c) As used in this section and as further defined by the General Assembly, the term "victim" includes any person against whom the criminal offense or delinquent act is committed or who is directly harmed by the

commission of the offense or act. The term “victim” does not include the accused or a person whom the court finds would not act in the best interests of a deceased, incompetent, minor or incapacitated victim.

Section 2. (a) Upon the first passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment.

(b) Upon the second passage by the General Assembly of this proposed constitutional amendment, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of this proposed constitutional amendment. The Secretary of the Commonwealth shall submit this proposed constitutional amendment to the qualified electors of this Commonwealth at the first primary, general or municipal election which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendment is passed by the General Assembly.

PAID FOR WITH PENNSYLVANIA TAXPAYER DOLLARS. THIS ADVERTISEMENT IS FUNDED IN WHOLE BY THE GENERAL FUND.

Appendix B. Sample Constitutional Amendment Advertisement(Second Passage)

• PUBLIC NOTICE •

PROPOSED AMENDMENTS TO THE CONSTITUTION OF PENNSYLVANIA

This notice contains information about questions that will be on the ballot in the Municipal Primary to be held on May 18, 2021.

The ballot questions propose three separate amendments to the Constitution of Pennsylvania, based on a joint resolution of the General Assembly of Pennsylvania.

If one or more of the ballot questions is approved by a majority of the people voting on it, each amendment approved will become law.

The General Assembly of Pennsylvania first proposed the amendments during the 2020 session and approved them for a second time during the 2021 session of the legislature, as required by Article XI, Section 1 of the Constitution.

This public notice is part of the process of amending the Constitution of Pennsylvania. The Secretary of the Commonwealth is required to publish:

- A copy of the joint resolution proposing the amendments.
- The text of each question that will be on the ballot.
- A “Plain English Statement” prepared by the Office of Attorney General explaining the purpose, limitations and effects of each ballot question upon the people of this Commonwealth.

Text that appears in **bold print** are the changes to the words of the Constitution that are proposed by the General Assembly. If the amendment is approved, the words **underlined** would be added to the Constitution and the words in **[brackets]** would be deleted.

If you need help reading this advertisement or need the text of the proposed amendment in an alternative format, call or write the Pennsylvania Department of State, Bureau of Election Services and Notaries, Room 210 North Office Building, Harrisburg, PA 17120, 1-877-868-3772 (option 3), ra-elections@pa.gov.

Veronica Degraffenreid
Acting Secretary of the Commonwealth

JOINT RESOLUTION NO. 2021-1

Proposing separate and distinct amendments to the Constitution of Pennsylvania, in declaration of rights, providing for prohibition against denial or abridgment of equality of rights because of race and ethnicity; in legislation, further providing for action on concurrent orders and resolutions; and, in the executive, providing for disaster emergency declaration and management.

The General Assembly of the Commonwealth of Pennsylvania hereby resolves as follows:

Section 1. The following separate and distinct amendments to the Constitution of Pennsylvania are proposed in accordance with Article XI:

(1) That Article I of the Constitution of Pennsylvania be amended by adding a section to read:

§ 29. Prohibition against denial or abridgment of equality of rights because of race and ethnicity.

Equality of rights under the law shall not be denied or abridged in the Commonwealth of Pennsylvania because of the race or ethnicity of the individual.

(1.1) That section 9 of Article III be amended to read:

§ 9. Action on concurrent orders and resolutions.

Every order, resolution or vote, to which the concurrence of both Houses may be necessary, except on the **[question of adjournment]** **questions of adjournment or termination or extension of a disaster emergency declaration as declared by an executive order or proclamation, or portion of a disaster emergency declaration as declared**

by an executive order or proclamation, shall be presented to the Governor and before it shall take effect be approved by him, or being disapproved, shall be repassed by two-thirds of both Houses according to the rules and limitations prescribed in case of a bill.

(2) That Article IV be amended by adding a section to read:

§ 20. Disaster emergency declaration and management.

(a) A disaster emergency declaration may be declared by executive order or proclamation of the Governor upon finding that a disaster has occurred or that the occurrence or threat of a disaster is imminent that threatens the health, safety or welfare of this Commonwealth.

(b) Each disaster emergency declaration issued by the Governor under subsection (a) shall indicate the nature, each area threatened and the conditions of the disaster, including whether the disaster is a natural disaster, military emergency, public health emergency, technological disaster or other general emergency, as defined by statute. The General Assembly shall, by statute, provide for the manner in which each type of disaster enumerated under this subsection shall be managed.

(c) A disaster emergency declaration under subsection (a) shall be in effect for no more than twenty-one (21) days, unless otherwise extended in whole or part by concurrent resolution of the General Assembly.

(d) Upon the expiration of a disaster emergency declaration under subsection (a), the Governor may not issue a new disaster emergency declaration based upon the same or substantially similar facts and circumstances without the passage of a concurrent resolution of the General Assembly expressly approving the new disaster emergency declaration.

Section 2. (a) Upon the first passage by the General Assembly of these proposed constitutional amendments, the Secretary of the Commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of these proposed constitutional amendments.

(b) Upon the second passage by the General Assembly of these proposed constitutional amendments, the secretary of the commonwealth shall proceed immediately to comply with the advertising requirements of section 1 of Article XI of the Constitution of Pennsylvania and shall transmit the required advertisements to two newspapers in every county in which such newspapers are published in sufficient time after passage of these proposed constitutional amendments. The Secretary of the Commonwealth shall:

(1) Submit the proposed constitutional amendment under section 1(1) of this resolution to the qualified electors of this Commonwealth as a separate ballot question at the first primary, general or municipal election which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendment is passed by the General Assembly.

(1.1) Submit the proposed constitutional amendment under section 1(1.1) of this resolution to the qualified electors of this Commonwealth as a separate ballot question at the first primary, general or municipal election which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendment is passed by the General Assembly.

(2) Submit the proposed constitutional amendment under section 1(2) of this resolution to the qualified electors of this Commonwealth as a separate ballot question at the first primary, general or municipal election which meets the requirements of and is in conformance with section 1 of Article XI of the Constitution of Pennsylvania and which occurs at least three months after the proposed constitutional amendment is passed by the General Assembly.

PROPOSED CONSTITUTIONAL AMENDMENT—ARTICLE III, SECTION 9

RELATING TO TERMINATION OR EXTENSION OF DISASTER EMERGENCY DECLARATIONS

Ballot Question

Shall the Pennsylvania Constitution be amended to change existing law and increase the power of the General Assembly to unilaterally terminate or extend a disaster emergency declaration—and the powers of Commonwealth agencies to address the disaster regardless of its severity pursuant to that declaration—through passing a concurrent resolution by simple majority, thereby removing the existing check and balance of presenting a resolution to the Governor for approval or disapproval?

Plain English Statement of the Office of Attorney General

Joint Resolution No. 2021-1 proposes to amend Article III, Section 9 of the Pennsylvania Constitution to provide a new exception to traditional legislative procedure by allowing the General Assembly to terminate or extend a disaster emergency declaration or a portion of such declaration without needing the Governor's approval.

Currently, Article III, Section 9 establishes a general rule that all orders, resolutions or votes requiring approval by both the House of Representatives and Senate must be presented to the Governor for his approval or veto. Resolutions for the adjournment of the General Assembly are exempted from this process. If the order, resolution or vote is approved by the Governor, it becomes law. If the Governor vetoes the resolution, it does not become law unless two-thirds of the House and Senate vote to override the veto. The proposed amendment would create an additional exception to this customary legislative procedure for concurrent resolutions to terminate or extend, in whole or in part, a disaster emergency declaration issued by the Governor.

The proposed amendment will also have the effect of reversing a recent ruling of the Pennsylvania Supreme Court which held the Pennsylvania Constitution prohibited the General Assembly from passing a concurrent resolution to terminate the Governor's Covid-19 disaster emergency declaration without presenting it to the Governor for his approval. It will change the law to allow the General Assembly to terminate or extend a disaster emergency declaration through a concurrent resolution approved by only a majority of the members of the House and Senate, without having to present the resolution to the Governor for his approval or veto.

The proposed amendment is limited in that it only changes the traditional legislative process for terminating or extending disaster emergency declarations issued by the Governor. The amendment will not alter the current legislative procedure with respect to which orders, resolutions or votes of the General Assembly must be presented to the Governor for his approval on any other subject matter.

PROPOSED CONSTITUTIONAL AMENDMENT—ARTICLE IV
DISASTER EMERGENCY DECLARATION AND MANAGEMENT

Ballot Question

Shall the Pennsylvania Constitution be amended to change existing law so that: a disaster emergency declaration will expire automatically after 21 days, regardless of the severity of the emergency, unless the General Assembly takes action to extend the disaster emergency; the Governor may not declare a new disaster emergency to respond to the dangers facing the Commonwealth unless the General Assembly passes a concurrent resolution; the General Assembly enacts new laws for disaster management?

Plain English Statement of the Office of Attorney General

Joint Resolution No. 2021-1 proposes adding a new section to Article IV of the Pennsylvania Constitution. This amendment incorporates disaster emergency declaration and management powers directly into the Constitution by:

- Granting the Governor authority to declare a disaster emergency declaration by proclamation or executive order;
- Requiring each declaration to indicate the nature, location and type of disaster;
- Granting the General Assembly authority to pass laws providing for the manner in which each disaster shall be managed;
- Limiting the duration of a Governor's declaration to 21 days, unless otherwise extended, in whole or in part, by a concurrent resolution of the General Assembly;
- Preventing the Governor, upon the expiration of a declaration, from issuing a new declaration based upon the same or substantially similar facts, unless the General Assembly passes a concurrent resolution expressly approving a new declaration.

Currently, disaster emergency declaration and management powers are delegated by statute to the Governor. The Governor has the sole authority to issue and manage all disaster emergency declarations, which cannot extend beyond 90 days unless renewed by the Governor. The General Assembly may override a Governor's disaster emergency declaration by concurrent resolution that must be presented to the Governor for his approval or veto.

If approved, the amendment would transfer certain of the Governor's existing authority to respond to and manage disaster emergencies to the General Assembly. The Governor would retain the authority to issue an initial disaster emergency declaration but the declaration's permissible length would be reduced from 90 to 21 days. The sole authority to extend a declaration would lie with the General Assembly; presently, this power rests with the Governor. Upon expiration of the initial declaration, the amendment prohibits the Governor from issuing a new declaration based upon the same or substantially similar facts without the approval of the General Assembly. The Governor would no longer have unilateral authority to manage disasters, but would have to do so consistent with the laws passed by the General Assembly.

If approved, the General Assembly would be required to pass new laws establishing the manner in which each type of disaster shall be managed. If added to the Pennsylvania Constitution, the proposed amendment cannot be modified or repealed except by a judicial decision finding all or part of the proposed amendment unconstitutional or by the approval of a subsequent constitutional amendment.

PROPOSED CONSTITUTIONAL AMENDMENT—ARTICLE I
PROHIBITION AGAINST DENIAL OR ABRIDGEMENT OF EQUALITY OF RIGHTS
BECAUSE OF RACE OR ETHNICITY

Ballot Question

Shall the Pennsylvania Constitution be amended by adding a new section providing that equality of rights under the law shall not be denied or abridged because of an individual's race or ethnicity?

Plain English Statement of the Office of Attorney General

Joint Resolution No. 2021-1, if approved by the electorate, will add a new section to Article I of the Pennsylvania Constitution. This amendment creates a constitutional prohibition against restricting or denying an individual's equal rights under Pennsylvania law because of race or ethnicity.

Generally, inclusion of this amendment within the Pennsylvania Constitution signifies that freedom from discrimination based on race or ethnicity is an essential principle of liberty and free government. This amendment applies to all Pennsylvania state, county and local governmental entities, and guarantees equality of rights under the law. The amendment, if enacted, will become a part of the Pennsylvania Constitution. As such, its provisions must be applied consistent with the other provisions of the Constitution.

This equal right to be free from racial or ethnic discrimination will exist independent from any such rights under the United States Constitution or corresponding federal law. If the current federal protections proscribing racial or ethnic discrimination are abolished, the prohibition against such discrimination will remain in the Pennsylvania Constitution. The amendment is limited in that it creates a right only under Pennsylvania law.

Once added to the Pennsylvania Constitution, the right to be free from racial or ethnic discrimination under the law cannot be eliminated except by a judicial decision finding the amendment unconstitutional or the approval of a subsequent constitutional amendment. If approved, the General Assembly may pass new laws to implement the amendment, but it may not pass a law inconsistent with it.

PAID FOR WITH PENNSYLVANIA TAXPAYER DOLLARS. THIS ADVERTISEMENT IS FUNDED IN WHOLE BY THE GENERAL FUND.

Appendix C. Form Affidavit for Newspaper for Missed Publication

AFFIDAVIT

I, _____ (name), hereby swear or affirm that:

1. I am employed by the Muncy Luminary (Luminary) as _____ (title). As part of my duties, I am responsible and oversee the placement of advertisements, including the advertisements of proposed constitutional amendments submitted by Red House Communications (Red House) and its subcontractor, Mid-Atlantic Newspaper Services, Inc. (MANSI), on behalf of the Pennsylvania Department of State (Department).

2. Red House and/or MANSI provided the final advertising materials (ad copy) for Joint Resolution 2018-1 (relating to the rights of victims of crime) to the Luminary on (date).

3. Red House and/or MANSI informed Luminary personnel of the importance of publishing proposed constitutional amendments according to the schedule required in the state constitution, and stated that for the 2018 advertisements, the advertisements had to be published on or before August 6, 2018.

4. The advertisement was scheduled to run in the Luminary's edition of August 1, 2018. The ad copy was provided to the Luminary with ample time to prepare for publication on that date, but because of _____ (insert reasons here), it did not run in that edition.

5. The advertisement is currently set to be published in the next edition of the Luminary. Because the Luminary is a weekly publication, the next possible date for publication is August 8, 2018.

I further swear or affirm that this statement is true and correct to the best of my knowledge, information, and belief.

Date (NAME)
(JOB TITLE)
Muncy Luminary

Commonwealth of Pennsylvania
County of _____

Signed and sworn to (or affirmed) before me on _____ (date) by _____ (name of Red House employee).

Signature of notarial officer _____ (stamp)

Title of office _____

My commission expires _____

Appendix D. Form Affidavit for Advertising Vendor for Missed Publication

AFFIDAVIT

I, _____ (name), hereby swear or affirm that:

1. I am employed by Red House Communications (Red House) as _____ (title). As part of my duties, I am responsible for and oversee the work of Red House pursuant to its contract with the Pennsylvania Department of State (Department) for the publication of proposed constitutional amendments.

2. Under the contract, Red House is required to initiate, coordinate, and monitor the publication of proposed constitutional amendments. In this work, Red House collaborates with its subcontractor, Mid-Atlantic Newspaper Services, Inc. (MANSI).

3. Red House has held the contract for the publication of proposed constitutional amendments since (date).

4. Red House was informed by Department personnel of the passage of Joint Resolution 2018-1 (relating to the rights of victims of crime) on _____ (date). Department personnel provided Red House with the final text of the advertisement on _____ (date). Department personnel approved the draft advertisements on _____ (date).

5. Red House and MANSI arranged for the publication of the proposed constitutional amendment in a variety of newspapers, and submitted the required advertising material to them on _____ (date). Red House and MANSI instructed each newspaper that the first publication was required three months preceding the General Election of November 7, 2018, meaning that it could be published, at the latest, August 6, 2018.

6. The Department submitted and approved the advertising materials to Red House with ample time to convey them to the newspapers selected for publication.

7. Despite the timely submission and approval of the advertisements by the Department, the Muncy Luminary, a weekly newspaper published in Lycoming County, did not publish the advertisement in its edition of August 1, 2018.

8. The Muncy Luminary plans to publish the advertisement in its edition of August 8, 2018.

I further swear or affirm that this statement is true and correct to the best of my knowledge, information, and belief.

Date (NAME)

(JOB TITLE)
Red House Communications

Commonwealth of Pennsylvania
County of _____

Signed and sworn to (or affirmed) before me on _____ (date) by
_____ (name of Red House employee).

Signature of notarial officer _____ (stamp)
Title of office _____
My commission expires _____

Appendix E. Sample Proclamation of the Governor



Governor's Office

PROCLAMATION

CONSTITUTIONAL AMENDMENT

ARTICLE V, SECTIONS 1, 6(c), 10(d), 12(b), and 15(a)

WHEREAS, Joint Resolution No. 1 of 2013 and Joint Resolution No. 2 of 2015 proposed to amend Article V, Sections 1, 6(c), 10(d), 12(b), and 15(a), of the Constitution of Pennsylvania to read:

§ 1. Unified judicial system.

The judicial power of the Commonwealth shall be vested in a unified judicial system consisting of the Supreme Court, the Superior Court, the Commonwealth Court, courts of common pleas, community courts, municipal courts in the City of Philadelphia, such other courts as may be provided by law and justices of the peace. All courts and justices of the peace and their jurisdiction shall be in this unified judicial system.

§ 6. Community courts; Philadelphia Municipal Court.

(c) In the City of Philadelphia there shall be a municipal court. The number of judges and the jurisdiction shall be as provided by law. This court shall exist so long as a community court has not been established or in the event one has been discontinued under this section.

§ 10. Judicial administration.

(d) The Chief Justice and president judges of all courts with seven or less judges shall be the justice or judge longest in continuous service on their respective courts; and in the event of his resignation from this position the justice or judge next longest in continuous service shall be the Chief Justice or president judge. The president judges of all other courts shall be selected for five-year terms by the members of their respective courts. A Chief Justice or president judge may

resign such position and remain a member of the court. In the event of a tie vote for office of president judge in a court which elects its president judge, the Supreme Court shall appoint as president judge one of the judges receiving the highest number of votes.

§ 12. Qualifications of justices, judges and justices of the peace.

(b) Justices of the peace shall be members of the bar of the Supreme Court or shall complete a course of training and instruction in the duties of their respective offices and pass an examination prior to assuming office. Such courses and examinations shall be as provided by law.

§ 15. Tenure of justices, judges and justices of the peace.

(a) The regular term of office of justices and judges shall be ten years and the regular term of office for judges of the municipal court in the City of Philadelphia and of justices of the peace shall be six years. The tenure of any justice or judge shall not be affected by changes in judicial districts or by reduction in the number of judges.

WHEREAS, Joint Resolution No. 1 of 2013 was agreed to by a majority of the members elected to each House of the General Assembly and published pursuant to Article XI, Section 1 of the Constitution of Pennsylvania; and

WHEREAS, in the General Assembly next afterwards chosen, the aforesaid amendment to Article V, Sections 1, 6(c), 10(d), 12(h), and 15(a), of the Constitution of Pennsylvania was proposed in Joint Resolution No. 2 of 2015, which was agreed to by a majority of the members elected to each House of the General Assembly and published pursuant to Article XI, Section 1 of the Constitution of Pennsylvania; and

WHEREAS, the aforesaid proposed amendment to Article V, Sections 1, 6(c), 10(d), 12(h), and 15(a), of the Constitution of Pennsylvania was submitted for approval to the qualified electors of the Commonwealth of Pennsylvania pursuant to Article XI, Section 1 of the Constitution of Pennsylvania at an election held on April 26, 2016; and

WHEREAS, the Secretary of the Commonwealth, pursuant to law, has certified to me that the aforesaid proposed amendment to Article V, Sections 1, 6(c), 10(d), 12(h), and 15(a), of the Constitution of Pennsylvania was approved by a majority of those voting thereon on the aforesaid day; and

WHEREAS, Section 903 of Title 1 of the Pennsylvania Consolidated Statutes requires the Governor, upon receiving the aforesaid certification of the Secretary of the Commonwealth, to issue his proclamation indicating whether or not the proposed amendment to Article V, Sections 1, 6(c), 10(d), 12(b), and 15(a), of the Constitution of Pennsylvania has been adopted by a majority of the electors voting thereon.

NOW THEREFORE, I, Tom Wolf, Governor of the Commonwealth of Pennsylvania, do hereby proclaim that the aforesaid amendment to Article V, Sections 1, 6(c), 10(d), 12(h), and 15(a), of the Constitution of Pennsylvania was adopted by a majority of the electors voting thereon on April 26, 2016.

GIVEN under my hand and the Great Seal of the Commonwealth, at the City of Harrisburg, this twenty-seventh day of June in the year of our Lord two thousand sixteen and of the Commonwealth the two hundred and fortieth.



Tom Wolf

TOM WOLF
Governor

ATTEST:

Pedro A. Cortes

PEDRO A. CORTES
Secretary of the Commonwealth

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