



## **Changes to the Referendum Law Regarding Automated Calling Systems**

(Effective July 1, 2013)

The rules have changed for school administrators that utilize automated calling systems to remind parents and students about referenda. In the past, the law permitted such school-wide systems to be used for the purpose of sending time, date and place reminders concerning referenda to parents and students. As of July 1, 2013, superintendents and other school officials will no longer be permitted to use automated calling systems in this way.

Public Act 13-247 enacts restrictions for the use of such automated calling systems when referenda are pending. Now, only *community notification systems*—and not systems that reach only a subset of the entire community—are permitted to be used for the limited purposes of reminding voters of the time and location of upcoming referenda, the ballot question itself, and any previously authorized explanatory text describing the subject matter of the question. Community notification systems are defined as systems that are available *to all residents of a municipality* and permit any resident to opt to be notified. Under the new law, only the chief elected official of the municipality can authorize the use of such a system for this purpose.

Other than as authorized by this Public Act, no one may use municipal funds to send an unsolicited communication to a group of residents (such as the parents of school children) regarding a referendum via electronic mail, text, telephone or other electronic or automated means for the purpose of reminding or encouraging such residents to vote in a referendum. This prohibition does not apply to regularly published newsletters or similar publications.

As in the past, the use of public funds to advocate for a certain result in a referendum is strictly prohibited during the pendency of the referendum. A referendum is considered pending when all of the necessary legal conditions have been satisfied to require the publication of a warning (notice) that a referendum question will be submitted to a vote on a certain date.

For further reference, please see Connecticut General Statutes § 9-369b, as amended by Public Act 13-247. Questions should be directed to the State Elections Enforcement Commission (860-256-2940), or to local town attorneys.

## Text of Amendment to General Statutes 9-369b (from P.A. 13-247)

Sec. 501. Section 9-369b of the general statutes is repealed and the following is substituted in lieu thereof (Effective July 1, 2013):

(a) (1) Except as provided in [subsection (b)] subdivision (2) of this [section] subsection, any municipality may, by vote of its legislative body, authorize the preparation and printing of concise explanatory texts of local proposals or questions approved for submission to the electors of a municipality at a referendum. In a municipality that has a town meeting as its legislative body, the board of selectmen shall, by majority vote, determine whether to authorize an explanatory text or the dissemination of other neutral printed material. Thereafter, each such explanatory text shall be prepared by the municipal clerk, subject to the approval of the municipal attorney, and shall specify the intent and purpose of each such proposal or question. Such text shall not advocate either the approval or disapproval of the proposal or question. The municipal clerk shall cause such question or proposal and such explanatory text to be printed in sufficient supply for public distribution and shall also provide for the printing of such explanations of proposals or questions on posters of a size to be determined by said clerk. At least three such posters shall be posted at each polling place at which electors will be voting on such proposals or questions. Any posters printed in excess of the number required by this section to be posted may be displayed by said clerk at the clerk's discretion at locations which are frequented by the public. The explanatory text shall also be furnished to each absentee ballot applicant pursuant to subsection (d) of section 9-140. [Except as provided in subsection (d) of this section, no expenditure of state or municipal funds shall be made to influence any person to vote for approval or disapproval of any such proposal or question. ] Any municipality may, by vote of its legislative body and subject to the approval of its municipal attorney, authorize the preparation and printing of materials concerning any such proposal or question in addition to the explanatory text if such materials do not advocate the approval or disapproval of the proposal or question. [This subsection shall not apply to a written, printed or typed summary of an official's views on a proposal or question, which is prepared for any news medium or which is not distributed with public funds to a member of the public except upon request of such member. ]

[(b)] (2) For any referendum called for by a regional school district, the regional board of education shall authorize the preparation and printing of concise explanatory texts of proposals or questions approved for submission to the electors of a municipality at a referendum. The regional school board of education's secretary shall prepare each such explanatory text, subject to the approval of the regional school board of education's counsel, and shall undertake any other duty of a municipal clerk, as described in [subsection (a)] subdivision (1) of this [section] subsection.

(3) For purposes of this subdivision, "community notification system" means a communication system that is available to all residents of a municipality and permits any resident to opt to be notified by the municipality via electronic mail, text, telephone or other electronic or automated means of community events or news. At the direction of the chief elected official of a municipality, a municipality that maintains a community notification system may use such system to send a notice informing residents of an upcoming referendum to all residents enrolled in such system. Such notice shall be limited to (A) the time and location of such referendum, (B) a statement of the question as it is to appear on the ballot at the referendum, and (C) if applicable, the explanatory text approved in accordance with subdivision (1) or (2) of this subsection. Any such notice shall not advocate the approval or disapproval of the proposal or question or attempt to influence or aid the success or defeat of the referendum. Other than a notice authorized by this subdivision, no person may use or authorize the use of municipal funds to send an unsolicited communication to a group of residents regarding a referendum via electronic mail, text, telephone or other electronic or automated means for the purpose of

reminding or encouraging such residents to vote in a referendum, provided such prohibition shall not apply to a regularly published newsletter or similar publication.

(4) Except as specifically authorized in this section, no expenditure of state or municipal funds shall be made to influence any person to vote for approval or disapproval of any such proposal or question or to otherwise influence or aid the success or defeat of the referendum. The provisions of this subdivision shall not apply to a written, printed or typed summary of any official's views on a proposal or question, which is prepared for any news medium or which is not distributed with public funds to a member of the public except upon request of such member.

[(c)] (b) The State Elections Enforcement Commission, after providing an opportunity for a hearing in accordance with chapter 54, may impose a civil penalty on any person who violates [subsection (a) or (b) of] this section by authorizing an expenditure of state or municipal funds for a purpose which is prohibited by [subsection (a) of] this section. The amount of any such civil penalty shall not exceed twice the amount of the improper expenditure or one thousand dollars, whichever is greater. In the case of failure to pay any such penalty imposed under this subsection within thirty days of written notice sent by certified or registered mail to such person, the superior court for the judicial district of Hartford, on application of the commission, may issue an order requiring such person to pay the penalty imposed. Notwithstanding the provisions of sections 5-141d, 7-101a and 7-465, any other provision of the general statutes, and any provision of any special act or charter, no state or municipal officer or employee shall be indemnified or reimbursed by the state or a municipality for a civil penalty imposed under this subsection.

[(d)] (c) Any municipality may provide, by ordinance, for the preparation and printing of concise summaries of arguments in favor of, and arguments opposed to, local proposals or questions approved for submission to the electors of a municipality at a referendum for which explanatory texts are prepared under subsection (a) [or (b)] of this section. Any such ordinance shall provide for the establishment or designation of a committee to prepare such summaries, in accordance with procedures set forth in said ordinance. The members of said committee shall be representatives of various viewpoints concerning such local proposals or questions. The committee shall provide an opportunity for public comment on such summaries to the extent practicable. Such summaries shall be approved by vote of the legislative body of the municipality, or any other municipal body designated by the ordinance, and shall be posted and distributed in the same manner as explanatory texts under subsection (a) of this section. Each summary shall contain language clearly stating that the printing of the summary does not constitute an endorsement by or represent the official position of the municipality.