

Information related to Wisconsin Elections Commission suggestion that city or village can ignore our petition

This document is to help you explain why our request for a “direct legislation” referendum applies – if the clerk asks the WEC and the WEC says they do not have to comply.

At the bottom of this document is a draft of a letter to the clerk to try to encourage the board to honor the petition for our referendum. You should customize it to your needs.

There is occasionally some confusion and opposition that results in a board or council deciding that they do not have to honor our petition for referendum because it is “advisory” or “administrative.”

First, we recommend that you do not use the term “advisory petition” when communicating with anyone about approaching a town, village, city or county about putting our referendum on the ballot. Instead if you need to define the referendum in conversations refer to it as a **Wis. Stat. Sec. 9.20 direct legislation petition**.

Under Section 9.20 If you collect a number of signatures of at least 15% of the number on people in the city or village who voted in the last governor’s race, the municipality is required to pass your resolution (either with or without a referendum).

Note that this discussion only applies to the situation where you are collecting signatures to require the city or village to pass your resolution (either with or without a referendum.) If you are asking either a town or a county to put a referendum on the ballot, or pass our resolution directly, this statute does not apply – the signatures and petition carry no legal requirement.

On occasion, we have found that the clerk lawyer, or board has contacted the Wisconsin Elections Commission (WEC) about this process and the WEC has provided them with a statement that suggests they do not have to comply. The WEC reference that causes the confusion is <https://elections.wi.gov/node/5919>. This statement is confusing and ill interpreted to suggest that our effort falls under petitions filed under Section 5.02(16s). And they then conclude that our petition does not have the force of “direct legislation” referendum as covered in Section 9.20.

As that website makes clear, if we label something an "advisory referendum," signatures cannot compel a village or city to act. However, if we label it "Direct Legislation," the 15% requirement is in effect. The title on the UTA petition form is "Direct Legislation," but the clerk, lawyer or board might ignore that and think it is an advisory referendum – and that they don't have to honor the petition if they choose not to. Show them a copy of the exact petition form we use and the words **“PETITION FOR DIRECT LEGISLATION.”**

If they suggest our petition is not direct legislation, remind them that we have been told by the WEC (and GAB before them) that we should be using, and do use, the “direct legislation” form and processes provided by the WEC (referenced at the bottom of our petition form).

You might say something like "a petition for direct legislation concerning the resolution about [say perhaps] reversing Citizens United." And if they say that this action is “advisory,” you might say “we are seeking a direct legislation ballot referendum, which is asking the state legislature to call for a U.S. Constitution amendment. We realize the State can ignore us, but you are letting them know that the community is for this.

You can see that if they are determined not to hold the referendum, you might find that they have a loophole in the use of the terms. Further discussion likely will not sway them. If this

happens, you might switch to a strategy tell them that even if they feel they are not required by the signature, **they** still have the right to hold a referendum to allow the people to have a voice in this matter. Remind them that 108 of 163 communities (2/3) that passed the resolution did so only after seeing the value of a referendum to let their citizens speak. A majority of members friendly to our request might vote to put it on the ballot.

If they refuse to put it on the ballot, we suggest you respectfully ask them if they would speak for the people of the community and directly pass our resolution anyway. Fingers crossed!

ALSO: do not use or accept the word “administrative” in discussions. Instead fall back to the term “direct legislation.” The word “administrative” creates another argument against the legitimacy of our process.

DRAFT LETTER TO CLERK FOLLOWS.....

Dear [Clerk’s name]

I understand that you have received information or opinion that our petition for you to put a referendum on the next ballot does not apply to what we are asking for. This has come up in a couple of other Wisconsin communities in the past.

The rules governing different types of petitioning are confusing and we have explained our perspective to these other communities. The Wisconsin Elections Commission (WEC), in responding to a couple of requests for interpretation of our petition, was under the impression that we were filing our petition under Wis. Stat. 5.02(16s) – related to Advisory referendum. United to Amend has been filing our petition in communities pursuant to Wis. Stat. § 9.20 – related to Direct Legislation – as indicated at the top of our petition form. The WEC memo is not applicable to petitions brought pursuant to Wis. Stat. § 9.20.

We have been effectively asking village boards and city councils to *adopt as its own policy*, that the state legislature support an amendment to the U.S. Constitution regarding our position – and to do so pursuant to Wis. Stat. Sec. 9.20.

One hundred and sixty-three Wisconsin municipal and county boards and councils have used this right to adopt a policy that the state legislature support an amendment to the U.S. Constitution - through resolutions. In 108 of these communities boards and councils have first let their constituents speak, through referendum, in favor of, or against, this policy – and then adopting it.

Notwithstanding the confusion on this issue in our discussions, we are asking you to stand up and let the citizens of our community do the same – and then passing a resolution as done in so many other patriotic Wisconsin communities.

If you would like to discuss further our work, and our ask, please contact me.

Thank you for your assistance with this effort.

UTA Leader’s Name
Name of community
UTA Leader’s Phone #