

## **Overview of Procedure to Amend the Vermont Constitution**

### ***I. Introduction***

The Vermont Constitution controls the operation of State government, and [Vt. Const. Ch. II, § 72](#) provides the procedure required to amend our Constitution. This section generally requires the General Assembly to concur in a proposed constitutional amendment in two consecutive bienniums before it can be submitted to the voters for ratification. Senate and House Rules provide details regarding how the chambers fulfill these constitutional procedures, and statutes provide further details in law, all in accordance with these constitutional requirements. This document provides an overview of Vermont’s constitutional amendment procedure.

### ***II. Text of Vt. Const. Ch. II, § 72***

#### § 72. [AMENDING CONSTITUTION]

At the biennial session of the General Assembly of this State which convenes in A.D. 1975, and at the biennial session convening every fourth year thereafter, the Senate by a vote of two-thirds of its members, may propose amendments to this Constitution, with the concurrence of a majority of the members of the House of Representatives with the amendment as proposed by the Senate. A proposed amendment so adopted by the Senate and concurred in by the House of Representatives shall be referred to the next biennial session of the General Assembly; and if at that last session a majority of the members of the Senate and a majority of the House of Representatives concur in the proposed amendment, it shall be the duty of the General Assembly to submit the proposal directly to the voters of the state. Any proposed amendment submitted to the voters of the state in accordance with this section which is approved by a majority of the voters voting thereon shall become part of the Constitution of this State.

Prior to the submission of a proposed amendment to a vote in accordance with this section, public notice of the proposed amendment shall be given by proclamation of the Governor.

The General Assembly shall provide for the manner of voting on amendments proposed under this section, and shall enact legislation to carry the provisions of this section into effect.

### ***III. Summary of Vt. Const. Ch. II, § 72***

Vt. Const. Ch. II, § 72 allows amendments to the Vermont Constitution to be proposed only in the Senate, and only every other biennium. The 2023–2024 biennium is such a “proposing” biennium in which the Senate may propose constitutional amendments. The House can vote only on whether to concur in an amendment proposed by the Senate; the House cannot propose further amendments to it.

A constitutional proposal adopted by the Senate and concurred in by the House in a proposing biennium must then be concurred in by both chambers (ie., without the ability to further amend) in the *subsequent* biennium. As described in the following details, the chamber vote requirements are higher in the proposing biennium than they are in the subsequent biennium.

After concurrence by both chambers in these two bienniums, the Governor's only constitutional role is to issue a proclamation to provide public notice of the proposed constitutional amendment, prior to it being submitted to the voters.

A majority of the voters of the State must approve the proposed amendment in order for it to become part of the Vermont Constitution.

The General Assembly is specifically required to enact law to carry the provisions of this section into effect.

#### ***IV. Details Regarding the Constitutional Amendment Procedure***

##### *A. "Proposing" Biennium*

###### i. Senate

- A proposal to amend the Vermont Constitution may be introduced in the Senate every other biennium. Vt. Const. Ch. II, § 72.
- [Senate Rules 76–82 and 85](#) provide the Senate's procedure in this biennium. In accordance with these rules:
  - A Senator or Senate committee may propose an amendment. Upon introduction, it is read the first time and referred to the committee of jurisdiction. Senate Rule 76.
  - If the proposal is voted out of committee, the proposal and any recommended committee amendments are printed in the Notice Calendar for five legislative days and are up for Action and read a second time in full on the sixth legislative day. Senate Rule 77.
  - Any amendments to the proposal recommended by a Senator before second reading are required to be submitted to the committee of jurisdiction; shall be acted upon by the committee; and shall be printed in the Notice Calendar at least one legislative day prior to second reading. Senate Rule 78.
  - A roll call is required for all proposals and any amendments thereto. Amendments require a majority vote. Senate Rule 80.
- The Senate must adopt a proposal (as amended, if applicable) in this biennium ***by a vote of two-thirds of its members***. Vt. Const. Ch. II, § 72; Senate Rule 80. In other words, at least **20 Senators** must approve.

## ii. House

- [House Rule 51a](#) provides the House’s procedure to consider the proposal. In accordance with this rule:
  - The proposal is referred to the committee of jurisdiction.
  - If the proposal is considered, the committee shall conduct a public hearing prior to voting on the proposal.
  - If voted out of committee, the proposal will appear on the Notice Calendar for four legislative days and be up for Action on the fifth legislative day.
- The House must concur in the proposal *by a majority of the members of the House*. Vt. Const. Ch. II, § 72. In other words, at least **76 House members** must approve.
  - As stated in 1971, Atty. Gen. Op. No. 656-F, the House must concur in—and cannot amend—the Senate proposal.
  - However, it is possible for the Senate to request the House to return a proposal before the House acts on it, in order for the Senate to consider further amendments to the proposal. Senate Rule 82.

## iii. Interim Publication

[17 V.S.A. § 1840](#) requires the Secretary of State, within 90 days following adjournment *sine die*, to publish a proposal concurred in both chambers and a summary thereof in at least two newspapers having general circulation in the State. These publications must occur once each week for three successive weeks.

This statute also requires the proposal to be so published on the websites of the General Assembly and of the Office of the Secretary of State for the same duration as the newspaper publications.

*B. Subsequent Biennium*

## i. Senate

- If the House has concurred in a proposal in the previous biennium, Senate Rule 83 requires the Committee on Rules to direct the proposal to be printed in the Calendar, with third reading and Action on the seventh legislative day after printing.
- The Senate must concur in the proposal *by a majority of the members of the Senate*. Vt. Const. Ch. II, § 72; Senate Rule 83. In other words, at least **16 Senators** must approve.
  - A roll call is required. Senate Rule 83.

## ii. House

- House Rule 51a again applies. Accordingly:
  - The proposal is referred to the committee of jurisdiction.
  - If the proposal is considered, the committee shall conduct a public hearing prior to voting on the proposal.
  - If voted out of committee, it will appear on the Notice Calendar for four legislative days and be up for Action on the fifth legislative day.
- The House must concur in the proposal *by a majority of the House*. Vt. Const. Ch. II, § 72. Because the vote threshold is not dependent upon House *membership*, it indicates it means a majority of a House *quorum*. Pursuant to Vt. Const. Ch. II, § 14, a majority of House members (76) constitutes a quorum. In other words, at least **a majority of the House members present and constituting a quorum** must approve. For example, if only the minimum 76 House members are present to constitute a quorum, at least 39 of them must approve. If there are 100 House members present, 51 must approve, etc.

## C. Voter Ratification

- If concurred in by both chambers in both bienniums, the Governor must provide public notice of the proposed amendment by proclamation. Vt. Const. Ch. II, § 72; [17 V.S.A. § 1841\(b\)](#).
- [17 V.S.A. § 1844](#) requires the Secretary of State, between September 25 and October 1 of the year of the general election, to publish the proposal and a summary thereof in at least two newspapers having general circulation in the State. These publications must occur once each week for three successive weeks.
  - This statute also requires the proposal to be so published on the websites of the General Assembly and of the Office of the Secretary of State for the same duration as the newspaper publications.
- The proposal is then submitted to the voters of the State for ratification; voters must ratify *by majority vote*. Vt. Const. Ch. II, § 72; [17 V.S.A. § 1848](#).
  - [17 V.S.A. § 1842](#) requires this vote to occur at the general election.
  - *Note* that past practice has been for the voters to only see on the ballot the actual text of the proposed amendment, and not any Sec. 1 Findings, Purpose, etc.
- The Governor and Secretary of State tabulate the returns on the second Tuesday of December following the vote, and if ratified, it is enrolled as part of the Constitution. [17 V.S.A. § 1848](#).
- Thereupon, the Governor issues a proclamation, attested to by the Secretary of State, announcing whether the voters ratified the proposal. [17 V.S.A. § 1849](#).