



Veto Referendum FAQ

*OSSBA's legal team has put together the following information to answer some of the frequently asked questions we are hearing from school board members and administrators regarding proposed State Question 799, the [referendum petition](#) to veto HB1010xx – a major revenue bill approved in the 2018 legislative session. We will continue to update the FAQ and share additional information as it becomes available. **If you have questions, please feel free to contact any member of the OSSBA legal team. For the latest information, visit the [OSSBA website](#).***

UPDATES:

May 30: Oklahoma Taxpayers Unite filed its [response](#) to the protest filed by taxpayers and education organizations, including OSSBA. The office of Oklahoma Attorney General Mike Hunter also filed a [brief](#) related to the protest.

In its brief, the attorney general's office acknowledged deficiencies with the failure to include the little cigar tax and the hotel/motel tax but called them "technicalities" and urged justices to deny the protest.

The attorney general's brief also addressed an important, looming question for schools about whether the state question/referendum petition affects the teacher pay raises mandated in HB1023xx. The brief offered a clear opinion that the teacher pay raises must be implemented: *"Regardless of whatever happens with a future referendum on HB1010xx, this would not affect the teacher pay raise provided by HB1023xx."*

The brief then acknowledged the issue is a "difficult question" and encouraged the court to provide "authoritative guidance" on how the petition and state question affect teacher pay raises. State schools Superintendent Joy Hofmeister has previously requested but not yet received an attorney general opinion on this issue to provide schools guidance on implementation of the pay raises. This brief is **not** a formal opinion from the attorney general's office and is not binding on schools. However, the brief foreshadowed what might be expected in an opinion. In the absence of a court ruling, schools would be obligated to follow an attorney general opinion that the teacher pay raise must be fully implemented and paid beginning Aug. 1. A response to the Oklahoma Taxpayers Unite and attorney general filings is due June 5.

May 25: Oklahoma Taxpayers Unite filed its [response](#) to the Professional Oklahoma Educators challenge of the State Question 799 referendum petition. Also, the office of Oklahoma Attorney General Mike Hunter [filed a brief](#) in the case, urging the state Supreme Court to reject POE's protest.

May 18: The state Supreme Court has scheduled a hearing at 3 p.m. June 11 for arguments related to the petition protest filed by taxpayers and education organizations, including OSSBA.

May 17: OSSBA joined a group of taxpayers and education organizations in filing a protest to the petition. You can download the entire protest filing [here](#) or [click here](#) to download only the brief.

In general, the protest outlines several deficiencies in the petition filing:

- A description of the bill at the top of each signature sheet omits mention and discussion of the little cigar tax and the hotel/motel tax increases authorized in HB1010xx.
- The description is misleading and written backward, stating approval of the state question would "repeal" HB1010xx.
- The referendum petition doesn't include an exact copy of the bill that would be referred to the people.

May 10: State schools Superintendent Joy Hofmeister requested an Attorney General opinion on several aspects of the veto referendum petition. You can read the opinion request [here](#). The Oklahoma Tax commission also submitted a request for an Attorney General opinion related to State Question 799. Read it [here](#).

Also, a teacher organization filed a protest to the referendum petition, which will be heard by the state Supreme Court on June 11. Read the legal brief [here](#).

Frequently Asked Questions

What is a veto referendum?

The veto referendum is essentially a voter veto. The veto referendum process outlined in the Oklahoma Constitution allows voters to decide whether to veto legislation that has been signed by the governor if enough signatures are gathered on a referendum petition. Download a copy of the SQ799 petition filing [here](#).

What revenue does the Oklahoma Taxpayers Unite petition target?

HB 1010xx includes three tax increases projected to generate \$428.5 million in FY 2019.

- Motor vehicle fuel: \$105 million
- Tobacco: \$153 million
- Gross production tax: \$170.5 million

What happens next?

Petitioners must gather a minimum number of signatures from legal, registered Oklahoma voters equivalent to 5 percent of votes cast in the previous election for governor. In this case, that is 41,242 signatures. If that number of signatures is collected by the July 18 deadline, and assuming the signatures are valid and survive any legal challenges, the referendum will be placed on a statewide ballot. The state Supreme Court has scheduled hearings on June 11 to hear protests to the referendum petition.

What happens if signatures are obtained?

If the petition includes the required number of legal signatures, the tax increases within HB1010xx will be placed on hold. So, if someone were to collect 41,242 signatures from voters opposed to a particular piece of legislation by the mid-July deadline, the tax increases would not go into effect or would be halted unless voters rejected the veto at the statewide vote.

How might the state, common education and CareerTech budgets be affected if enough signatures are obtained?

A \$428.5 million reduction in revenue would require a cut of about 7 percent to the general revenue portion of the state budget. For common education, the cut would equal about \$138 million. The reduction in state aid would equal about 27 percent of the cost of the teacher pay raise. For career tech, the cut would equal about \$8.3 million.

The estimated breakdown of reductions to the common education and career tech budgets would be:

- State Aid Formula - \$94.5 million (\$82 per weighted student)
- Public School Activities - \$6.3 million
- Textbooks - \$2.3 million
- Flex Benefit Allowance - \$33.6 million
- State Education Department Budget - \$1.1 million
- Career and Technology Education Department Budget - \$8.3 million

What will this mean for teacher, support and state employee pay raises meant to be funded by HB1010xx revenue?

HB 1023xx is the bill that requires an increase in salary for all certified staff equal to the increase in the minimum salary schedule. While that bill does not have a specific revenue source, it contains a section that makes it contingent on HB 1010xx and HB 1011xx being enacted. If HB 1010xx is put on hold, then the law requiring the teacher pay raises likely will also be put on hold. There are still questions about the definition of enactment, and we hope to get legal clarification as soon as possible. The enactment clause tied to HB 1010xx is not contained in HB 1026xx, the support employee pay raise bill. An enactment clause for HB 1024xx -- the state employee pay raise bill -- is tied to HB1010xx so state employees also could see pay raises impacted.

Superintendent Hofmeister's Attorney General Opinion request could provide greater clarity on these issues.

Questions?

Contact the OSSBA legal team at 405.528.3571.