

Our Due Diligence for Voters

The Massachusetts Constitution requires us to evaluate potential ballot questions. We're taking that opportunity to provide more information to you.

By Majority Leader Cindy Creem

What's Happening

As the Senate's efforts to understand the potential impacts of the 2026 ballot questions get underway, I would like to give you an update on our work.

The Senate recently joined our colleagues in the House in a public hearing on one of the ballot questions voters will likely be expected to vote on in the fall. We will hold similar hearings on all 2026 ballot initiatives as part of our fact-finding process.

The legislature also has a unique right to ask the Supreme Judicial Court questions about the legality and constitutionality of certain matters, including ballot questions. According to our state constitution, "Each branch of the Legislature...shall have authority to require the opinions of the Justices of the Supreme Judicial Court, upon important questions of law, and upon solemn occasions."

We have the responsibility to ask these questions when the answers are unclear. The Senate adopted two orders in session today that will allow us to do just that.

In short—the Senate will ask the Court questions so the public can get the answers.

Why It Matters

Here in Massachusetts

Public hearings, meetings with stakeholders, advocates and constituents, town halls, office hours—these are all tools legislators use to tease out multiple perspectives on an issue when legislation is before us. These efforts also give us

the opportunity to learn about potential unintended consequences of a proposed bill that might ultimately do more harm than good.

The questioning doesn't stop there. Once Senators and committees do their due diligence to understand the impact of a bill, it goes to our lawyers, known as the Office of Senate Counsel, to ensure it does not violate the constitution. Only then does a bill go to the Senate floor for a debate.

This last step is no small thing. When we are sworn into the Senate, we take an oath to uphold and defend both the Massachusetts Constitution and the U.S. Constitution. Legislation that comes to us via ballot question changes our normal process somewhat, but it doesn't change our responsibility to our Constitution and our constituents.

Candidly, misunderstandings and a lack of clear explanation of the constitutional implications of Question 1 during the last ballot cycle has led to confusion and frustration—both on the part of the legislators who are obliged to uphold the Constitution and the voters who voted for it. That issue is now with the courts, and we are hopeful that they will provide resolution on this issue soon.

The steps we're taking today aim to avoid similar confusion about some of the ballot questions now before us.

The National Context

Consider what is happening right now at the federal level. Congress has abdicated nearly all of its power, including its constitutionally mandated right and responsibility to determine tariffs. After President Trump levied tariff after tariff, injecting chaos and uncertainty into our economy, the Supreme Court finally stepped in to rule that tariff authority rests solely with Congress—except where Congress has delegated that authority to another branch of government in explicit terms and subject to strict limits.

We know that the checks and balances envisioned by the architects of our democracy are failing at the federal level. At best, this breakdown leads to confusion and duplication of effort. At worst, it undermines our entire system of

“government of laws not men,” to borrow John Adams’ phrase. Here in Massachusetts, we are both determined and duty-bound to work to avoid that slippery slope.

What Happens Next

We believe voters deserve to have as much information as possible before voting on a ballot question. Once we receive answers from the SJC, the committee evaluating ballot questions will use that information to write its report. That report will then be printed in the voter guide distributed in the fall for all to see. We will also make that report publicly available as soon as it is ready.

Ultimately, if the court believes the initiatives are within the guardrails our state constitution puts forward, then we will all be better equipped to have a well-informed debate about the policy itself.