

State Ballot Question Petitions



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A GUIDE FOR CIRCULATING PETITIONS

The Massachusetts Constitution provides that people have the right to affect the state laws by which they are governed. One way for persons to affect the laws is through the use of a petition for a ballot question. In Massachusetts, there are four types of petitions which may be used to place questions on the ballot at the biennial state election: **an Initiative Petition for a Law, an Initiative Petition for a Constitutional Amendment, a Referendum Petition, and a Public Policy Petition.**

File an **INITIATIVE PETITION FOR A LAW** to submit a proposed law to the voters for their approval or rejection or to repeal or amend a particular section of an existing law.

File an **INITIATIVE PETITION FOR A CONSTITUTIONAL AMENDMENT** to submit a proposed constitutional amendment to the voters for approval or rejection.

File a **REFERENDUM PETITION** to have a law already enacted by the General Court repealed by the voters.

File a **PUBLIC POLICY PETITION** to submit instructions to the senator or representative from a district on a non-binding question of public policy.

Before collecting any signatures, **read all of the instructions carefully.** In addition, it may be helpful to seek assistance when writing the text of the measure to be placed on the petitions.

INITIATIVE PETITION FOR A LAW

2015-2016 Petition

An initiative petition for a law should be filed if the individual intends to submit a proposed law to the voters for their approval or rejection. An initiative petition for a law may also be used to propose a law seeking to repeal or amend a *particular section* of an existing law.

HOW TO ORIGINATE AN INITIATIVE PETITION FOR A LAW

To originate an initiative petition for a law, at least ten qualified voters of the Commonwealth may draw up and sign an original petition on which they put forward the full text of the law they wish to have enacted.

Each of the original signers must obtain a certificate of voter registration from the board of registrars or election commission in the city or town in which they are a registered voter. Each certificate of voter registration must be signed by at least three members of the board of registrars or election commission. These voter registration certificates and the original petition then must be submitted to the Office of the Attorney General by the first Wednesday in August.

SOME RECOMMENDATIONS

- Although not required, it is strongly recommended that each of the original signers initial each page of the text of the law before submitting it to the Attorney General. It is also advisable to have more than ten original signers (the ten names to be printed on the petition form can be specified).
- It is not recommended to file separate signature papers which are attached to the full text of the law. Instead, the final page of the full text should contain the signature of each of the original petitioners. Above the name of each signer you may wish to add a statement similar to the following: "I have personally reviewed the final text of this Initiative Petition, fully subscribe to its contents, and agree to be one of the original signers of the petition."
- The voter registration certificate of each signer may be attached separately to the petition.

EXCLUDED SUBJECTS AND SUMMARY

The Constitution excludes from the Initiative subjects that relate to religion, judges, the courts, particular localities of the Commonwealth, specific appropriations, and certain provisions of the state constitution's Declaration of Rights. Additionally, substantially the same petition cannot have appeared on the ballot at either of the two immediately preceding biennial state elections.

The Attorney General bears the responsibility of determining whether the petition is an acceptable subject of the Initiative, and if so, he or she prepares a fair and concise summary and returns this summary and the proposed law to the petitioners. If the Attorney General determines the petition relates to an excluded matter, the petition is disallowed.

PRINTING OF PETITIONS

After the petition is returned from the Attorney General with the summary, the petitioners file both the summary and the proposed law with the Secretary of the Commonwealth. The Secretary prepares initiative petition form blanks with the summary printed thereon for gathering signatures of registered voters.

Pursuant to 950 C.M.R. § 48.04(6), the petitioners may request in writing that certain information be printed on the petition forms. Specifically, upon request of the petition sponsors, this office will print the petition sponsors' address and telephone number on the petition form and/or a box at the bottom right on the petition sheet specifically for circulators to number petitions.

The petition forms are available within fourteen days after the petitioners file the papers with the Secretary of the Commonwealth. In order to receive the printed blanks as soon as possible, the petitioners may pick up the petitions at the printing plant if they so desire. Before picking up the blank petition forms from the printing plant, the petitioners must get an authorization slip from the Secretary of the Commonwealth. The Secretary provides enough blank petition forms to gather more than the required number of signatures. However, the petitioners may make exact copies of the blank forms for gathering additional signatures.

HOW MANY SIGNATURES ARE REQUIRED

In order to be placed before the General Court, the petition must contain certified signatures at least equal to **3% of the total vote cast for all candidates for Governor (excluding blanks) at the last state election**. This means that until the results of the 2018 state election are certified by the Governor's Council, the initiative petition must be signed by a minimum of **64,750** certified voters. No more than one-quarter of the certified signatures may come from any one county (until the results of the 2018 state election are certified by the Governor's Council, this figure is **16,188**).

THE PETITION IS LAID BEFORE THE LEGISLATURE

After the necessary number of signatures have been certified and subsequently filed with the Secretary of the Commonwealth, the Secretary transmits the initiative petition to the House Clerk for legislative action on the first legislative day of the year.

The initiative petition must be heard by the committee to which it is referred and a report issued. Any legislative action on the petition must be taken by each branch of the General Court before the first Wednesday in May. The initiative petition may not be amended by the General Court. If the General Court approves the initiative and the Governor signs it or it passes over his veto by a two-thirds vote of both houses, it becomes a law. In a rarely used procedure, after rejecting the proposed initiative, the General Court may formulate a legislative proposal of its own, to be grouped on the ballot with the initiative measure as an alternate choice.

HOW TO GET THE PETITION ON THE BALLOT

If the petition is rejected by the General Court or if the General Court fails to act by the first Wednesday in May, the proposed ballot measure, in an infrequently used process, may be amended by a majority of the ten original signers. Any amendment proposed pursuant to this infrequently used process must be approved by the Attorney General as perfecting in nature; that is, the amendment does not materially change the substance of the measure.

The petitioners may force the original or amended petition on the ballot at the next regular state election by submitting a written request to the Secretary by the appropriate deadline for additional petition forms and then collecting the required number of additional certified signatures on these forms. This request should indicate that a majority of the first ten signers wish to obtain additional petition forms. The request need not contain the signatures of all ten signers, and an agent may sign on behalf of a majority of the first ten signers.

ADDITIONAL SIGNATURES

The signatures of an additional **1/2 of 1% of the vote cast for Governor (excluding blanks) at the last state election** must be filed with the Secretary of the Commonwealth. Accordingly, the additional signature requirement is **10,792** certified signatures. The same provision applies that no more than 1/4 of these signatures may come from one county. Accordingly, no more than **2,698** signatures can come from one county.

HOW IT PASSES

For an initiative petition for a law to be passed by the electorate, the Constitution requires that at least **30%** of the voters who cast ballots in the election must vote in the affirmative on the question, and a majority of the ballots cast on that question must also be affirmative.

WHEN EFFECTIVE

The Constitution states that a law proposed by an initiative petition takes effect thirty days after the state election, or at such time after the election as may be provided in such law. The courts have not definitively decided whether this means thirty days after the election, or thirty days after the certification of the election results by the Governor's Council, which usually occurs in late November or early December.

If the petitioners want to ensure that the initiative measure takes effect at the earliest possible date, it is suggested that the petitioners state in the measure itself that it is to become effective immediately upon becoming law. That will mean it becomes effective immediately upon certification of the election results.

Legal References:

- Articles XLVIII, LXXIV, and LXXXI of the Amendments of the *Massachusetts Constitution*.
- Massachusetts General Laws Chapter 53, section 22A (2012 ed.).
- 950 C.M.R. § 48.00.
- Capezzuto v. State Ballot Law Commission, 407 Mass. 949, 556 N.E.2d 366 (1990).
- Hurst v. State Ballot Law Commission, 427 Mass. 825 (1998).

CALENDAR FOR AN INITIATIVE PETITION FOR A LAW
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<u>Calendar of Events</u>	<u>Legal Deadlines</u>	<u>Dates</u>
Submission of petition to Attorney General by 10 original signers	By the 1st Wednesday of August	August 5, 2015
Filing of petition with Secretary of the Commonwealth by original Petitioners	Not before the 1st Wednesday of September	September 2, 2015
Secretary has petition forms prepared for collection of required number of signatures	No later than 14 days after filing with the Secretary	September 16, 2015*
Filing of petitions with local registrars for certification	By 14 days before the 1st Wednesday of December	November 18, 2015
Filing certified petitions with the Secretary	By the 1st Wednesday of December	December 2, 2015
Transmittal of petitions to House Clerk by the Secretary	First legislative day of the year	January 6, 2016
Legislative action	Before the 1st Wednesday of May	May 3, 2016
Filing with Secretary of request for additional petition forms	Not before the 1st Wednesday of May	May 4, 2016
Filing with Secretary of amended petition, with certificate from the Attorney General that the amendment does not materially change the substance of the measure	Before the 1st Wednesday of June	May 31, 2016
Collection and filing of additional signatures with local registrars for certification	After the 1st Wednesday of May and by 14 days before the 1st Wednesday of July	June 22, 2016
Filing with Secretary of additional signatures to put petition on ballot if General Court fails to enact Measure	Not before the 1st Wednesday of June and by the 1st Wednesday of July	June 1, 2016 July 6, 2016
STATE ELECTION DAY	1st Tuesday after the 1st Monday in November	November 8, 2016
Law takes effect	Thirty days after election or upon such time as may be provided in such law	December 2016

* For those who file on September 2, 2015.

INITIATIVE PETITION FOR A CONSTITUTIONAL AMENDMENT

2015-2016 Petition

An initiative petition for a constitutional amendment should be filed if an individual intends to submit a proposed constitutional amendment to the voters for approval or rejection.

HOW TO ORIGINATE A CONSTITUTIONAL AMENDMENT PETITION

To originate an initiative petition for a constitutional amendment, at least ten qualified voters of the Commonwealth may draw up and sign an original petition on which they put forward the full text of the constitutional amendment they wish to have enacted.

Each of the ten original signers must obtain a certificate of voter registration from the board of registrars or election commission in the city or town in which they are a registered voter. Each certificate of voter registration must be signed by at least three members of the board of registrars or election commission. These voter registration certificates and the original petition then must be submitted to the Office of the Attorney General by the first Wednesday in August.

SOME RECOMMENDATIONS

- Although not required, it is strongly recommended that each of the original signers initial each page of the text of the amendment before submitting it to the Attorney General. It is also advisable to have more than ten original signers (the ten names to be printed on the petition form can be specified).
- It is not recommended to file separate signature pages which are attached to the full text of the amendment. Instead, the final page of the full text should contain the signature of each signer. Above the name of each signer you may wish to add a statement similar to the following: "I have personally reviewed the final text of this Constitutional Amendment, fully subscribe to its contents, and agree to be one of its original signers."
- The voter registration certificate of each signer may be attached separately to the petition.

EXCLUDED SUBJECTS AND SUMMARY

The Constitution excludes from the Initiative subjects that relate to religion, judges, the courts, particular localities of the Commonwealth, specific appropriations, and certain provisions of the state constitution's Declaration of Rights. Additionally, substantially the same petition cannot have appeared on the ballot at either of the two immediately preceding biennial state elections.

The Attorney General bears the responsibility of determining whether the petition is an acceptable subject of an initiative, and if so, prepares a fair and concise summary and returns this summary and the proposed amendment to the petitioners. If the Attorney General determines that the petition relates to an excluded matter, the petition is disallowed.

PRINTING OF PETITIONS

After the petition is returned from the Attorney General with the summary, the petitioners file both the summary and the amendment with the Secretary of the Commonwealth. The Secretary prepares initiative petition form blanks with the summary printed thereon for gathering signatures of registered voters. These petition forms are available within fourteen days after the petitioners file the papers with the Secretary of the Commonwealth.

Pursuant to 950 C.M.R. § 48.04(6), the petitioners may request in writing that certain information be printed on the petition forms. Specifically, upon request of the petition sponsors, this office will print the petition sponsors' address and telephone number on the petition form and/or a box at the bottom right on the petition sheet specifically for circulators to number petitions.

In order to receive the printed blanks as soon as possible, the petitioners may pick up the petitions at the printing plant. Before picking up the blank petition forms from the printing plant, the petitioners must get an authorization slip from the Secretary of the Commonwealth. The Secretary provides enough blank petition forms to gather more than the required number of signatures. However, the petitioners may make exact copies of the blank forms if they wish for gathering additional signatures.

HOW MANY SIGNATURES ARE REQUIRED

In order to be placed before the General Court, the petition must contain certified signatures at least equal to **3% of the total vote cast for all candidates for Governor (excluding blanks) at the last state election**. Therefore, until the results of the 2018 state election are certified by the Governor's Council, the amendment petitions must be signed by a minimum of **64,750** certified voters. No more than one-quarter of the certified signatures (**16,188**) may come from any one county.

THE PETITION IS LAID BEFORE THE LEGISLATURE

After signatures have been certified and petitions filed, the Secretary transmits the amendment petition to the House Clerk for legislative action on the first legislative day of the year.

Initiative amendments are acted upon by joint sessions of the House and Senate sitting together. The amendment must be "laid before" the joint session by the second Wednesday of May. The petition may be amended by a three-fourths affirmative majority vote by the House and Senate. By a majority vote, the Legislature may formulate a proposal of its own, to be grouped on the ballot with the initiative amendment as an alternative choice.

HOW TO GET THE AMENDMENT ON THE BALLOT

The initiative amendment must be placed on the ballot if, in joint sessions held by two successively elected Legislatures, the petition wins the support of at least 25% (50) of the 200 legislators (40 senators and 160 representatives). An initiative amendment to the constitution will not appear on the ballot if, when it comes to a vote in **either** joint session, less than 25% of the legislators vote in favor of it or no vote is taken before the legislative term ends.

HOW IT PASSES

For an initiative petition for a constitutional amendment to be passed by the electorate, at least **30%** of the voters who cast ballots in the election must vote in the affirmative on the question, and a majority of the ballots cast on that question must also be affirmative.

WHEN EFFECTIVE

The Constitution states that a constitutional amendment proposed by initiative petition takes effect upon certification of the election results by the Governor's Council, which usually occurs in late November or early December, or date provided, if later.

Legal References:

- Articles XLVIII, LXXIV, and LXXXI of the Amendments to the *Massachusetts Constitution*.
- Massachusetts General Laws Chapter 53, section 22A (2012 ed.).
- 950 C.M.R. § 48.00.
- Capezzuto v. State Ballot Law Commission, 407 Mass. 949, 556 N.E.2d 366 (1990).
- Limits v. President of the Senate, 414 Mass. 31 (1992).

CALENDAR FOR AN INITIATIVE PETITION FOR A CONSTITUTIONAL AMENDMENT

<u>Calendar of Events</u>	<u>Legal Deadlines</u>	<u>Dates</u>
Submission of petition to Attorney General by 10 original signers	By the 1st Wednesday of August	August 5, 2015
Filing of petition with Secretary of the Commonwealth by original Petitioners	Not before the 1st Wednesday of September	September 2, 2015
Secretary has petition forms prepared for collection of required number of signatures	No later than 14 days after filing with the Secretary	September 16, 2015*
Filing of petitions with local registrars for certification	By 14 days before the 1st Wednesday of December	November 18, 2015
Filing certified petitions with the Secretary	By the 1st Wednesday of December	December 2, 2015
Transmittal of petitions to House Clerk by the Secretary	First legislative day of the year	January 6, 2016
Legislative action - Joint Session	Must be "laid before" joint session not later than the 2nd Wednesday in May. If approved by at least 25% (50 votes) of legislature, it is held for the next elected legislature. If not, it is dead.	May 11, 2016
Legislative action - next elected Legislature in joint session		2017 or 2018
STATE ELECTION DAY (if amendment passes 2 sessions)	1st Tuesday after the 1st Monday in November	November 6, 2018
Amendment takes effect	Date of certification of election results or upon date provided if later	November or December 2018

* For those who file on September 2, 2015.

SUGGESTIONS FOR PETITION FILERS

1. Although the courts have not yet ruled on whether an initiative petition must have a title, it is recommended to include a title. The title should indicate whether the petition is an initiative petition for a law or for a constitutional amendment and should make some mention of the subject matter of the proposed measure.
2. It is preferable to have each signer of the petition put his or her initials on each page of the petition to avoid any later question about whether the person signing actually saw the final version of the petition.
3. It is highly recommended to get more than ten original signers with voter registration certificates, signed by a majority of the registrars of voters, to be submitted to the Attorney General at the time the petition is filed. The courts have not yet ruled on whether such certificates must be filed with the Attorney General. However, it is recommended to file the certificates with the Attorney General with the original petition itself.
4. The Attorney General's office welcomes the chance to review draft petitions on an informal, non-binding basis and will make suggestions for changes to avoid certification problems if the draft petitions are submitted prior to the first Wednesday in August. The earlier the draft is submitted, the better. Do not wait until the petition has been signed. For more information please contact:

Juliana Rice, Deputy Government Bureau Chief
Office of the Attorney General
One Ashburton Place, 20th Floor
Boston, Massachusetts 02108
(617) 963-2583
ballotquestions@state.ma.us
5. You need not wait until the first Wednesday in August to file the final version of your petition with the Attorney General. Petitions will be accepted any time, and early filings are encouraged.
6. The Office of the Attorney General requests that petitioners submit an electronic copy (either via e-mail or disc) when filing the original petition. For more information regarding electronic submission of the text of the petition, please contact Juliana Rice at the telephone number above.

REFERENDUM PETITION

A referendum petition should be filed if an individual intends to have a law enacted by the General Court repealed by the voters. A referendum petition can only be used to repeal an entire law; it cannot be used to repeal a section of a law.

HOW TO ORIGINATE A REFERENDUM PETITION

To originate a referendum petition, at least ten qualified voters of the Commonwealth may draw up and sign an original petition on which they correctly identify the law they wish to have repealed.

Each of the ten original signers must obtain a certificate of voter registration from the board of registrars or election commission in the city or town in which they are a registered voter. Each certificate of voter registration must be signed by at least three members of the board of registrars or election commission. These voter registration certificates and the original petition are then submitted to the Secretary of the Commonwealth no later than 30 days after the act is signed into law by the Governor or passed over his veto.

SOME RECOMMENDATIONS

- It is strongly recommended that each of the signers have physical custody of the law they are seeking to repeal before signing the petition. It is also advisable to have more than ten original signers (the ten names to be printed on the petition form can be specified).
- It is not recommended to file separate signature papers which are attached to the law they are seeking to repeal. Instead, each of the ten signers should sign the page containing the petition language. Above the name of each signer you may wish to add a statement similar to the following: "I have personally reviewed the law sought to be repealed by this Referendum Petition and agree to be one of the original signers of the petition."
- The voter registration certificate of each signer may be separately attached to the petition.

EXCLUDED SUBJECTS AND SUMMARY

The Constitution excludes from the Referendum subjects that relate to religion, judges, the courts, particular localities of the Commonwealth, state appropriations and certain provisions of the state constitution's Declaration of Rights. The Attorney General prepares a summary of the act to be repealed. Within 14 days after receiving the summary from the Attorney General, the Secretary of the Commonwealth prepares referendum petition form blanks with the summary printed thereon for gathering signatures of registered voters.

HOW MANY SIGNATURES ARE REQUIRED

The number of certified signatures required depends on three factors:

- whether the law in question has an emergency declaration (and therefore is constitutionally barred from being suspended);
- whether the petitioners request the law be suspended upon filing the petition; and
- the number of votes cast for Governor at the last biennial state election, excluding blanks.

If the repeal is sought on an emergency law or on a law whose suspension is not requested by the petitioners, **the number of certified signatures required is 1 1/2 % of the total vote cast for Governor (excluding blanks) at the last state election.** This figure is **32,375** until the results of the 2018 state election are certified by the Governor's Council; no more than one-fourth of these certified signatures may come from any one county, which is **8,094**.

If the original petition filed by ten registered voters requests suspension in writing, the law will be suspended from taking effect when the referendum petition is filed. (Again, this does not apply to emergency laws.) **The number of signatures required to suspend the law upon filing of the petition is 2 % of the total vote cast for Governor (excluding blanks) at the last state election.** This figure is **43,167** until the results of the 2018 state election are certified by the Governor's Council; no more than one-fourth of these certified signatures may come from any one county, which is **10,792**.

HOW IS THE REFERENDUM PASSED

The ballot question that results from a referendum petition must read as follows:

"Do you approve of a law summarized below, which was approved by the House of Representatives by a vote of _____ on _____ (date) and approved by the Senate by a vote of _____ on _____ (date)?"

In order to repeal that law, **30%** of voters who cast ballots in the election must vote in favor of the above question and against the existing law passed by the legislature, and at least half of those voting on the question must vote in favor of the above question against the existing law.

Legal References:

- Articles XLVIII, LXVII, LXXIV, and LXXXI of the Amendments to the *Massachusetts Constitution*.
- Massachusetts General Laws Chapter 53, section 22A (2012 ed.).
- 950 C.M.R. § 48.00.
- Capezzuto v. State Ballot Law Commission, 407 Mass. 949, 556 N.E.2d 366 (1990).

CALENDAR OF EVENTS FOR REFERENDUM PETITIONCalendar of EventsLegal Deadlines*

Submission of petition to
Secretary of the Commonwealth
by ten original signers

No later than 30 days after act is signed
by Governor (or passed over his veto)

Secretary prepares petition forms
for collection of required number of
signatures

Within 14 days after summary is
prepared by Attorney General

Filing of petitions with local
registrars for certification

By 14 days before filing deadline with
the Secretary

Petitions with certified signatures
filed with the Secretary

Within 90 days after the act is signed by
the Governor (or passed over his veto)

Petitions submitted to the voters;
Suspended law immediately null
and void if law disapproved

First state election 60 or more days
after filing certified petitions with
the Secretary

If voters approve, suspended law
becomes effective. If they do not
approve, non-suspended law is
repealed

30 days after election

* If a deadline falls on a Saturday, Sunday, or legal holiday, the deadline may be on the previous or next weekday. Check with the Elections Division for exact dates.

PETITION FOR A PUBLIC POLICY QUESTION

2016 Petition

A public policy petition should be filed if an individual intends to submit instructions to the state senator or state representative from a district on a non-binding question of public policy.

HOW TO ORIGINATE A PUBLIC POLICY QUESTION

To put a public policy question on the ballot in a particular district at the next regular state election, at least twelve hundred (1,200) voters in a state senatorial district and two hundred (200) voters in a state representative district must sign the petition. Generally, public policy questions involve a determination of what governmental action is desirable or necessary for the public interest.

The question must be fit for legislative action. It must provide a legislator with an instruction or direction regarding governmental action.

It is recommended that a petitioner submit a public policy question in the following form: "Shall the (senator or representative) from this district be instructed to vote in favor of legislation (describe the legislation you wish to be enacted)?"

For more information, please contact the Elections Division before circulating a petition.

WHERE TO GET FORMS

Petitioners may obtain forms for public policy questions from the:

Secretary of the Commonwealth
Elections Division
One Ashburton Place, Room 1705
Boston, Massachusetts 02108

The petitions include a space designated for the text of the public policy question. Petitioners are strongly encouraged to consult the Office of the Attorney General and/or the Elections Division about the wording of their question before circulating their petition.

EXCLUDED QUESTIONS AND SUMMARY

The Attorney General determines whether or not the question is one of public policy. The Attorney General's decision, in the absence of bad faith, is final and not reviewable in court. In order to qualify for placement on the state election ballot, the question (or one that was substantially the same) cannot have been disapproved by the district's voters in the previous state election. Finally, no more than three public policy questions may appear in each district in any year.

FINAL FORM OF THE QUESTION

The Secretary of the Commonwealth and the Attorney General draft the final form in which the question will appear on the ballot.

HOW IS THE PUBLIC POLICY QUESTION PASSED

The public policy question must receive a majority of all votes cast in the district at the election to constitute an instruction to the legislator.

WHAT FORCE DOES A PUBLIC POLICY QUESTION HAVE

A question of public policy is not binding upon the vote of the legislator on that issue. Former Attorney General Paul A. Dever wrote that a public policy question “. . . was to afford an opportunity to the voters to apprise their senators and representatives of their sentiments upon important public questions.”

Legal References:

- *Massachusetts Constitution*, Part 1, Article XIX.
- *Massachusetts General Laws Chapter 53*, sections 19-22 (2012 ed.).

CALENDAR OF EVENTS FOR A PUBLIC POLICY PETITION

<u>Calendar of Events</u>	<u>Legal Deadlines</u>	<u>Dates</u>
Secretary of the Commonwealth has petition forms ready for the public	By the 15th Tuesday before the filing deadline with the Secretary	April 26, 2016
Petitions must be submitted to local registrars for certification	By the 28th day before the filing deadline with the Secretary	July 6, 2016
Petitions must be filed with the Secretary by the requisite number of voters according to the district	By the 1st Wednesday of August before the election at which the question is to be submitted	August 3, 2016
Question appears on the ballots in the district. The question is not binding and the results are advisory to the senator or representative.	State Election Day	November 8, 2016

CIRCULATING AND GATHERING SIGNATURES ON BALLOT QUESTION PETITIONS

Two Massachusetts Supreme Judicial Court cases have set a strong precedent regarding the circulation and gathering of signatures on ballot question petitions. Walsh v. Secretary of the Commonwealth, 430 Mass. 103 (1999); Hurst v. State Ballot Law Commission, 427 Mass. 825 (1998). Specifically, both courts held that any extraneous markings on a petition sheet will invalidate all of the signatures contained thereon. “[N]o alterations--additions or deletions--of any sort may be made to the forms provided by the Secretary....” Walsh at 105; Hurst at 830. Prior to those decisions, the Secretary of the Commonwealth had been presented with and accepted petitions with various markings. ***As a result of those court decisions, the Secretary will disallow all signatures contained on any petition that deviates from the blank form provided by the Secretary.***

In response to the court decisions, the Secretary of the Commonwealth promulgated regulations that govern the format of ballot question petitions. 950 C.M.R. § 48.00. The regulations were designed to enable petitioners to use the form most efficiently to gather signatures and to allow election officials to complete their tasks in as simple and efficient a manner as possible. Below please find recommendations for circulators.

DO NOT place any extraneous markings on the petitions.

DO NOT place a return address—handwritten, stamped or printed—on the petitions.

- * Upon request of the petition sponsors, this office will print the petition sponsors’ address and telephone number on the petition form.

DO NOT underline, highlight, or mark any words, information or area on the petition, especially the summary.

DO NOT number the petitions.

- * Upon request of the petition sponsors, this office will print a box at the bottom right on the petition sheet specifically for circulators to number petitions. The circulator’s initials ***may not*** be part of a numbering system; instead, the system should use only numbers and the use of a connector—for example: 1 of 20, or 1/20, or just consecutive numbers.

DO NOT put the name, initials, or telephone number of the signature gatherer on the petition.

DO NOT make any marks to count or delineate the number of signatures gathered.

DO have scratch paper available when gathering signatures to test pens.

Please be aware that any extraneous markings on a petition sheet will result in invalidation of all signatures contained on it.

CIRCULATING PETITIONS

The regulations, 950 CMR § 48.07, require the Secretary to review all initiative petition forms to ensure that they contain the signatures of at least three registrars of voters and for extraneous markings and compliance with exact copy requirements. If a petition is not signed by at least three registrars of voters, the signatures contained on such sheet will not be counted towards the total number of required signatures and instead will be designated as "uncertified." Signatures contained on petition forms that have extraneous markings and/or signatures contained on petition forms that are not exact copies will not be counted towards the total number of required signatures and instead will be designated as "disqualified."

Examples of extraneous markings include, but are not limited to, the following:

1. highlighting;
2. underlining;
3. scribbles;
4. doodles;
5. instructional language (*i.e.* "over" or "see other side");
6. the name or initials of the circulator; or
7. the telephone number of the circulator.

Examples of petition forms which are not exact copies include, but are not limited to, the following:

1. the paper size or color is different than that prepared by the Secretary;
2. the original text is missing or altered;
3. the petition form is one which was sent by facsimile;
4. the petition form contains printing on only one side;
5. the petition form contains two front sides, and therefore there is no box for the Registrars of Voters to certify the number of certified signatures contained thereon; or
6. the petition form contains a different number of signature lines than the number on the original petition form as prepared by the Secretary.

Accordingly, petitioners should ensure that any petitions circulated conform to the above standards. Signatures contained on petitions that contain extraneous markings and/or that are not exact copies will not be accepted as valid signatures towards the total number of required signatures.

ELECTRONIC VERSION OF PETITION

Upon written request, this Office will provide petitioners with a disk containing a .pdf file of the petition. This electronic version will be available on the same day as the blank initiative petition forms. Please note that by providing an electronic version of

the petition, it does not signify that this Office condones the electronic distribution of the form or the placement of the form on a website for downloading. Petitioners are cautioned to provide any person either circulating or signing an initiative petition with careful instructions to avoid disqualification, including making sure the petitions are printed double-sided and that they remain exact copies of the originals.

CERTIFIED SIGNATURES

Regardless of which type of petition is circulated, all signatures gathered must be those of registered voters in Massachusetts in the city or town in which the signatures are collected. All signatures must be certified by a majority (at least three) of the local registrars or election commissioners in the city or town in which the signatures are collected.

The final date for filing public policy petitions with local registrars or election commissioners is four weeks prior to the final filing date with the Secretary of the Commonwealth. For additional information, please see the calendars on pages 6, 10, 14, and 16.

FILE AS EARLY AS POSSIBLE

Petitioners ***should not wait*** until the final date for filing with local registrars. It is the petitioners' responsibility to deliver the signed petitions to local registrars or election commissioners by the appropriate deadline and to subsequently pick up the certified forms from the appropriate local election officials. The **petitioners** also bear responsibility for filing the certified petitions with the Secretary of the Commonwealth by the required filing date. Please be aware that all deadlines are at **5:00 p.m.** on the date specified.

SIGNATURES ON ALL PETITIONS

In order for a signature to be certified, the signature must be legible and signed in person, substantially as registered. Next to the signature must be written the complete address where the voter is registered. A signature will be certified if it can reasonably be identified as that of a registered voter.

Further, each petition should contain signatures of registered voters from only one city or town. Registrars cannot certify names from communities other than their own. For more information, please see "Checklist for Gathering Signatures" on page 20.

CHECKLIST FOR GATHERING SIGNATURES

- Collect only signatures from one city or town on nomination papers designated for that city or town. Signatures from another city or town will be disallowed.
- All signatures must be legible and signed substantially as registered.
 - If the registrars can determine the identity of the voter from the form of the signature then the name shall be considered signed substantially as registered according to the law.
 - The law allows the voter to insert or omit a middle name or initial and still have the signature deemed valid.
 - Voters should sign both their first and last names.
For example: Helen Jones should not sign as "Mrs. John Jones."
 - It is wise to have a list of registered voters or a street listing with you to verify the exact form of registration.
- Ballot question petitions require the voter's address where he or she is **currently registered**.
- If a voter signs incorrectly or makes an error, do not erase or make changes. Leave the incorrect line intact and ask the voter to sign his or her name and address again on the next line. An altered or illegible signature may be disallowed or challenged.
- Persons who are prevented from signing by physical disability may authorize another individual to sign for them in the voter's presence.
 - No person may sign for another unless the voter is physically disabled.
One spouse **may not** sign for another.
- Collect and submit more signatures than the law requires. Many may be disallowed or challenged.

