

The Basic Steps To Do An Initiative In Massachusetts Statutes And Amendments – Indirect Initiative Process

Basic Procedures: Ten qualified voters may draw up and sign an original petition on which they put forward the full text of the law they want enacted. Each of the ten original signers must obtain certificates of voter registration from the board of registrars or election commission in the city or town where they are registered voters. The certificate of voter registration must be signed by at least three registrars. These certificates and the original petition must be submitted to the Attorney General no later than the first Wednesday of August 2001.

The Attorney General certifies that the measure and the title thereof are in proper form for submission to the people, and that the measure is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people at either of the two preceding biennial state elections, and that it contains only subjects not excluded from the popular initiative. The Constitution excludes from the initiative subjects that relate to religion, judges, the courts, particular localities, specific appropriations, and certain provisions of the state constitution's Declaration of Rights.

Once the Attorney General finds that the petition is acceptable, he prepares a summary and returns the summary and the petition to the petitioners, who must file the petition and summary with the Secretary of State. The initiative can be filed with the Secretary of State sometime *after* the first Wednesday in September of 2001. The Attorney General almost always reviews the measure and writes the summary by the first Wednesday of September, but is not required by statute to do so. (The Attorney General works closely with proponents on writing the title and summary and proponents can challenge the ultimate language directly in the Massachusetts Supreme Court.)

After the proponents submit the final language to the Secretary of State, the Secretary of State will prepare the initiative petition forms with the summary printed thereon for voters to sign within fourteen days after receiving the papers from the original petitioners.

Date initiative language can be submitted for the November 2002 election: Any time, but not later than the first Wednesday of August 2001. Proponents, however, cannot circulate their petitions until after the first Wednesday in September.

Signatures are tied to vote of which office: Governor

Next Gubernatorial election: 2002

Votes cast for governor in last election: 1,935,277 (1998)

Net number of signatures required: Massachusetts has an in-direct initiative process. In order to be placed before the General Court, the petition (whether a statute or an amendment) 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 2002 state election are certified by the Governor's Council, the initiative petition must be signed by a minimum of 57,100 certified voters. No more than one-quarter of the certified signatures may come from any one county (until the results of the 2002 state election are certified by the Governor's Council, this figure is 14,275).

A) Statutes: If the petition is rejected by the General Court or if the General Court fails to act by the first Wednesday in May of 2002, 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 proponents may force the original or amended petition on the ballot at the next regular state election by submitting a written request to the Secretary of State 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. 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. This means that, until the Governor's Council certifies the results of the 2002 state election, the additional signature requirement is 9,517 certified signatures. The same provision applies that no more than 1/4 of these signatures may come from one county (until the results of the 2002 state election are certified by the Governor's Council, this is 2,379).

B) Constitutional Amendments: 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. 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.

Distribution requirement: No more than one-quarter of the certified signatures may come from any one county (until the results of the 2002 state election are certified by the Governor's Council, this figure is 14,275).

Circulation period: 64 days

Do circulators have to be residents of the state: No

Date when signatures are due for certification: The petitions must be submitted to the Local Registrars of Voters at least 14 days before the first Wednesday in December 2001 for verification, with the exception of Boston, which will be 10 days earlier. (Once signatures are verified by the Local Registrars of Voters, proponents have until the first Wednesday in December to submit them to the Secretary of State.)

Signature verification process: 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.

Single Subject Restriction: Massachusetts has no single subject requirement.

Legislative tampering: Legislature can both repeal and amend initiatives. (Massachusetts Constitution Article 48, Gen. Prov. Pt. 6)

General Comments: Even though the state allows the citizens to propose both amendments and statutes through the initiative process, it has been the history of the state that most citizens propose statutory changes versus amendments. This is primarily because when an amendment is submitted to the legislature, they do not have to act and there is no provision to collect additional signatures and place the amendment on the ballot.

In addition, a recent Massachusetts Supreme Judicial Court case has set a strong precedent restricting the circulation and gathering of signatures on ballot question petitions. *Hurst v. State Ballot Law Commission*, 427 Mass. 825 (1998). Specifically, the court ruled that any extraneous markings on the petition sheet would invalidate all of the signatures contained thereon. The court stated that, ". . . no alterations--additions or deletions--of any sort may be made to the forms provided by the Secretary...." *Hurst* at 830. The Secretary of State now warns:

"In the past, the Secretary of State has accepted petitions containing various markings. Such markings have included highlighting, underlining, stamped and/or printed return addresses, as well as numbering on each petition. However, in light of the recent court decision the Secretary of

State is no longer able to accept the signatures on petitions containing such extraneous markings. This office will therefore reject the signatures contained on any petitions deviating from an 'exact copy' of the blank petition provided by the Secretary."

Thus, DO NOT place a return address (*handwritten, stamped or printed*) on the petitions.

DO NOT use a highlighter or mark any area on the petition, especially the summary.

DO NOT underline any area on the petition.

DO NOT number the petitions.

DO NOT put the name of the signature gatherer on the petition.

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