

HOUSE No. 02327

The Commonwealth of Massachusetts

PRESENTED BY:

Louis L. Kafka, (BY REQUEST)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to a ballot referenda form of town meeting.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Ms. Laura Nelson</i>	<i>236 Edge Hill Road</i>
	<input type="checkbox"/> <i>Sharon, MA 02067</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>

HOUSE No. 02327

By Mr. Kafka of Stoughton (by request), a petition (accompanied by bill, House, No. 2327) of Kafka for legislation to establish an alternative ballot referenda form of town meetings Joint Committee on Municipalities and Regional Government.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to a ballot referenda form of town meeting.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1.

2

3 Chapter 43A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended
4 by inserting after the word inclusive the following words:-; or the alternative form of meeting,
5 official ballot referenda, as provided by sections two-A and thirteen.

6 SECTION 2.

7 Chapter 43A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended
8 by inserting the following section after section 2:

9 Section 2A

10 Notwithstanding any general or special law to the contrary, Chapter 43A of the General Laws, as
11 appearing in the 2006 Official Edition, is hereby amended by adding the following after Section
12 2:-

13 (1). This section may be adopted by any city or town in the Commonwealth in order to adopt the
14 alternative form of town meeting as provided in section thirteen of this chapter. A 3/5 majority of
15 those voting on the question shall be required to adopt this section. Only votes in the affirmative
16 or negative shall be included in the calculation of the 3/5 majority.

17 (2). Adoption of this section shall be deemed to constitute a vote to conduct the election of town
18 officers by official ballot.

19 (3). The city or town shall place the question on the warrant of the annual meeting, and the
20 question shall be voted on by official ballot in accordance with the procedures established in the
21 General Laws, including all requirements pertaining to absentee voting, polling places, and
22 polling hours.

23 (4). A public hearing shall be held by the local governing body on the question at least 15 days,
24 but not more than 30 days, before the question is to be voted on. Notice of the hearing shall be
25 posted in at least 2 public places in the town, and published in a newspaper of general circulation
26 at least 7 days prior to the date of the hearing.

27 (5). The wording of the question shall be: ""Shall we adopt the provision to allow official ballot
28 voting on all issues before the (city/town) on the second Tuesday of (month)?"

29 (6). If a 3/5 majority of those voting on the question vote "yes," Chapter 43A Section 13 shall
30 apply within the town or city at the annual or special meeting next following. Only votes in the
31 affirmative or negative shall be included in the calculation of the 3/5 majority.

32 (7). For any town which has adopted a charter under Chapter 43, the method of adoption shall be
33 the manner of amending the charter as provided under Chapter 43B, Section 11.

34 (8). In the event that an alternative method for the adoption of official ballot voting exists under
35 the laws of this state, then once the requirements are met for inclusion of the question on the
36 warrant for annual meeting of whether to adopt this section, neither the governing body nor the
37 legislative body shall commence action to adopt official ballot voting through such alternative
38 method until a final vote is taken on the warrant article. If procedures have been initiated to
39 adopt official ballot voting under an alternative law of this state, then neither the governing body
40 nor the legislative body shall commence action to adopt this subdivision until such alternative
41 procedures are exhausted.

42 (9). A city or town which has adopted the provisions of this section may change the date for local
43 elections and the second session as follows:

44 (a) The question may be inserted on the warrant for either an annual or special meeting,
45 either by the local governing body or by petition.

46 (b) A public hearing shall be held by the local governing body on the question at least 15
47 days, but not more than 30 days, before the question is to be voted on. Notice of the hearing shall
48 be posted in at least 2 public places in the town, and published in a newspaper of general
49 circulation at least 7 days prior to the date of the hearing.

50 (c) The wording of the question shall be substantially similar to the following: ""Shall we
51 change the date for elections and the second session from the second Tuesday in _____ to
52 the second Tuesday in _____, which would change the date for the first session to a date
53 between the first and second Saturdays after the last Monday in _____, inclusive?"

54 (d) A simple majority in the affirmative of those voting on the question shall be required to
55 change the date. Only votes in the affirmative or negative shall be included in the calculation of
56 the majority.

57 (e) A vote to change the dates of the meeting shall apply to the annual meeting next
58 following the vote.

59 SECTION 3.

60 Notwithstanding any general or special law to the contrary, Chapter 43A of the General Laws,
61 as appearing in the 2006 Official Edition, is hereby amended by inserting the following after
62 Section 12:-

63 Section 13.

64 (1) Notwithstanding any other provision of law, any town or city which has adopted this
65 subdivision shall utilize the official ballot for voting on all issues before the voters.

66 (2) The warrant for any annual meeting shall prescribe the place, day and hour for each of 2
67 separate sessions of the meeting, and notice shall be given as otherwise provided in this section.
68 Final budgets and ballot questions shall be printed in the annual report made available to the
69 legislative body at least one week before the date of the second session of the annual meeting.

70 (3). The first session of the annual meeting, which shall be for the transaction of all business
71 other than voting by official ballot and governed by the provisions of sections 3 through 6
72 inclusive as well as Chapter 39 Section 9 through 17, shall consist of explanation, discussion,
73 and debate of each warrant article. Warrant articles may be amended at the first session, subject
74 to the following limitations:

75 (a) Warrant articles whose wording is prescribed by law shall not be amended.

76 (b) Warrant articles that are amended shall be placed on the official ballot for a final vote
77 on the main motion, as amended.

78 (4). Any town may vote to require that all votes by an advisory budget committee, a town
79 budget committee, and the governing body or, in towns without a budget committee, all votes of
80 the governing body relative to budget items or warrant articles shall be recorded votes and the
81 numerical tally of any such vote shall be printed in the town warrant next to the affected warrant
82 article.

83 (5). All warrant articles shall be placed on the official ballot for a final vote, including warrant
84 articles as amended by the first session. Any authorization, appropriation or other actions
85 normally required by Massachusetts law to occur at the annual town meeting will instead be
86 taken up on the official ballot by towns or cities that have adopted this section.

87 (6). The second session of the annual meeting, to elect officers of the local political
88 subdivision by official ballot, to vote on questions required by law to be inserted on said official
89 ballot, and to vote on all warrant articles from the first session on official ballot, shall be held on
90 the fourth Tuesday following the first session. This second session shall be deemed the annual

91 election date for purposes of all applicable election and votes on zoning ordinances, historic
92 district ordinances, and building codes.

93 (7). The clerk of the town or city shall prepare an official ballot, which may be separate from
94 the official ballot used to elect officers, for all warrant articles. Wording shall be substantively
95 the same as the main motion, as it was made or amended at the first session, with only such
96 minor textual changes as may be required to cast the motion in the form of a question to the
97 voters.

98 (8). The provisions of chapters fifty to fifty-seven, inclusive, applicable to city or town
99 elections shall apply to the proceedings governed by this section so far as apt, but the provisions
100 of sections fifty-five to fifty-eight, inclusive, of chapter fifty-four shall not be deemed to apply,
101 and the provisions of this section shall prevail where they are in conflict with any applicable
102 provisions of said chapters fifty to fifty-seven, inclusive.

103 (9). Approval of all warrant articles shall be by simple majority except for questions which
104 require a 2/3 vote by law, contract, or written agreement.

105 (10). Votes taken at the second session shall be subject to recount under Chapter 154 Sections
106 134 - 137 inclusive.

107 (11). Votes taken at the second session shall not be reconsidered.

108 (12). The warrant for any special meeting shall prescribe the date, place and hour for both a
109 first and second session. The second session shall be warned for a date not fewer than 28 days
110 nor more than 60 days following the first session. The first and second sessions shall conform to

111 the provisions of this subdivision pertaining to the first and second sessions of annual meetings.

112 Special meetings shall be subject to Chapter 39 Sections 10 and 12.