

HOUSE No. 561

The Commonwealth of Massachusetts

PRESENTED BY:

Jonathan Hecht

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 adoption of the accompanying bill:

An Act to establish a citizens' initiative review commission.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>

HOUSE No. 561

By Mr. Hecht of Watertown, a petition (accompanied by bill, House, No. 561) of Jonathan Hecht and others for legislation to establish a citizens' initiative review commission to review initiative or referendum petitions to be voted on at general elections . Election Laws.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act to establish a citizens' initiative review commission.

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. Chapter 54 of the General Laws is hereby amended by inserting after
2 section 42C the following section:--

3 Section 42D. (a) A citizens' initiative review commission is established within the
4 executive branch; and shall consist of 7 commissioners, all of whom shall be residents of the
5 commonwealth.

6 The governor shall appoint a dean or professor of law or political science or government
7 at an institution of higher education. The attorney general shall appoint a retired justice. The
8 secretary of the commonwealth shall appoint an expert in the methods of deliberative democracy.
9 The speaker of the house of representatives, the minority leader of the house of representatives,
10 the senate president, and the senate minority leader shall each appoint 1 member.

11 No person appointed to the commission, in the 5 years preceding such appointment, shall
12 have held presidential, congressional, state legislative or statewide elective office, nor shall have

13 served as mayor or city councilor of a city in the commonwealth, or as a member of the
14 governor's council, nor shall have been elected to a state or federal party committee; nor shall be
15 a current employee, agent or family member of any of the above persons; nor in the 2 years
16 preceding such appointment shall have been an executive or legislative agent.

17 The term of office of a commissioner shall be 4 years. Vacancies shall be filled by the
18 appropriate appointing authority.

19 The commissioners shall: (i) neither stand for elected office for the duration of their terms
20 nor be compensated by any organization for their support or opposition to an initiative or
21 referendum measure; (ii) ensure that the citizen panels are convened to review ballot measures in
22 a fair and impartial manner; and (iii) adopt rules and regulations necessary to carry out the
23 commission's duties under this section.

24 (b) Except as otherwise provided in this section, the commission may accept
25 contributions of moneys and assistance from the federal government or its agencies or from any
26 other source, public or private, including the commonwealth, and agree to conditions placed on
27 the moneys not inconsistent with the duties of the commission. All moneys received by the
28 commission under this subsection shall be deposited into the Citizens' Initiative Review Fund
29 established under subsection (f).

30 The commission may not receive contributions of moneys or assistance from: (i) a
31 political committee; (ii) for-profit corporate treasuries; (iii) union treasuries; or (iv) any other
32 source the commission determines might be used to transfer moneys from a political committee,
33 for-profit corporate treasury or union treasury to the commission.

34 If a person contributes to the commission an aggregate total of more than \$100 in a
35 calendar year, not later than 14 calendar days after the commission receives the contribution, the
36 commission shall make available to the public on the Internet the name and address of the person
37 or entity who made the contribution, and the amount of the contribution.

38 The commission may enter into contracts and hire any staff the commission deems
39 necessary.

40 The commission may appoint an executive director to serve at the pleasure of the
41 commission.

42 (c) The commission shall select 1 or more state measures proposed by initiative or
43 referendum petition to be voted on at a general election and convene a separate citizen panel to
44 review each selected measure.

45 In selecting a measure to be reviewed by a citizen panel, the commission shall consider
46 the following criteria: (i) the fiscal impact of a measure, (ii) whether the measure amends the
47 constitution, (iii) the availability of funds to conduct reviews, and (iv) any other criteria
48 established by the commission by rule or regulation.

49 Each citizen panel shall evaluate and write statements for the measure considered by the
50 panel.

51 The commission shall select citizens for each panel from a representative sample of
52 anonymous electors, using survey sampling methods that, to the extent practicable, give every
53 elector a similar chance of being selected. Each citizen panel shall consist of not fewer than 18
54 and not more than 24 electors.

55 The commission shall ensure, to the extent practicable and legally permissible, that the
56 demographic makeup of each panel fairly reflects the population of the electorate of this state as
57 a whole, with respect to the following characteristics, prioritized in the following order: (i) the
58 location of the elector’s residence; (ii) the elector’s party affiliation, if any; (iii) the elector’s
59 voting history; and (iv) the elector’s age. The commission may also consider any other criteria,
60 including the elector’s gender or the elector’s ethnicity or both.

61 The commission shall, from moneys in the Citizens’ Initiative Review Fund: (i)
62 compensate each elector for each day served on a panel in an amount calculated using the
63 average weekly wage; (ii) reimburse each elector who serves on a panel for travel expenses in
64 accordance with reimbursement policies determined by the commission by rule or regulation;
65 (iii) provide for costs required to convene and conduct a citizen panel; and (iv) transfer to the
66 secretary all moneys necessary to pay the costs of printing any statements described in
67 subsection (e) in materials printed and sent in the manner provided in section 53.

68 Each panel shall meet to review the measure on 5 consecutive days for a total of not less
69 than 25 hours unless otherwise provided by commission rule or regulation. Each panel shall
70 conduct public hearings at which the panel shall receive testimony or other information from
71 both proponents and opponents of the measure. Unless otherwise determined by a majority of the
72 panelists, equal time shall be allotted to proponents and opponents of a measure. The chief
73 petitioners of the measure shall designate 2 persons to provide information in favor of the
74 measure to the citizen panel. If the chief petitioners fail to timely designate 2 persons to appear
75 before the panel, the commission may designate 2 persons who support the measure to provide
76 information in favor of the measure. The commission shall designate 2 persons who oppose the

77 measure to provide information in opposition to the measure. The commission, by rule or
78 regulation, may specify additional criteria regarding the public hearings.

79 The commission shall provide each panel with any complaints regarding the panel not
80 later than the fourth day the panel convenes.

81 The commission shall, by rule, establish qualifications for moderators for each citizen
82 panel. A moderator must have experience in mediation and shall complete a training course
83 established by the commission.

84 The commission shall contract with 2 moderators for each panel and shall compensate
85 each moderator for service.

86 Citizen panelists shall not be compensated by any organization for their support or
87 opposition to an initiative or referendum measure that they reviewed.

88 (d) Not later than February 1 of an odd-numbered year, each person who served as a
89 moderator for a citizen panel that evaluated a measure voted on at the most recent general
90 election shall convene to evaluate procedures related to the citizen panels and submit a written
91 report to the commission summarizing the evaluation, along with any recommendations.

92 Not later than February 1 of an odd-numbered year, 2 electors from each citizen panel
93 shall convene to evaluate procedures related to the citizen panels and submit a written report to
94 the commission summarizing the evaluation, along with any recommendations.

95 Each year in which an evaluation is conducted by moderators and panelists under this
96 subsection, the commission shall review the evaluations and make any findings and

97 recommendations. The commission shall make all evaluations, findings and recommendations
98 made under this section available to the public.

99 (e) Not later than the date set by the secretary by rule, each citizen panel shall prepare
100 and file with the secretary any of the following statements of not more than 250 words each:

101 (i) A statement in favor of the measure.

102 (ii) A statement opposed to the measure.

103 (iii) A statement that “No panelist took this position.” if a panel is unanimous in either
104 supporting or opposing a measure.

105 (iv) A statement of key findings that summarizes the citizen panel’s findings in an
106 impartial manner and may include a tally of how many panelists agreed with the key findings.

107 (v) A statement of additional policy considerations that describes the subject matter of or
108 any fiscal considerations related to the measure. A statement submitted under this paragraph
109 must be supported by at least three-quarters of the panelists.

110 Before a statement is filed with the secretary:

111 (i) a person designated under subsection (c) to provide information in support of the
112 measure shall be allowed to review the statement in favor of the measure by the citizen panel and
113 provide feedback to the panel regarding the statement; and

114 (ii) a person designated under subsection (c) to provide information in opposition to the
115 measure shall be allowed to review the statement opposed to the measure by the citizen panel
116 and provide feedback to the panel regarding the statement.

117 (iii) A person designated under subsection (c) to provide information in support of the
118 measure or to provide information in opposition to the measure shall be allowed to review the
119 statement of key findings by the citizen panel and provide feedback to the panel regarding the
120 statement.

121 A citizen panel may adjust any statement after receiving the feedback.

122 The secretary shall prescribe the size and manner of placement of the statements
123 submitted by a citizen panel to be printed and sent in the manner provided in section 53, except
124 that the statements shall be clearly differentiated from other arguments or statements and may
125 include, but are not limited to, the use of unique formatting and informative symbols.

126 The secretary shall provide with any citizen panel statement a description of not more
127 than 150 words of the citizen panel process described in this section and the following
128 explanation:

129 The opinions expressed in this statement are those of the members of a citizen panel and
130 were developed through the citizen review process. They are NOT official opinions or positions
131 endorsed by the Commonwealth of Massachusetts or any government agency. A citizen panel is
132 not a judge of the constitutionality or legality of any ballot measure, and any statements about
133 such matters are not binding on a court of law.

134 The secretary, by rule or regulation, shall set a date by which statements must be filed
135 under this section.

136 (f) The Citizens' Initiative Review Fund is hereby established in the State Treasury,
137 separate and distinct from the General Fund. Interest earned by the Citizens' Initiative Review

138 Fund shall be credited to the fund. All moneys in the fund are continuously appropriated to the
139 commission to carry out the duties, functions and powers of the commission and for expenses as
140 authorized by subsection (c).

141 (g) Not later than the date that is 4 months before the date of the general election in an
142 even-numbered year, the commission shall determine whether moneys in sufficient amount are
143 available in the Citizens' Initiative Review Fund to carry out all the duties, functions and powers
144 of the commission, implement subsections (c), (d) and (e) and pay for any statements to be
145 printed and sent in the manner provided in section 53.

146 If the commission determines that the fund has sufficient moneys, the commission shall
147 carry out all the duties, functions and powers of the commission, implement subsections (c), (d)
148 and (e) and may submit statements to be printed and sent in the manner provided in section 53.

149 If the commission determines that the fund has insufficient moneys for the general
150 election in that even-numbered year, the commission may not carry out all the duties, functions
151 and powers of the commission, implement sections (c), (d) and (e) or submit statements to be
152 printed and sent in the manner provided in section 53.

153 SECTION 2. Notwithstanding subsection (a) of section 42D of chapter 54, the initial
154 term of appointment for commissioners appointed by the speaker of the house, the house
155 minority leader, the senate president, and the senate minority leader to the citizens' initiative
156 review commission, established by said section 42D of said chapter 54, shall be 2 years.