

SENATE No. 01923

[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

Katherine M. Clark

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 amending the charter of the city of Malden.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Katherine M. Clark</i>	<i>Middlesex and Essex</i>
<i>Paul J. Donato</i>	<i>35th Middlesex</i>
<i>Christopher G. Fallon</i>	<i>33rd Middlesex</i>
<i>Stephen Stat Smith</i>	<i>28th Middlesex</i>

SENATE No. 01923

By Ms. Clark, a petition (accompanied by bill, Senate, No. 1923) of Katherine M. Clark, Paul J. Donato, Christopher G. Fallon and Stephen Stat Smith (with the approval of the Mayor and City Council) for legislation to amend the charter of the city of Malden . Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act amending the charter of the city of Malden.

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. Section 24A through Section 24G of Chapter 169 of the acts of 1881,
2 as added by Chapter 29 of the Acts of 1950, is hereby repealed and the following inserted in
3 place thereof:

4 Section 24A. Initiative and Referendum

5 a) Definitions: As used in this section, the following words shall have the following
6 meanings:

7 Initiative: a measure proposed by voters through the initiative process provided in
8 this section

9 Measure: any ordinance, resolution, order or vote which has or may be adopted by
10 the City Council or School Committee

11 Referendum: a measure adopted by the City Council or School Committee which is
12 protested under the referendum process provided in this section.

13 b) Filing of Initiative or Referendum Petitions

14 The papers constituting an initiative or referendum petition shall be filed in the
15 office of the city clerk and shall include the names and addresses of three persons designated as
16 having filed the same. With each signature on the petition, there shall also appear the residence,
17 including street name and number, of the signer.

18 Signatures to an initiative or referendum petition need not be all on one paper, nor
19 must all papers be filed at the same time. A petition shall be considered filed when the persons
20 designated as filing the petition notify the city clerk in writing that the filing is complete.

21 Within five days after the filing of a petition, the registrars of voters shall determine
22 by what number of voters the petition has been signed and the percentage that number is of the
23 total number of voters. The Registrars shall attach a certificate to the petition showing the results
24 of their examination and shall immediately transmit the certificate and petition to the City
25 Council or School Committee, as the petition is addressed. A copy of the certificate shall also be
26 sent to the persons designated as filing the

27 petition.

28 c) Referendum Petitions; time for filing; effect on final passage

29 A referendum petition must be filed within 20 days of the final passage of the
30 measure to which it relates; provided that no revenue loan order may be made the subject of a
31 referendum.

32 If a referendum petition signed by voters equal in number to twelve percent of the
33 total number of voters is submitted to the City Council or School Committee, as the case may be,
34 the measure protested against shall be suspended from taking effect.

35 The City Council or School Committee shall immediately reconsider such measure
36 and, if such measure is not entirely rescinded, the City Council shall submit the measure to a
37 vote of the registered voters at either:

38 1. the next regular municipal election held not less than 45 days after
39 submission of the referendum petition to the City Council or School Committee, or;

40 2. a special election which may, in the City Council=s discretion, be
41 called for that purpose.

42 Such measure shall become null and void unless it is approved by a majority of the
43 voters voting thereon.

44 d) Initiative Petition; passage by city or submission to voters

45 If an initiative petition signed by voters equal in number to at least twenty percent
46 of the total number of

47 voters is submitted to the City Council or School Committee, the City Council or
48 School Committee shall:

49 1. pass such measure without alteration within twenty days; or

50 2. the City Council shall call a special election to be held on a Tuesday
51 not less than thirty nor more than forty five days from the date of qualification and shall submit

52 such measure, without alteration, to a vote at that election; provided that, if a regular municipal
53 election is to occur within ninety days after the date of qualification, the City Council may omit
54 calling a special election and may submit the proposed measure to the voters at the regular
55 municipal election.

56 If an initiative petition signed by voters equal in number to at least eight percent but
57 less than twenty percent of the total number of voters is submitted to the City Council or School
58 Committee, the City Council or School Committee shall:

59 1 pass such measure without alteration within twenty days; or

60 2. the City Council shall submit the proposed measure to the voters at
61 the regular municipal election.

62 e) Initiative Petition; passage by voters

63 An initiative shall become effective only if it is approved by:

64 1. a majority of the voters voting on such measure, but

65 2. no less than 25% of the total number of voters eligible to vote in that
66 election.

67 f) Submission of questions to the electorate by the Council or School Committee

68 The City Council may, on its own motion, and shall, upon the request of the School
69 Committee if a measure originates with that committee and pertains to affairs under its
70 administration, submit to a vote of registered voters of the city for adoption or rejection at a
71 regular or special municipal election, any proposed measure or proposition for the repeal or

72 amendment of any measure, in the same manner and with the same force and effect as provided
73 for by initiative or referendum.

74 g) Conflicting provisions

75 If two or more proposed measures passed at the same election contain conflicting
76 provisions, the

77 measure receiving the greater number of affirmative votes shall take effect.

78 SECTION 2. Section 9 of Chapter 169 of the Acts of 1881 is hereby amended by
79 striking out the last paragraph, as inserted by Section 2 of Chapter 255 of the Acts of 1964, and
80 inserting in place thereof the following:

81 A vacancy, arising from any cause, in the office of Councillor At Large or Ward
82 Councillor shall be filled by special election to be held not less than 60 nor more than 90 days
83 from the date of notification that a vacancy exists; provided that a vacancy arising between
84 March 1 and July 1 in a municipal election year shall be filled at the regular election and the
85 person so elected shall fill the remainder of the unexpired term in addition to the next regular
86 term. If a vacancy to be filled at the regular municipal election arises in the office of Councillor
87 At Large or Ward Councillor, the person elected to the next regular term of office for the vacant
88 position or, in the case of Councillor At Large, the person who received the highest number of
89 votes for Councillor At Large in the municipal election and is not presently serving, shall be
90 sworn to office immediately upon certification of the results of the regular municipal election.

91 SECTION 3. Section 24 of Chapter 169 of the Acts of 1881 is hereby amended by
92 striking out the sixth sentence, as inserted by Section 3 of Chapter 255 of the Acts of 1964, and
93 inserting in place thereof the following:

94 A vacancy, arising from any cause, in the office of School Committee shall be filled
95 by special election to be held not less than 60 nor more than 90 days from the date of notification
96 that a vacancy exists; provided that a vacancy arising between March 1 and July 1 in a municipal
97 election year shall be filled at the regular election and the person so elected shall fill the
98 remainder of the unexpired term in addition to the next regular term.

99 If a vacancy to be filled at the regular municipal election arises in the office of
100 School Committee, the person elected to the next regular term of office for the vacant position
101 shall be sworn to office immediately upon certification of the results of the regular municipal
102 election.

103 SECTION 4. Section 9 of Chapter 169 of the Acts of 1881 is hereby amended by
104 striking out the fourth and fifth sentences and inserting in place thereof the following:

105 A vacancy, arising from any cause, in the office of Mayor shall be filled by special election to be
106 held not less than 60 nor more than 90 days from the date of notification that a vacancy exists;
107 provided that a vacancy arising between March 1 and July 1 in a municipal election year shall be
108 filled at the regular election. If a vacancy to be filled at a regular municipal election arises in a
109 year during which a Mayoral election would not ordinarily be held, the person so elected shall
110 fill the remainder of the unexpired term. If a vacancy to be filled at a regular municipal election
111 arises in a year during which a Mayoral election would ordinarily be held, the person so elected
112 shall fill the remainder of the unexpired term in addition to the next regular term. In either of the

113 aforesaid events, the person elected to the vacant position shall be sworn to office immediately
114 upon certification of the results of the regular
115 municipal election.

116 SECTION 5. Section 4 of Chapter 169 of the Acts of 1881, as amended by Chapter
117 264 of the Acts of 1998, is hereby amended by adding at the end of section 4 the following
118 sentence: ANo person shall be a candidate for nomination to more than one office at any regular
119 or special municipal election.

120 SECTION 6. Section 11 of Chapter 169 of the Acts of 1881 is hereby amended by
121 striking out the words Aafter it has been presented to him@ as appearing in the last sentence and
122 inserting in place thereof the words Aafter final passage by the City Council.

123 SECTION 7. The provisions of Sections 1 through 5 of this act shall be submitted
124 to the voters of the City of Malden at the regular municipal election to be held in the year 2011 in
125 the form of a series of questions which shall be placed on the official ballot to be used for the
126 election of city officers at said election as follows: AShall section 1 of an act passed by the
127 general court relative to initiative and referendum in the City of Malden be accepted?@; AShall
128 sections 2, 3 and 4 of an act passed by the general court relative to filling of vacancies in elective
129 office in the City of Malden be accepted?; AShall Section 5 of an act passed by the general court
130 relative to candidacy for more than one office be accepted?@. If a majority of the votes cast in
131 answer to any question is in the affirmative, that section shall take effect, but not otherwise.

132 The provisions of Section 6 shall become effective upon passage.