HOUSE DOCKET, NO. 2922 FILED ON: 1/21/2011

HOUSE . . . . . No. 2327

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 adoption of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Ms. Laura Nelson	*236 Edge Hill Road Sharon, MA 02067*

HOUSE DOCKET, NO. 2922 FILED ON: 1/21/2011

HOUSE . . . . . No. 2327

By Mr. Kafka of Stoughton (by request), a petition (accompanied by bill, House, No. 2327) of Laura Nelson for legislation to establish an alternative ballot referenda form of town meetings. 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:

SECTION 1.

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

SECTION 2.

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

Section 2A

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

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

19 (3). The city or town shall place the question on the warrant of the annual meeting, and
20 the question shall be voted on by official ballot in accordance with the procedures established in
21 the 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
24 days, but not more than 30 days, before the question is to be voted on. Notice of the hearing shall
25 be posted in at least 2 public places in the town, and published in a newspaper of general
26 circulation 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
28 ballot 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
30 shall apply within the town or city at the annual or special meeting next following. Only votes in
31 the 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
33 shall be 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
35 under the laws of this state, then once the requirements are met for inclusion of the question on
36 the warrant for annual meeting of whether to adopt this section, neither the governing body nor
37 the legislative body shall commence action to adopt official ballot voting through such
38 alternative method until a final vote is taken on the warrant article. If procedures have been
39 initiated to adopt official ballot voting under an alternative law of this state, then neither the
40 governing body nor the legislative body shall commence action to adopt this subdivision until
41 such alternative procedures are exhausted.

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

44 (a) The question may be inserted on the warrant for either an annual or special
45 meeting, 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
47 15 days, but not more than 30 days, before the question is to be voted on. Notice of the hearing
48 shall 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
51 we change the date for elections and the second session from the second Tuesday in _____
52 to 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
55 required to change the date. Only votes in the affirmative or negative shall be included in the
56 calculation of 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
61 Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting the following
62 after Section 12:-

63 Section 13.

64 (1) Notwithstanding any other provision of law, any town or city which has adopted
65 this 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
67 of 2 separate sessions of the meeting, and notice shall be given as otherwise provided in this
68 section. Final budgets and ballot questions shall be printed in the annual report made available to
69 the legislative body at least one week before the date of the second session of the annual
70 meeting.

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

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

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

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

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

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

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

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

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

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

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

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

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

112 conform to the provisions of this subdivision pertaining to the first and second sessions of annual

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