

SENATE No. 1923

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
2 1881, as added by Chapter 29 of the Acts of 1950, is hereby repealed and the following inserted
3 in place thereof:

4 Section 24A. Initiative and Referendum

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

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

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

11 Referendum: a measure adopted by the City Council or School Committee
12 which is 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
15 the office of the city clerk and shall include the names and addresses of three persons designated
16 as having filed the same. With each signature on the petition, there shall also appear the
17 residence, including street name and number, of the signer.

18 Signatures to an initiative or referendum petition need not be all on one
19 paper, nor must all papers be filed at the same time. A petition shall be considered filed when the
20 persons 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
22 determine by what number of voters the petition has been signed and the percentage that number
23 is of the total number of voters. The Registrars shall attach a certificate to the petition showing
24 the results of their examination and shall immediately transmit the certificate and petition to the
25 City Council or School Committee, as the petition is addressed. A copy of the certificate shall
26 also be 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
30 the 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
33 of the total number of voters is submitted to the City Council or School Committee, as the case
34 may be, the measure protested against shall be suspended from taking effect.

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36 measure and, if such measure is not entirely rescinded, the City Council shall submit the measure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

38 1. the next regular municipal election held not less than 45 days
39 after 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
41 discretion, be called for that purpose.

42 Such measure shall become null and void unless it is approved by a majority
43 of the 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
46 percent of the total number of

47 voters is submitted to the City Council or School Committee, the City
48 Council or 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
51 Tuesday not less than thirty nor more than forty five days from the date of qualification and shall

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

56 If an initiative petition signed by voters equal in number to at least eight
57 percent but less than twenty percent of the total number of voters is submitted to the City
58 Council or School 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
61 voters at 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
66 vote in that election.

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

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

72 regular or special municipal election, any proposed measure or proposition for the repeal or
73 amendment of any measure, in the same manner and with the same force and effect as provided
74 for by initiative or referendum.

75 g) Conflicting provisions

76 If two or more proposed measures passed at the same election contain
77 conflicting provisions, the
78 measure receiving the greater number of affirmative votes shall take effect.

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

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

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

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

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

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

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

114 person so elected shall fill the remainder of the unexpired term in addition to the next regular
115 term. In either of the aforesaid events, the person elected to the vacant position shall be sworn to
116 office immediately upon certification of the results of the regular
117 municipal election.

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

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

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

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