An Act to establish a citizens' initiative review commission.
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.

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:

SECTION 1. Chapter 54 of the General Laws is hereby amended by inserting after section 42C the following section:--

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

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

No person appointed to the commission, in the 5 years preceding such appointment, shall have held presidential, congressional, state legislative or statewide elective office, nor shall have
served as mayor or city councilor of a city in the commonwealth, or as a member of the
governor’s council, nor shall have been elected to a state or federal party committee; nor shall be
a current employee, agent or family member of any of the above persons; nor in the 2 years
preceding such appointment shall have been an executive or legislative agent.

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

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

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

The commission may not receive contributions of moneys or assistance from: (i) a
political committee; (ii) for-profit corporate treasuries; (iii) union treasuries; or (iv) any other
source the commission determines might be used to transfer moneys from a political committee,
for-profit corporate treasury or union treasury to the commission.
If a person contributes to the commission an aggregate total of more than $100 in a calendar year, not later than 14 calendar days after the commission receives the contribution, the commission shall make available to the public on the Internet the name and address of the person or entity who made the contribution, and the amount of the contribution.

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

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

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

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

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

The commission shall select citizens for each panel from a representative sample of anonymous electors, using survey sampling methods that, to the extent practicable, give every elector a similar chance of being selected. Each citizen panel shall consist of not fewer than 18 and not more than 24 electors.
The commission shall ensure, to the extent practicable and legally permissible, that the demographic makeup of each panel fairly reflects the population of the electorate of this state as a whole, with respect to the following characteristics, prioritized in the following order: (i) the location of the elector’s residence; (ii) the elector’s party affiliation, if any; (iii) the elector’s voting history; and (iv) the elector’s age. The commission may also consider any other criteria, including the elector’s gender or the elector’s ethnicity or both.

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

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

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

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

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

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

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

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

Each year in which an evaluation is conducted by moderators and panelists under this
subsection, the commission shall review the evaluations and make any findings and
recommendations. The commission shall make all evaluations, findings and recommendations made under this section available to the public.

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

(i) A statement in favor of the measure.

(ii) A statement opposed to the measure.

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

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

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

Before a statement is filed with the secretary:

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

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

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

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

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

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

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

(f) The Citizens’ Initiative Review Fund is hereby established in the State Treasury, separate and distinct from the General Fund. Interest earned by the Citizens’ Initiative Review
Fund shall be credited to the fund. All moneys in the fund are continuously appropriated to the
commission to carry out the duties, functions and powers of the commission and for expenses as
authorized by subsection (c).

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

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

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

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