



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

MAURA HEALEY  
ATTORNEY GENERAL

TEL: (617) 727-2200  
www.mass.gov/ago

September 2, 2015

John F. Ribeiro  
15 James Avenue  
Winthrop, MA 02152

Re: Initiative Petition No. 15-32: An Act to Make the Legislature Accountable to the People

Dear Mr. Ribeiro:

In accordance with the provisions of Article 48 of the Amendments to the Massachusetts Constitution, we have reviewed the above-referenced initiative petition, which was submitted to the Attorney General on or before the first Wednesday of August of this year.

I regret that we are unable to certify that the proposal is in “proper form for submission to the people,” as required by Article 48, the Initiative, Part 2, Section 3, because it does not propose a “law.” See Paisner v. Attorney General, 390 Mass. 593, 598-601 (1983). Our decision, as with all decisions on certification of initiative petitions, is based solely on art. 48’s legal standards; it does not reflect any policy views the Attorney General may have on the merits of the proposal.

In the initiative petition context, “[t]he word ‘law’ imports a general rule of conduct with appropriate means for its enforcement.” Associated Industries of Massachusetts v. Secretary of the Commonwealth, 413 Mass. 1, 10 (1992). In Paisner, a measure proposed by initiative petition was held not to be a “law” for art. 48 purposes, and thus could not be certified by the Attorney General, because it purported to regulate internal legislative procedures that under the Constitution are governed only by “rules” adopted by each branch of the Legislature. As set forth below, the same is true here; this petition proposes a “rule,” not a law.

This measure would amend the existing state Open Meeting Law, G.L. c. 30A, §§ 18-25, to include the state Legislature and its committees and recess commissions within the definition of “public body” subject to that law. The Open Meeting Law requires most meetings of state, county, regional, and local public bodies to be open to the public and requires such public bodies to post meeting notices in advance and keep meeting minutes and other records. Presently, that law exempts from its provisions “the general court or the committees or recess commissions thereof.” See G.L. c. 30A, § 18 (definition of “public body”).

Our constitution commits to the state Legislature the power to determine its own internal rules. This reservation of authority may not be abrogated through a law proposed by initiative petition. The Legislature could choose to subject itself to the procedures and requirements of the Open Meeting Law in conducting its business, or a constitutional amendment to achieve this goal could be proposed by initiative petition. Because a statutory change relative to the internal legislative procedures could not bind the Legislature under the constitution as it presently stands, a petition proposing such a change does not propose a “law” and therefore is not in proper form for submission to the people.

The state constitution commits certain powers to each chamber of the Legislature, including the power to determine its own internal rules of proceedings. See Const. Pt. II, c. 1, § 2, Art. 7 (Senate shall “determine its own rules of proceedings”), Const. Pt. II, c. 1, § 3, Art. 10 (House of Representatives “shall settle the rules and orders of proceeding in their own house”). This commitment of constitutional authority may be abrogated only through a constitutional amendment, which this petition does not propose. See Paisner, 390 Mass. at 601 (constitutional authority of House and Senate to order their own internal procedures may be vacated only through constitutional amendment); see also Pineo v. Executive Council, 412 Mass. 31, 37 (1992) (Governor’s constitutional authority to determine procedures for meetings of Governor’s Council means that Council may not be made subject to the Open Meeting Law through statutory amendment).

If adopted, the proposed measure would govern the internal conduct of the House and the Senate by requiring them to hold most meetings in public, post notice of such meetings, conduct deliberations in public view, and provide public access to their meetings and to certain documents. See G.L. c. 30A, §§ 20-22 (setting forth public bodies’ obligations under Open Meeting Law). Such an amendment would be a nullity because the Senate or the House, each acting alone could simply adopt contrary rules in accordance with their constitutional authority set forth above. See Paisner, 390 Mass. at 600-601. Thus, enactment of the measure proposed under Initiative Petition No. 15-32 would be no more than a “nonbinding expression of opinion,” which is not a “law” and therefore may not be proposed via art. 48. Id. at 601.

For the foregoing reasons, we are unable to certify Petition 15-22 as meeting the requirements of art. 48.

Very truly yours,



Juliana deHaan Rice  
Deputy Chief, Government Bureau  
617-963-2583

cc: William Francis Galvin, Secretary of the Commonwealth