

**HOUSE . . . . . No. 706**

By Mr. Turner of Dennis, petition of Cleon H. Turner and William H. White for legislation to provide for a voter consent “none of the above” option on election ballots. Election Laws.

**The Commonwealth of Massachusetts**

In the Year Two Thousand and Seven.

AN ACT FURTHER REGULATING ELECTIONS TO PROVIDE FOR A VOTER CONSENT “NONE OF THE ABOVE” OPTION.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 The General Laws are hereby amended by inserting after chap-  
2 ter 57 the following chapter:—

3 **CHAPTER 57A.**  
4 **ELECTIONS WITH VOTER CONSENT**  
5 **“NONE OF THE ABOVE” OPTION.**

6 **None of the Above (NOTA) on the ballot.**

7 On all ballots electing a candidate to office there shall appear,  
8 after the list of candidates for each office, a votable line identified  
9 with the words “None of the Above; For a New Election”.

10 A voter may choose to vote for “None of the Above; For a New  
11 Election” instead of voting for a candidate. If a voter may vote for  
12 multiple candidates for an office, a vote for “None of the Above; For  
13 a New Election” counts as one vote. Votes cast for “None of the  
14 Above; For a New Election” shall be counted and reported as are  
15 votes for listed candidates.

16 **When a candidate receives fewer votes than NOTA.**

17 Any candidate for office who receives fewer votes than the votes  
18 cast for “None of the Above; For a New Election” for that office  
19 shall not be elected.

20 **NOTA election.**

21 In any election where no candidate is elected to an office because  
22 of votes cast for “None of the Above; For a New Election”, a None

23 of the Above, hereinafter referred to as NOTA, Election shall be held  
24 to fill that office not less than sixty (60) days and not more  
25 than eighty (80) days after the prior election.

26 **Election of the President of the United States.**

27 In elections to the offices of President and Vice President of the  
28 United States and their electors, “Prefer None of the Above” shall  
29 appear after the list of candidates. Voters may choose to vote both  
30 for “Prefer None of the Above” as well as for a candidate. Votes cast  
31 for “Prefer None of the Above” shall be counted and reported in the  
32 same manner as are votes for listed candidates, but shall not other-  
33 wise affect the election outcome.

34 **Statement about NOTA options.**

35 The Secretary of State shall prepare a statement titled “Your Voter  
36 Consent Ballot Options:”, to be displayed, along with any other  
37 materials determined by the Secretary of State, so it is legible to  
38 voters at the polling place prior to voting as well as within each  
39 voting enclosure, indicating the options available to the voter. For  
40 example, such a statement might contain the following:—

41 Your Voter Consent Ballot Options:—

42 YOU MAY VOTE FOR A CANDIDATE **OR** “None of the  
43 Above; For a New Election”.

44  Candidate A

45  Candidate B

46  None of the Above; For a New Election

47 When “None of the Above; For a New Election” appears on the  
48 ballot after the list of candidates for an office, then you may vote for  
49 “None of the Above; For a New Election” instead of voting for a  
50 candidate. If you may vote for more than one candidate for an office,  
51 then a vote for “None of the Above; For a New Election” counts as  
52 one vote.

53 If “None of the Above; For a New Election” receives more votes  
54 for an office than any candidate, then no one is elected to that office  
55 and a new election with new candidates must be held, not less than  
56 60 days and not more than 80 days after this election, to fill the  
57 office.

58 YOU MAY VOTE FOR A CANDIDATE **AND** FOR “Prefer  
59 None of the Above.”

60  Candidate A

61  Candidate B

62  Prefer None of the Above

63 When “Prefer None of the Above” appears on the ballot after the  
64 list of candidates for an office, you may vote for a candidate and also  
65 vote for “Prefer None of the Above”. Voting for “Prefer None of the  
66 Above” indicates you found no listed candidate acceptable.

67 The “Prefer None of the Above” votes are counted and reported;  
68 however, the candidate for an office with the most votes is elected  
69 whatever the “Prefer None of the Above” vote.

70 **Temporary appointment to offices and assignment of duties.**

71 Temporary appointment to offices, pending NOTA elections and  
72 an elected candidate taking office, required to execute the duties of  
73 an office, may be made by the Governor, or by majority vote of the  
74 Board of Selectmen for town offices, provided the person so  
75 appointed is either the office’s current incumbent or would be other-  
76 wise eligible for election to that office. Temporary appointment to  
77 the office of Governor shall be by majority vote of the General  
78 Court. No temporary appointment under this provision shall be made  
79 to the offices of Town Meeting Representative, State Representative,  
80 State Senator, United States Representative, or United States Sen-  
81 ator.

82 If no appointment is made by the day before expiration of an  
83 office’s current term, the office’s incumbent is appointed by default.

84 In elections to the office of Secretary of State, or an office for  
85 which the incumbent Secretary of State is a candidate, the duties  
86 normally performed by the Secretary of State under this act shall be  
87 performed by the office of Secretary of State under the direction of  
88 the Attorney General.

89 **Campaign finance reporting.**

90 Candidates in a NOTA election must conform to the same, or  
91 equivalent, campaign financing and reporting requirements as a can-  
92 didate for that office in a general election. Campaign financing and  
93 reporting for activities related to the issue of voters voting for “None  
94 of the Above; For a New Election”, or for “Prefer None of the  
95 Above”, shall have the same, or equivalent, requirements as a ballot  
96 question. All such requirements shall be subject to those changes  
97 necessary, as determined by the Secretary of State, to adjust for the  
98 varying election dates and campaign durations of NOTA elections,  
99 provided such changes adhere to the original intent of those require-  
100 ments and avoid unreasonable burden to election participants.

101 **Nomination of candidates.**

102 Any person who is eligible for nomination as a candidate in the  
103 general election for an office shall be eligible for nomination as a  
104 candidate in a NOTA election for that office, provided the person did  
105 not receive, as a listed candidate in a prior election for the same  
106 office and term, fewer votes than those cast for “None of the Above;  
107 For a New Election” the office.

108 All candidates for office in NOTA elections shall be nominated to  
109 be listed on the ballot either by nominating petition, or by receiving  
110 a requisite number of write-in votes in the prior election for that  
111 office.

112 **Nomination by petition; eligibility to sign petitions; collecting**  
113 **signatures at polling places.**

114 The nomination period for a NOTA election shall commence on  
115 the day of the prior election. The nomination period shall continue  
116 for fourteen (14) days after the results of the prior election for that  
117 office are announced by the Secretary of State.

118 Voters eligible to vote in the NOTA election for an office are eli-  
119 gible to sign, once for each nomination, one or more nominating  
120 petitions for one or more candidates for that office during the nomi-  
121 nation period.

122 Signatures for nominating petitions may be gathered at polling  
123 places, provided they are gathered in one, or two if required, Petition  
124 Areas that shall be reserved at each polling place for such purpose,  
125 and in such a manner as to provide easy access for voters wishing to  
126 sign such petitions or not, and in such a manner that voters shall pass  
127 by those collecting nominating signatures before and after voting.

128 Any person collecting nominating signatures at a polling place for  
129 one or more petitions, hereinafter referred to as Collector, must be  
130 registered to vote at that polling place. A Collector may assist in the  
131 gathering of signatures for any Nominating Petition. No signed peti-  
132 tion may be removed from a Petition Area, except, after the polls  
133 close, by the vote counting authority, who shall deliver all signed  
134 petitions to the signature verifying authority.

135 The Collector shall be seated in a chair behind a table, provided at  
136 no cost to the Collector, upon which such petitions shall be placed  
137 and kept while collecting signatures. The Collector shall not speak  
138 to, or otherwise communicate with, any voter unless addressed first  
139 by that voter, and shall display no sign except, optionally, one

140 reading “Nominating Petition: (office)”, where (office) shall be the  
141 name of the office for which the petition is being gathered, using let-  
142 ters no greater than three inches in height and affixed to the table in  
143 such a manner as to be visible to passing voters. The number of Col-  
144 lectors in each Petition Area shall be no more than two (2) per one  
145 (1) or more petition sheets with the same Candidate and Party desig-  
146 nation. A petition may be brought into and left unattended in the  
147 Petition Area by any person.

148 The Petition Area shall be part to the polling place, and any  
149 person failing to conform to its requirements shall be considered a  
150 disorderly person.

151 **Nomination by write-in.**

152 An unlisted write-in candidate in the prior election may be nomi-  
153 nated to be listed as a candidate for an office in the following NOTA  
154 election by receiving write-in votes equal to at least ten percent  
155 (10%) of either: a) the number of nominating signatures required for  
156 that office; or, b) the total votes cast for the office in the current elec-  
157 tion. Such candidates shall submit to the Town Clerk in town wide  
158 offices, or otherwise the Secretary of State, by the last day of the  
159 nomination period, a completed nominating petition, containing no  
160 filled in signature lines, with an attached affirmation by the candi-  
161 date, stating the candidate received the requisite write-in votes for  
162 that office in the prior election. Unlisted write-in candidates who do  
163 not receive the number of write-in votes needed for nomination may  
164 seek nomination by petition.

165 **Signature verification; number of signatures required; sub-**  
166 **mitting petitions.**

167 The authority responsible for signature verification for nomina-  
168 tions for an office in the general election shall be responsible for ver-  
169 ifying the signatures on the nominating petitions for a NOTA  
170 election are valid and of the requisite number within fourteen (14)  
171 days after the end of the nomination period.

172 The number of valid signatures under the same party designation  
173 required for nomination by petition shall be the same for all candi-  
174 dates for the same office and shall be: either equal to the number of  
175 the most signatures required for a general election nomination for  
176 the office, divided by number of days in the general election nomi-  
177 nation period, and then multiplied by number of days in the current  
178 nomination period, and then divided by three (3); or, equal to twenty  
179 (20), whichever is greater.

180 Each original nominating petition sheet shall be submitted to the  
181 offices of the same verifying authority as for general elections,  
182 within three (3) days after the end of the nomination period.

183 **Multiple nominations of a candidate.**

184 In NOTA elections, if a candidate has been separately nominated  
185 with different political party designations, the candidate shall appear  
186 on the ballot separately for each such nomination. The same political  
187 party designation may not appear with more candidates for an office  
188 than the number of positions to be elected to that office. The party  
189 designation of either “No Party” or “Write-In” shall be allowed once  
190 each for a candidate so nominated.

191 **Nomination notification and acceptance.**

192 The Secretary of State, or Town Clerk for town wide elections,  
193 shall have delivered to each nominee, within three (3) days of the  
194 nominee qualifying for the nomination, a Nomination Notification,  
195 notifying the nominee of the nomination, along with other materials  
196 determined by the Secretary of State. The nominee shall respond to  
197 the Nomination Notification within five (5) days by returning the  
198 Nomination Acceptance, as determined by the Secretary of State, to  
199 the offices of the notifying authority. Failure to respond shall be  
200 deemed an acceptance of the nomination.

201 **Candidate Statement; requirements and limitations; quali-**  
202 **fyng for distribution.**

203 To assist the voters in assessing candidates for office in NOTA  
204 elections, the Secretary of State, or Town Clerk for town wide elec-  
205 tions, shall distribute Candidate Statements by mail to the electorate  
206 at least seven (7) days before the election at no cost to the candi-  
207 dates.

208 When a candidate submits a Nomination Acceptance for an  
209 office, the candidate may also submit a Candidate Statement for dis-  
210 tribution, which shall be subject to the following requirements and  
211 limitations: required to be a black and white statement, consisting  
212 only of spaces, letters, punctuation marks, and numeric or other tex-  
213 tual notation, contained within both sides of a single 8.5 x 11 inch  
214 white paper sheet, and, optionally, one photograph of the candidate  
215 from the neck up no greater than 3 x 3 inches, for the purpose of  
216 allowing the candidate to communicate with the voters; and, shall be  
217 limited to identifying the candidate, and, optionally, describing the  
218 candidate’s qualifications for office, party affiliations, proposed poli-

219 cies, and contact information; limited to one per candidate, even if  
220 the candidate receives multiple nominations for an office; and, shall  
221 contain no solicitation for funds nor refer to other candidates. The  
222 requirements and limitations of the Candidate Statement must be  
223 met, in the opinion of the Secretary of State, in order to qualify for  
224 distribution as a Candidate Statement.

225 Across the top inch of the first page of every Candidate Statement  
226 shall be the Statement Header. The Statement Header shall be blank  
227 except for the state seal and the words, in large font, “Candidate  
228 Statement of (candidate name) for (office)”, where (candidate name)  
229 shall be the name of the candidate as it shall appear on the ballot and  
230 (office) shall be the name of the office as it shall appear on the  
231 ballot; and then, in a smaller font, “Prepared by the candidate and  
232 distributed to voters without cost to the candidate by the Office of  
233 the Secretary of State.”; and then, a line at the lower boundary of the  
234 Statement Header; and, anywhere within the Statement Header, any  
235 other content determined by the Secretary of State. At Nomination  
236 Notification, the candidate shall receive sample Candidate State-  
237 ments and an assigned Statement Header from the Secretary of State  
238 that the candidate is required to use as the Statement Header for any  
239 Candidate Statement the candidate submits.

240 The area of the Candidate Statement apart from the Statement  
241 Header is the Candidate Content determined by the candidate. The  
242 Secretary of State, or Town Clerk for town elections, shall take care  
243 to distribute Candidate Content as submitted, except as follows: The  
244 Secretary of State, and the Town Clerk for town elections, shall  
245 review Candidate Statements submitted to them to insure they  
246 qualify for distribution as a Candidate Statement. The Town Clerk  
247 shall have delivered to the Secretary of State all Candidate State-  
248 ments, along with their Candidate Instructions, if any, for final  
249 review, within three (3) days of receipt, along with a Town Clerk  
250 Opinion, defined by the Secretary of State, indicating whether the  
251 Candidate Statement meets the requirements and limits of a Candi-  
252 date Statement.

253 If, in the opinion of the Town Clerk, a Candidate Statement does  
254 not meet the requirements and limits of a Candidate Statement, the  
255 Town Clerk Opinion shall include an explanation of the nonconfor-  
256 mance, along with a proposed Deletion Notification to make the  
257 Candidate Statement conformant, and any other relevant document.

258 Before submitting the Town Clerk Opinion to the Secretary of State,  
259 the Town Clerk may contact the candidate directly to verbally sug-  
260 gest changes to the Candidate Statement to make it conformant. If  
261 the candidate then submits one or more revised drafts, the Town  
262 Clerk shall submit the last such draft as the Candidate Statement,  
263 retaining prior drafts as part of the Candidate Statement's record.

264 Should the Secretary of State determine a Candidate Statement  
265 does not qualify for distribution because it does not meet the require-  
266 ments and limits of a Candidate Statement, then the Secretary of  
267 State shall have delivered to the candidate, within ten (10) days of  
268 the submission of the Candidate Statement by the candidate, a Dele-  
269 tion Notification, defined by the Secretary of State, which shall  
270 include a copy of the Candidate Statement to show the deletions  
271 needed to bring the statement into compliance and a letter stating the  
272 reasons for those deletions. The Secretary of State, or representative,  
273 shall meet with the candidate at the offices of the Secretary of State,  
274 upon the candidate's request, within two (2) days of receipt of a  
275 request for such a meeting, to review the Candidate Statement with  
276 the candidate's representatives. The candidate shall have delivered to  
277 the Secretary of State within five (5) days of the receipt of the Dele-  
278 tion Notification or within two (2) days after such meeting,  
279 whichever is later: the candidate's response to the Deletion Notifica-  
280 tion; and/or a corrected Candidate Statement; and/or a Candidate  
281 Instruction, to be defined by the Secretary of State, in the event of a  
282 non qualifying Candidate Statement, instructing Secretary of State  
283 either to withdraw the Candidate Statement completely or to dis-  
284 tribute the original Candidate Statement with the deletions indicated  
285 by the Deletion Notification.

286 Changes to the Candidate Content by Secretary of State shall be  
287 by deletion only, using methods to be established in advance of the  
288 election by Secretary of State so as to be obvious to voters which  
289 parts of the Candidate Content were deleted. Should the candidate  
290 fail to provide an acceptable, corrected Candidate Statement and fail  
291 to provide Candidate Instructions for such an event, the Secretary of  
292 State shall distribute the original Candidate Statement with the dele-  
293 tions specified in the Deletion Notification. The Secretary of State  
294 shall make available at its offices to any person, within one day of a  
295 written request, copies of any original Candidate Statement as well  
296 as associated Town Clerk Opinion, corrected Candidate Statement,

297 Deletion Notification, and Candidate Instruction, and other related  
298 documents during the election campaign and for ten (10) years after  
299 the election.

300 Whenever possible, all Candidate Statements for the same office  
301 shall be assembled into a single ballot pamphlet for distribution.  
302 Reference copies of the Candidate Statements shall be made avail-  
303 able at polling places for voter use.

304 **Confirming nominations.**

305 The Secretary of State, or Town Clerk for town wide elections,  
306 shall confirm by Party Confirmation, as defined by the Secretary of  
307 State, with the governing body of the designated political party, that  
308 the party accepts the party designation on the ballot for a candidate.  
309 If the party designation of the nomination is not accepted by the  
310 governing body of the party within ten (10) days of notification, or if  
311 the authority of the governing body is determined by the Secretary  
312 of State to be in dispute, then the candidate shall be listed with a “No  
313 Party” party designation. Write-in nominations shall be designated  
314 as “Write-In”, or with any other political party designation accept-  
315 able to both the candidate and the governing body of the political  
316 party.

317 **Ballot determination; election date determination.**

318 The Secretary of State shall determine the date, offices, and candi-  
319 date lists for NOTA elections, and shall announce such determina-  
320 tions, whenever possible, at least thirty days in advance of the date  
321 set for the NOTA election.

322 The Secretary of State shall insure, whenever possible, various  
323 NOTA Elections take place throughout the state on the same day.

324 **Counting votes; recounts.**

325 In cases of multiple listings of a candidate for an office, the  
326 number of votes cast for each such listing of a candidate shall be  
327 counted and reported separately; however, the sum of all votes for a  
328 candidate for an office shall be used in determining the candidate’s  
329 vote for election to the office.

330 A qualified write-in candidate who receives more votes than any  
331 listed candidate, and more votes than any other write-in candidate,  
332 and more votes than “None of the Above; For a New Election” for  
333 that office shall be elected.

334 The Secretary of State shall conduct a recount of any election  
335 where the number votes cast for “None of the Above; For a New

336 Election” would require, or would allow a candidate to request, a  
337 recount if that number of votes had been cast for a candidate, and  
338 otherwise act on behalf of voters who cast votes for “None of the  
339 Above; For a New Election.” Delegation of this duty to the Secretary  
340 of State shall in no way limit voters, who affirm they voted for  
341 “None of the Above; For a New Election” in an election, from also  
342 acting on behalf of themselves and other such voters.

343 **Failure to nominate.**

344 Should no candidate qualify for nomination for an office in a  
345 NOTA Election, the office shall appear on the ballot with no listed  
346 candidate with only the “None of the Above; For a New Election”  
347 line.

348 **Nominating Petition Description.**

349 The nominating petitions shall consist of 8.5 x 11 inch white  
350 paper with the first printed title line reading “NOTA Election Nomi-  
351 nating Petition”;

352 The next printed line shall state: “To be signed only by voters eli-  
353 gible to vote for the office.”;

354 The next printed line of the petition shall state: “For the office of:  
355 ”, followed immediately by the title the office, as it appears on the  
356 ballot, for which the candidate is to be nominated; and, followed  
357 immediately by the text “ for ”; and, followed by the jurisdiction of  
358 the office;

359 The next printed line of the petition shall state: “Nominating:”,  
360 followed immediately by the candidate’s legal name and, optionally,  
361 in quotes, an informal name, as it is intended to appear on the ballot;

362 The next printed line of the petition shall state: “Whose legal  
363 address is: ”, followed immediately by the candidate’s legal address,  
364 as it is intended to appear on the ballot;

365 The next printed line of the petition shall state: “Political Party:”,  
366 followed immediately by the name of the political party, as it is  
367 intended to appear on the ballot. “No Party” is permitted. “Write-In”  
368 is permitted for candidates nominated by write-in votes; and, “For  
369 the Town or City:”, followed immediately by the name of the town  
370 or city where the signers below must be registered to vote.

371 The next printed line shall identify the appropriate columns for  
372 voters to fill out with the words “Voter’s Name (print)”; “Street  
373 Address”; “Signature”; “Date”;

374 There shall follow sixteen (16) thin, straight lines, indicating the  
375 space for the voter to make a nomination.

376 **Petition Sample.**  
 377 **NOTA Election Nominating Petition.**  
 378 ***To be signed only by voters eligible to vote for the office.***  
 379 For the office of: United States Representative for 5th Congres-  
 380 sional District  
 381 Nominating: William P. Doe “Billy Doe”  
 382 Whose legal address is: 600 Elm Street, Harvard, MA 01451  
 383 Political Party: No Party For the Town or City: Harvard

384	Voter’s Name (print)	Street Address	Signature
385	Date m/d/y		
386	_____	_____	_____
387	_____		
388	_____	_____	_____
389	_____		
390	_____	_____	_____
391	_____		
392	_____	_____	_____
393	_____		
394	_____	_____	_____
395	_____		
396	_____	_____	_____
397	_____		
398	_____	_____	_____
399	_____		
400	_____	_____	_____
401	_____		
402	_____	_____	_____
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416 **Conflicting provisions.**

417 The provisions of this act shall prevail over any conflicting provi-  
418 sions of any other law.

419 **Severability.**

420 The provisions of this act are severable, and if any of its provi-  
421 sions shall be held unconstitutional by any court of competent juris-  
422 diction, the decision of such court shall not affect or impair any of  
423 the remaining provisions.

424 **Effective date.**

425 The provisions of this act shall take effect two (2) years after  
426 enactmen