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September 4, 2019

Kirstin Beatty
149 Central Park Drive
Holyoke, MA 01040

Re: Initiative Petition No. 19-13, Initiative Petition for a Law Relative to Reducing Risks of Technology

Dear Ms. Beatty:

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 this year. I regret that we are unable to certify that the proposed law complies with Article 48. Our decision, as with all decisions on certification of initiative petitions, is based solely on art. 48's legal standards and does not reflect the Attorney General's policy views on the merits of the proposed law.

Below, we summarize the proposed law and then explain why Article 48, the Init., Pt. 2, § 3, which requires that a proposed law "contain[] only subjects ... which are related or which are mutually dependent," precludes its certification. Additionally, we cannot conclude that the petition is in proper form for submission to the voters because it purports to set internal requirements for legislative deliberation, which may be accomplished only through an amendment to the provisions of the state constitution that vest each chamber of the Legislature with the authority to determine its own internal rules.

Initiative Petition No. 19-13

Initiative Petition No. 19-13 proposes a law that would create the Reducing Risks of Technology Commission (RRTC). The RRTC would be charged with drafting legislation to address a broad array of topics pertaining to technology including: environmental health, liberty, free speech, democracy, security, and common good; the integrity of science and information; ecological stewardship protections; public input; creation of an alternative dispute resolution forum to adjudicate grievances regarding technology; limits on, and regulation of, technology; government corruption; environmental harm; and constitutional protections. *See Initiative*



Petition No. 19-13, § 1(a).¹ The proposed law would require the RRTC file legislation with the state Legislature and would require the Legislature to take certain steps with respect to that proposed legislation, including proposing amendments by particular deadlines, scheduling votes at certain times, and reserving days on the legislative calendar for votes on the RRTC-proposed legislation. *See id.*, §§ 1(c)-(d) & 5.²

Relatedness

While all parts of the proposed law nominally relate to “technology,” the array of subjects in the law are too diverse to be considered a “unified” statement of public policy. Though “technology” may be a consistent theme, it is similar in scope to the abstract, high-level “common purposes” that the Supreme Judicial Court has found impermissibly broad, such as “making government more accountable to the people,” *Opinion of the Justices*, 422 Mass. 1212, 1220-21 (1996); “promoting more humane treatment of dogs,” *Gray v. Attorney Gen.*, 474 Mass. 638, 647 (2016) (citing *Carney v. Attorney Gen.*, 447 Mass. 218, 224, 231 (2006)); “elementary and secondary education,” *id.* at 649; and “strengthen[ing] the Massachusetts economy and set[ting] a foundation for inclusive growth,” *Anderson v. Attorney Gen.*, 479 Mass. 780, 795 (2018). As the SJC has explained, “[i]t is not enough that the provisions in an initiative petition all ‘relate’ to some same broad topic at some conceivable level of abstraction.” *Carney I*, 447 Mass. at 230. If “[o]ne could imagine a multitude of diverse subjects all of which would ‘relate’ to” the general purpose of the proposed law – as is certainly the case with technology – that general purpose is unacceptably broad. *Opinion of the Justices*, 422 Mass. at 1221.

In contrast, judicially approved “common purposes” have been more specific, such as “restricting the benefits and incidents of marriage to opposite sex couples,” *Albano v. Attorney Gen.*, 437 Mass. 156, 161 (2002); “expanding the scope of the Commonwealth’s drug treatment programs and ... ‘fairly’ funding those programs,” *Mazzone v. Attorney Gen.*, 432 Mass. 515, 529 (2000); “a detailed plan to legalize marijuana (with limits) for adult use,” *Hensley v. Attorney Gen.*, 474 Mass. 651, 658 (2016); and “establish[ing] and enforce[ing] nurse-to-patient ratios in facilities in the Commonwealth,” *Oberlies v. Attorney Gen.*, 479 Mass. 823, 830 (2018). No “unified statement of public policy” that would accurately describe this proposed law could be similar in scope to these permissible “common purposes.”

This petition likewise fails to meet the “mutually dependent” criterion of the relatedness test as any one of the several topics under the RRTC’s jurisdiction could be studied independently without the inclusion of any of the others. *See Anderson*, 479 Mass. at 794 (“Because the provisions here can ‘exist independently,’ they are not ‘mutually dependent[.]’”) (citations omitted); *see also Gray*, 474 Mass. at 648 (where operation of one provision of

¹ The petition would call for “updating the Bill of Rights in light of technology risks.” Initiative Petition No. 19-13, § 1(a)(xi). A state law, such as that proposed by this petition, could not effectuate changes in the United States Constitution, of which the Bill of Rights is a part.

² Other provisions of the proposed law pertain to the make-up of the RRTC, the scheduling of its work, and legal requirements applicable to its operation and the activities of its members. *See* Petition, §§ 2 & 4.

proposed law would be unaffected by operation of the other, the two are not “mutually dependent”). The SJC has made clear that the relatedness requirement as set out in the text of Article 48 must be satisfied in all cases. *See Anderson*, 479 Mass. at 793-94 (“To construe the phrase ‘or which are mutually dependent’ as eliminating the requirement of relatedness would be to vitiate the purpose of protecting the voters from misuse of the petitioning process for which it was enacted.”).

Proper Form

Article 48 requires that an initiative petition be in “proper form for submission to the people.” *See* Art. 48, Init., pt. 2, § 3. To satisfy this requirement, an initiative petition must propose a law or a constitutional amendment. *Paisner v. Attorney Gen.*, 390 Mass. 593, 601 (1983). *See* Art. 48, Init., pt. 2, § 1 (“An initiative petition shall set forth the full text of the constitutional amendment or law, hereinafter designated as the measure, which is proposed by the petition.”). Initiative Petition 19-13 does not propose a constitutional amendment, so it must be examined as to whether it proposes a law.

For purposes of Article 48, the Supreme Judicial Court has described a law “as including a measure with binding effect, or as importing ‘a general rule of conduct with appropriate means for its enforcement.’” *Mazzone*, 432 Mass. at 530 (citing *Opinion of the Justices to the House of Representatives*, 262 Mass. 604, 605 (1928)). “[L]aws govern conduct external to the legislative body.” *Paisner*, 390 Mass. at 599-600. Under the state Constitution, the two Houses of the General Court possess unicameral authority over their own rules and internal matters. *Id.* at 599. Consequently, *Paisner* held that a measure purporting to reform the internal procedures of the state Legislature did not propose a “law” for the purposes of Article 48 because, if enacted, the measure would be a nullity, a non-binding rule each House would be free to ignore in light of its constitutional rule-making authority. *Id.* at 603. As such, that proposed law was not “in proper form for submission to the people,” as required by Article 48. *Id.*

Similar to the measure at issue in *Paisner*, Initiative Petition 19-13 would impose on the Legislature a process for considering “legislation to reduce or limit risks to human rights from technology.” Petition, § 1(a). In furtherance of that goal, the petition would establish the RRTC to “research, take testimony, report, promote, develop, and put forward before the legislature model state and federal legislation for the Commonwealth.” Petition, § 1(c). The petition would establish legislative voting procedures with respect to the draft legislation produced by the RRTC. Petition, § 5. It would require the Legislature to vote on the proposed legislation after a brief review period. *Id.*, § 1(d). It would fix a deadline by which amendments to the legislation must be put forward. *Id.*, § 5(a)(i). It would set the dates on which votes must be held and would create notice requirements concerning the legislative hearing. *Id.*, § 5(a)(ii). It would allow four observers from the RRTC to “assure the impartiality” of the required hearing and to produce a report for the public. *Id.*, § 5(a)(iii). It would mandate how voting would proceed in the Legislature, including the required scheduling of additional legislative sessions in the event that voting does not conclude at the first session. *Id.*, § 5(a)(iv), (v). Thus, this petition is impermissibly “aimed at the internal procedures of the branches of the Legislature.” *Paisner*,

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390 Mass. at 600. Because the state Constitution reserves such internal rulemaking authority to each legislative branch, such authority may be abrogated only by a constitutional amendment.

For these reasons, we are unable to certify that Petition No. 19-13 contains only subjects “which are related or which are mutually dependent,” and is in the proper form for submission to the people as required by Article 48, the Initiative, Part 2, Section 3.

Very truly yours,



Juliana deHaan Rice
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cc: William Francis Galvin, Secretary of the Commonwealth