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May 5, 2026

Hon. William F. Galvin
Secretary of the Commonwealth
One Ashburton Place, Fl. 17
Boston, MA 02108

Re: Initiative Petition No. 25–37, “An Act to reform and regulate legislative stipends”

Dear Secretary Galvin:

I write to address why Initiative Petition 25–37 (the “Petition”) should proceed no further in the Article 48 process following the Supreme Judicial Court’s recently-issued *Opinion of the Justices*, SJC-13909, — Mass. — (Apr. 27, 2026).

As you know, in August 2025, the Attorney General’s Office (AGO) certified the Petition as being “in proper form for submission to the people,” according to the process set forth in Mass. Const. Art. Amend. art. 48, The Initiative, II, § 3.¹ But that certification was proper only to the extent the petition proposed a law, rather than a legislative rule. *Opinion of the Justices*, Slip Op. at 6.

Exercising its constitutional authority under Mass. Const. Pt. II, c. 3, art. 2 (as amended by art. 85), the Senate requested an advisory opinion from the Supreme Judicial Court as to whether the AGO’s certification was correct or, instead, whether the Petition proposed a legislative rule. The Court answered that certification was improper, “conclud[ing] that the petition does propose a rule rather than a law.” Accordingly, the measure was not properly “introduced and pending” before the General Court, and the Senate was not required to consider it. *Opinion of the Justices*, Slip Op. at 6–9.

The question now is what becomes of the Petition, given that the Supreme Judicial Court has instructed the Senate that it was improperly certified. Because the Senate sought an Opinion of the Justices, rather than the more typical posture in which individual voters challenge the AGO’s certification through litigation, the Court has not yet formally declared that the “petition is not suitable to be placed on the ballot in [the November] Statewide election.” *E.g.*, *Koussa v. Attorney Gen.*, 489 Mass. 823, 839 (2022). To resolve this question, we look to precedent and the

¹ This letter cites Article 48 as amended, without reference to the particular amendments.

structure of Article 48, as well as its implementing legislation. These sources lead to the same result.

Turning first to precedent, very similar circumstances occurred almost exactly 30 years ago. In 1996, the House of Representatives sought an Opinion of the Justices as to whether an initiative that would have reduced legislative pay and afforded certain authority to the Inspector General and State Auditor was properly certified and pending before it. *Opinion of the Justices*, 422 Mass. 1212, 1213 (1996). As here, in late April, the Court concluded that the measure was not properly certified because it contained provisions that were insufficiently related. *Id.* at 1220–21. Thereafter, the proponents of the initiative sought petition papers from your office to pursue the second round of voter signatures, the step that would otherwise have followed in the initiative process. Mass. Const. Art. Amend. art. 48, The Initiative, V, § 1.

Because it was clear by that time that the initiative had been improperly certified, your office declined to issue the requested petition papers.² The proponents of the initiative sued, seeking a court order requiring the petition papers to be provided. Their argument was rejected by a Single Justice of the Supreme Judicial Court, and the case was dismissed. *See Anderson v. Secretary of the Commonwealth*, Supreme Judicial Court for Suffolk County No. SJ-96-0282. We expect the same result would occur here, given the materially indistinguishable circumstances.

Second, we look to the structure of Article 48 and implementing legislation adopted by the General Court. Article 48 is the People’s process—permitting a form of popular lawmaking—and its framework “is to be construed to support the people’s prerogative to initiate and adopt laws.” *E.g., Abdow v. Attorney Gen.*, 468 Mass. 478, 487 (2014) (internal quotation marks and citation omitted). Both the text of Article 48 and extensive Supreme Judicial Court precedent are clear, however, that Article 48 is intended to protect both *proponents* and *voters*, to whom issues must be fairly presented. *E.g., id.* (construing art. 48 to “fairly accommodate[] both the interests of the initiative petitioners and the interests of those who ultimately would vote on the petition”); *see Koussa*, 489 Mass. at 838 (describing the concerns of the 1917–18 Constitutional Convention that voters would be presented with “confusing[] and misleading[]” initiatives and the protections adopted to address those concerns); *see generally* Mass. Const. Amend. art. 48, General Provisions, III (requiring a “fair and concise” summary to appear on the ballot); *id.*, art. 48, General Provisions, IV (describing measured compilation of information in guide to be sent to all voters).

As a result of the *Opinion of the Justices*, the proponents of the Petition may proceed no further in the process. Article 48 affords them the right to propose a law, and despite the AGO’s certification of the initiative, the Supreme Judicial Court has concluded that they have not done so. Mass. Const. Articles of Amend. art. 48, Definition, I (“the people reserve to themselves the popular initiative, which is the power of a specified number of voters to submit . . . laws to the

² Wire Report, “Official won’t let pay-cut advocates have more petitions,” *Associated Press* (May 22, 1996) (Secretary issued a letter, quoted in news coverage as stating “The Supreme Judicial Court has required strict adherence to the constitutional requirements of initiative petitions They are not mere technicalities; thus, at this time, the initiative process may not proceed forward”).

people for approval or rejection”) (emphasis added). Consequently, the proponents do not have the right to collect signatures on a measure that we now know fails to propose a law. *Id.*, art. 48, The Initiative, V, § 1 (as amended by art. 81, § 2) (petitioners afforded opportunity to collect second round of signatures after Legislature fails to take action only on “an initiative petition for a law”). It would be manifestly unfair to voters to lead them to believe they are supporting the placement of a proposed law on the ballot (in the second round of signature collection)—and later voting on the proposed law (if sufficient signatures are collected)—when the Supreme Judicial Court has told us that is not the case.

Moreover, any signature blanks provided to proponents would bear the summary authored by the Attorney General, which states that “This proposed law would change the method for calculating stipends paid to certain state legislators”³ We now know that, in the view of the Commonwealth’s highest court, that statement is inaccurate.

Those inaccuracies would compound were the Article 48 process to continue. The constitutionally-required Information for Voters guide would contain yes/no statements about what the proposed “law” would achieve if adopted; except, now we know that it is not a proposed law at all and would not be upheld by the Supreme Judicial Court. Mass. Const. Art. Amend. art. 48, General Provisions, IV (as amended by art. 74, § 4); G.L. c. 54, § 3. And the voters would be told on the ballot that they are adopting a law, though they would not be. Mass. Const. Art. Amend. art. 48, General Provisions, III (as amended by art. 74, § 4).

Likewise, proponents and opponents would be afforded space in the guide to argue their position on whether the proposed “law” should be adopted, G.L. c. 54, § 54; except, the Supreme Judicial Court has told us that it is not a proposed law. That would not be fair to the voters, and it is not what Article 48 contemplates. *E.g.*, Mass. Const. Art. Amend. art. 48, The Initiative, V, § 1 (as amended by art. 81, § 2) (stating that only such “proposed *law[s]*” shall be “submitted to the people at the next state elections”).

For these reasons, Initiative Petition 25–37 may proceed no further in the Article 48 process. Should its proponents desire to test this position, we are prepared to defend the actions of both of our offices as consistent with the Supreme Judicial Court’s recent *Opinion of the Justices*, past precedent, Article 48, and its implementing legislation.

Very truly yours,

/s/ Anne Sterman
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cc: Michelle Tassinari, Esq.

³ Summary of No. 25–37, available at <https://www.mass.gov/doc/final-summary-for-25-37-initiative-petition-for-an-act-to-reform-and-regulate-legislative-stipends/download>.