

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Cleon H. Turner (BY REQUEST)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:
An Act further regulating elections to provide for a voter consent 'None of the Above' option.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
William White	244 Sesuit Neck Rd. E. Dennis 02641

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 706 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

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:

The General Laws are hereby amended by inserting after chapter 57 the following chapter:

1

2 CHAPTER 57A.

3

4 ELECTIONS WITH VOTER CONSENT "NONE OF THE ABOVE" OPTIONS

5

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

7

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

9

10

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

14 When a candidate receives fewer votes than NOTA

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

17 NOTA election

18 In any election where no candidate is elected to an office because of votes cast for “None
19 of the Above; For a New Election”, a None of the Above, hereinafter referred to as NOTA, Election shall
20 be held to fill that office not less than sixty (60) days and not more than eighty (80) days after the prior
21 election.

22 Election of the President of the United States

23 In elections to the offices of President and Vice President of the United States and their
24 electors, “Prefer None of the Above” shall appear after the list of candidates. Voters may choose to vote
25 both for “Prefer None of the Above” as well as for a candidate. Votes cast for “Prefer None of the Above”
26 shall be counted and reported in the same manner as are votes for listed candidates, but shall not
27 otherwise affect the election outcome.

28 Statement about NOTA options

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

33 Your Voter Consent Ballot Options:

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

35 Candidate A

36 Candidate B

37 None of the Above; For a New Election

38

39 When “None of the Above; For a New Election” appears on the ballot after the list of candidates for an
40 office, then you may vote for “None of the Above; For a New Election” instead of voting for a candidate.

41 If you may vote for more than one candidate for an office, then a vote for “None of the Above; For a New
42 Election” counts as one vote.

43

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

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

48 Candidate A

49 Candidate B

50 Prefer None of the Above

51

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

55

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

58 **Temporary appointment to offices and assignment of duties**

59 Temporary appointment to offices, pending NOTA elections and an elected candidate
60 taking office, required to execute the duties of an office, may be made by the Governor, or by majority
61 vote of the Board of Selectmen for town offices, provided the person so appointed is either the office’s
62 current incumbent or would be otherwise eligible for election to that office. Temporary appointment to
63 the office of Governor shall be by majority vote of the General Court. No temporary appointment under
64 this provision shall be made to the offices of Town Meeting Representative, State Representative, State
65 Senator, United States Representative, or United States Senator.

66

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

69

70 In elections to the office of Secretary of State, or an office for which the incumbent
71 Secretary of State is a candidate, the duties normally performed by the Secretary of State under this act
72 shall be performed by the office of Secretary of State under the direction of the Attorney General.

73 **Campaign finance reporting**

74 Candidates in a NOTA election must conform to the same, or equivalent, campaign
75 financing and reporting requirements as a candidate for that office in a general election. Campaign
76 financing and reporting for activities related to the issue of voters voting for “None of the Above; For a
77 New Election”, or for “Prefer None of the Above”, shall have the same, or equivalent, requirements as a
78 ballot question. All such requirements shall be subject to those changes necessary, as determined by the
79 Secretary of State, to adjust for the varying election dates and campaign durations of NOTA elections,
80 provided such changes adhere to the original intent of those requirements and avoid unreasonable burden
81 to election participants.

82 **Nomination of candidates**

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

87

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

91 **Nomination by petition; eligibility to sign petitions; collecting signatures at polling places**

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

95

96 Voters eligible to vote in the NOTA election for an office are eligible to sign, once for
97 each nomination, one or more nominating petitions for one or more candidates for that office during the
98 nomination period.

99

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

105

106 Any person collecting nominating signatures at a polling place for one or more petitions,
107 hereinafter referred to as Collector, must be registered to vote at that polling place. A Collector may assist
108 in the gathering of signatures for any Nominating Petition. No signed petition may be removed from a
109 Petition Area, except, after the polls close, by the vote counting authority, who shall deliver all signed
110 petitions to the signature verifying authority.

111

112 The Collector shall be seated in a chair behind a table, provided at no cost to the
113 Collector, upon which such petitions shall be placed and kept while collecting signatures. The Collector
114 shall not speak to, or otherwise communicate with, any voter unless addressed first by that voter, and shall
115 display no sign except, optionally, one reading "Nominating Petition: <office>", where <office> shall be
116 the name of the office for which the petition is being gathered, using letters no greater than three inches in
117 height and affixed to the table in such a manner as to be visible to passing voters. The number of
118 Collectors in each Petition Area shall be no more than two (2) per one (1) or more petition sheets with the
119 same Candidate and Party designation. A petition may be brought into and left unattended in the Petition
120 Area by any person.

121

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

124 **Nomination by write-in**

125 An unlisted write-in candidate in the prior election may be nominated to be listed as a
126 candidate for an office in the following NOTA election by receiving write-in votes equal to at least ten
127 percent (10%) of either: a) the number of nominating signatures required for that office; or, b) the total
128 votes cast for the office in the current election. Such candidates shall submit to the Town Clerk in town
129 wide offices, or otherwise the Secretary of State, by the last day of the nomination period, a completed

130 nominating petition, containing no filled in signature lines, with an attached affirmation by the candidate,
131 stating the candidate received the requisite write-in votes for that office in the prior election. Unlisted
132 write-in candidates who do not receive the number of write-in votes needed for nomination may seek
133 nomination by petition.

134 **Signature verification; number of signatures required; submitting petitions**

135 The authority responsible for signature verification for nominations for a office in the
136 general election shall be responsible for verifying the signatures on the nominating petitions for a NOTA
137 election are valid and of the requisite number within fourteen (14) days after the end of the nomination
138 period.

139

140 The number of valid signatures under the same party designation required for nomination
141 by petition shall be the same for all candidates for the same office and shall be: either equal to the number
142 of the most signatures required for a general election nomination for the office, divided by number of
143 days in the general election nomination period, and then multiplied by number of days in the current
144 nomination period, and then divided by three (3); or, equal to twenty (20), whichever is greater.

145

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

148 **Multiple nominations of a candidate**

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

154 **Nomination notification and acceptance**

155 The Secretary of State, or Town Clerk for town wide elections, shall have delivered to
156 each nominee, within three (3) days of the nominee qualifying for the nomination, a Nomination
157 Notification, notifying the nominee of the nomination, along with other materials determined by the
158 Secretary of State. The nominee shall respond to the Nomination Notification within five (5) days by
159 returning the Nomination Acceptance, as determined by the Secretary of State, to the offices of the
160 notifying authority. Failure to respond shall be deemed an acceptance of the nomination.

161 Candidate Statement; requirements and limitations; qualifying for distribution

162 To assist the voters in assessing candidates for office in NOTA elections, the Secretary of
163 State, or Town Clerk for town wide elections, shall distribute Candidate Statements by mail to the
164 electorate at least seven (7) days before the election at no cost to the candidates.

165

166 When a candidate submits a Nomination Acceptance for an office, the candidate may also
167 submit a Candidate Statement for distribution, which shall be subject to the following requirements and
168 limitations: required to be a black and white statement, consisting only of spaces, letters, punctuation
169 marks, and numeric or other textual notation, contained within both sides of a single 8.5 x 11 inch white
170 paper sheet, and, optionally, one photograph of the candidate from the neck up no greater than 3 x 3
171 inches, for the purpose of allowing the candidate to communicate with the voters; and, shall be limited to
172 identifying the candidate, and, optionally, describing the candidate's qualifications for office, party
173 affiliations, proposed policies, and contact information; limited to one per candidate, even if the candidate
174 receives multiple nominations for an office; and, shall contain no solicitation for funds nor refer to other
175 candidates. The requirements and limitations of the Candidate Statement must be met, in the opinion of
176 the Secretary of State, in order to qualify for distribution as a Candidate Statement

177

178 Across the top inch of the first page of every Candidate Statement shall be the Statement
179 Header. The Statement Header shall be blank except for the state seal and the words, in large font,
180 "Candidate Statement of <candidate name> for <office>", where <candidate name> shall be the name of
181 the candidate as it shall appear on the ballot and <office> shall be the name of the office as it shall appear
182 on the ballot; and then, in a smaller font, "Prepared by the candidate and distributed to voters without cost
183 to the candidate by the Office of the Secretary of State."; and then, a line at the lower boundary of the
184 Statement Header; and, anywhere within the Statement Header, any other content determined by the
185 Secretary of State. At Nomination Notification, the candidate shall receive sample Candidate Statements
186 and an assigned Statement Header from the Secretary of State that the candidate is required to use as the
187 Statement Header for any Candidate Statement the candidate submits.

188

189 The area of the Candidate Statement apart from the Statement Header is the Candidate
190 Content determined by the candidate. The Secretary of State, or Town Clerk for town elections, shall take
191 care to distribute Candidate Content as submitted, except as follows: The Secretary of State, and the
192 Town Clerk for town elections, shall review Candidate Statements submitted to them to insure they

193 qualify for distribution as a Candidate Statement. The Town Clerk shall have delivered to the Secretary of
194 State all Candidate Statements, along with their Candidate Instructions, if any, for final review, within
195 three (3) days of receipt, along with a Town Clerk Opinion, defined by the Secretary of State, indicating
196 whether the Candidate Statement meets the requirements and limits of a Candidate Statement.

197

198 If, in the opinion of the Town Clerk, a Candidate Statement does not meet the
199 requirements and limits of a Candidate Statement, the Town Clerk Opinion shall include an explanation
200 of the nonconformance, along with a proposed Deletion Notification to make the Candidate Statement
201 conformant, and any other relevant document. Before submitting the Town Clerk Opinion to the Secretary
202 of State, the Town Clerk may contact the candidate directly to verbally suggest changes to the Candidate
203 Statement to make it conformant. If the candidate then submits one or more revised drafts, the Town
204 Clerk shall submit the last such draft as the Candidate Statement, retaining prior drafts as part of the
205 Candidate Statement's record.

206

207 Should the Secretary of State determine a Candidate Statement does not qualify for
208 distribution because it does not meet the requirements and limits of a Candidate Statement, then the
209 Secretary of State shall have delivered to the candidate, within ten (10) days of the submission of the
210 Candidate Statement by the candidate, a Deletion Notification, defined by the Secretary of State, which
211 shall include a copy of the Candidate Statement to show the deletions needed to bring the statement into
212 compliance and a letter stating the reasons for those deletions. The Secretary of State, or representative,
213 shall meet with the candidate at the offices of the Secretary of State, upon the candidate's request, within
214 two (2) days of receipt of a request for such a meeting, to review the Candidate Statement with the
215 candidate's representatives. The candidate shall have delivered to the Secretary of State within five (5)
216 days of the receipt of the Deletion Notification or within two (2) days after such meeting, whichever is
217 later: the candidate's response to the Deletion Notification; and/or a corrected Candidate Statement;
218 and/or a Candidate Instruction, to be defined by the Secretary of State, in the event of a non qualifying
219 Candidate Statement, instructing Secretary of State either to withdraw the Candidate Statement
220 completely or to distribute the original Candidate Statement with the deletions indicated by the Deletion
221 Notification.

222

223 Changes to the Candidate Content by Secretary of State shall be by deletion only, using
224 methods to be established in advance of the election by Secretary of State so as to be obvious to voters
225 which parts of the Candidate Content were deleted. Should the candidate fail to provide an acceptable,

226 corrected Candidate Statement and fail to provide Candidate Instructions for such an event, the Secretary
227 of State shall distribute the original Candidate Statement with the deletions specified in the Deletion
228 Notification. The Secretary of State shall make available at its offices to any person, within one day of a
229 written request, copies of any original Candidate Statement as well as associated Town Clerk Opinion,
230 corrected Candidate Statement, Deletion Notification, and Candidate Instruction, and other related
231 documents during the election campaign and for ten (10) years after the election.

232

233 Whenever possible, all Candidate Statements for the same office shall be assembled into
234 a single ballot pamphlet for distribution. Reference copies of the Candidate Statements shall be made
235 available at polling places for voter use.

236 **Confirming nominations**

237 The Secretary of State, or Town Clerk for town wide elections, shall confirm by Party
238 Confirmation, as defined by the Secretary of State, with the governing body of the designated political
239 party, that the party accepts the party designation on the ballot for a candidate. If the party designation of
240 the nomination is not accepted by the governing body of the party within ten (10) days of notification, or
241 if the authority of the governing body is determined by the Secretary of State to be in dispute, then the
242 candidate shall be listed with a “No Party” party designation. Write-in nominations shall be designated as
243 “Write-In”, or with any other political party designation acceptable to both the candidate and the
244 governing body of the political party.

245 **Ballot determination; election date determination**

246 The Secretary of State shall determine the date, offices, and candidate lists for NOTA
247 elections, and shall announce such determinations, whenever possible, at least thirty days in advance of
248 the date set for the NOTA election.

249

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

252 **Counting votes; recounts**

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

256

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

260

261 The Secretary of State shall conduct a recount of any election where the number votes
262 cast for “None of the Above; For a New Election” would require, or would allow a candidate to request, a
263 recount if that number of votes had been cast for a candidate, and otherwise act on behalf of voters who
264 cast votes for “None of the Above; For a New Election.” Delegation of this duty to the Secretary of State
265 shall in no way limit voters, who affirm they voted for “None of the Above; For a New Election” in an
266 election, from also acting on behalf of themselves and other such voters.

267 **Failure to nominate**

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

271 **Nominating Petition Description**

272 The nominating petitions shall consist of 8.5 x 11 inch white paper with the first printed
273 title line reading “NOTA Election Nominating Petition”;

274

275 The next printed line shall state: “To be signed only by voters eligible to vote for the
276 office.”;

277

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

281

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

285

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

288

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

293

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

296

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

299

300 **Petition Sample**

301 **NOTA Election Nominating Petition**

302

303 *To be signed only by voters eligible to vote for the office.*

304

305 For the office of: United States Representative for 5th Congressional District

306

307 Nominating: William P. Doe “Billy Doe”

308

309 Whose legal address is: 600 Elm Street, Harvard, MA 01451

310

311 Political Party: No Party For the Town or City: Harvard

312

313 Voter's Name (print) Street Address Signature Date m/d/y

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347 **Conflicting provisions**

348 The provisions of this act shall prevail over any conflicting provisions of any other law.

349 **Severability**

350 The provisions of this act are severable, and if any of its provisions shall be held
351 unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or
352 impair any of the remaining provisions.

353 **Effective date**

354 The provisions of this act shall take effect two (2) years after enactment.

355

356