



Massachusetts Legislative Process

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Franklin Regional Council of Governments

Agenda

- Overview of the Legislative Process followed by the Massachusetts General Court
- Focus on the State Budget Process
- Home Rule Petitions



Legislative Process Governed by Rules

Quoted from the General Court Website

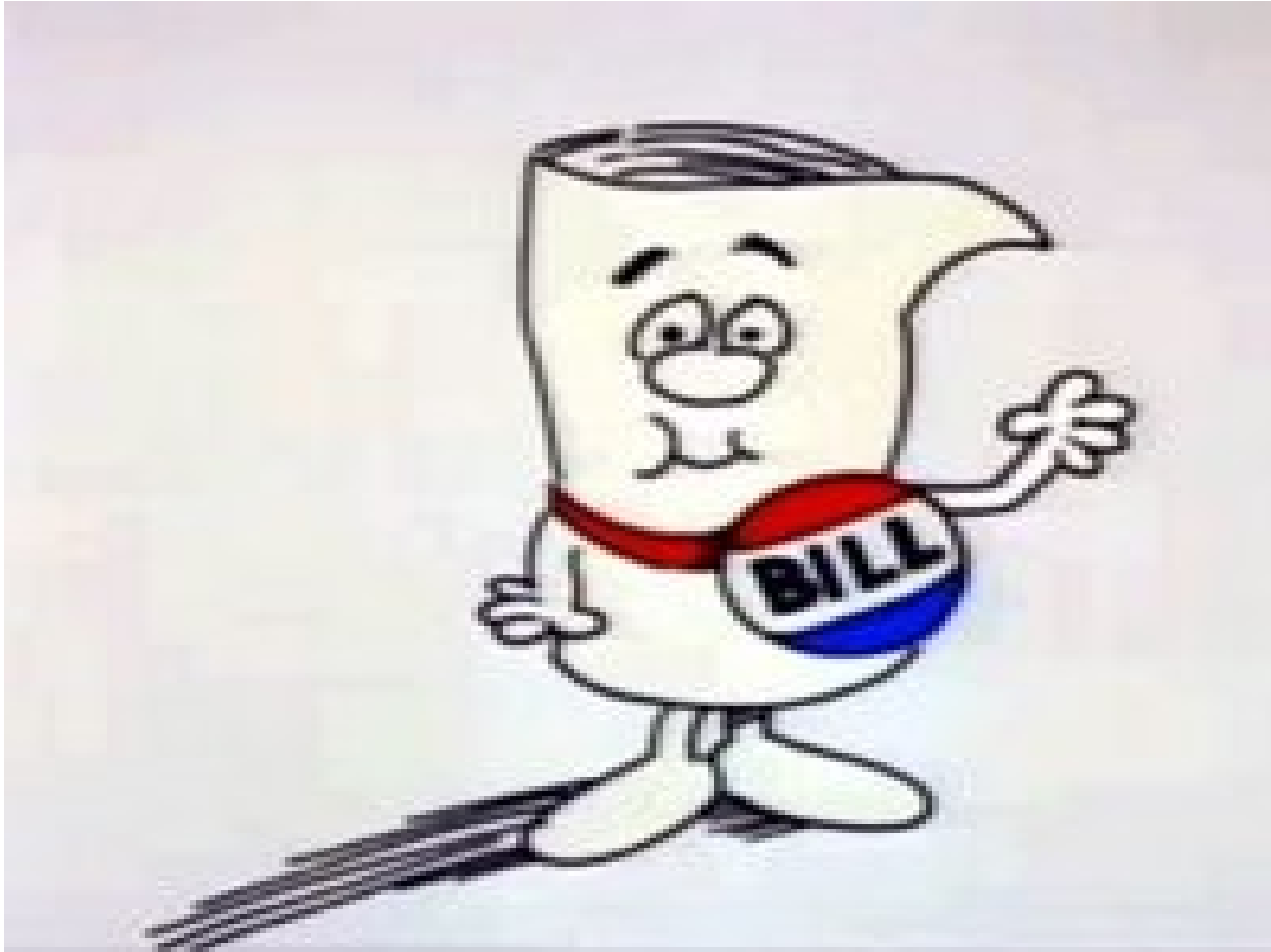
“The General Court is comprised of two distinct legislative bodies, the House of Representatives and the Senate. Each of these legislative bodies are governed by the Constitution, General Laws, the various court and sundry rulings, and its own set of rules (the House Rules and the Senate Rules) adopted by each chamber and a second set of rules adopted, in concurrence, known as the Joint Rules of the Senate and House of Representatives. ***These rules help govern the legislative process.***”

Legislative Session

- Two-Year Sessions
- Measured by calendar year
- Begins in odd-numbered year
- 193rd Session begins in January, 2023
- Bills filed in the first year are still active in the second year, unless acted on by the Legislature.
- Bills are active up until the day before the next two-year session is convened

Legislative Process Starts With a Bill

"I'm just a bill, yes I'm only a bill, and I'm sitting here on Capitol Hill"



Filing a Bill

- Bill filing deadline is 3rd Friday in January of first year of session – odd-numbered year.
- Bills filed after the deadline are “late files” and require special approval of Legislature to be considered
- Bills initially given a docket number by House or Senate Clerk’s office – e.g., “HD1234”, “SD1234”
- Changed to a regular bill number when assigned to a committee – Bill numbers usually different than docket numbers – e.g., “H4321”, “S4321”

Committees

- All bills are considered by a committee that oversees the subject matter of the bill.
- Joint committees include both senators and reps, and have a House chair and a Senate chair
- Committee assignments made early in the new session
- Most bills are given a public hearing where anyone may speak to the merits of the bill, or provide written testimony, or both.
- Written testimony is highly recommended

JOINT COMMITTEES



[Joint Committee on Advanced Information Technology, the Internet and Cybersecurity](#)

[Joint Committee on Bonding, Capital Expenditures and State Assets](#)

[Joint Committee on Cannabis Policy](#)

[Joint Committee on Children, Families and Persons with Disabilities](#)

[Joint Committee on Community Development and Small Businesses](#)

[Joint Committee on Consumer Protection and Professional Licensure](#)

[Joint Committee on Covid-19 and Emergency Preparedness and Management](#)

[Joint Committee on Economic Development and Emerging Technologies](#)

[Joint Committee on Education](#)

[Joint Committee on Elder Affairs](#)

[Joint Committee on Election Laws](#)

[Joint Committee on Environment, Natural Resources and Agriculture](#)

More Joint Committees

[Joint Committee on Export Development](#)

[Joint Committee on Financial Services](#)

[Joint Committee on Health Care Financing](#)

[Joint Committee on Higher Education](#)

[Joint Committee on Housing](#)

[Joint Committee on the Judiciary](#)

[Joint Committee on Labor and Workforce Development](#)

[Joint Committee on Mental Health, Substance Use and Recovery](#)

[Joint Committee on Municipalities and Regional Government](#)

[Joint Committee on Public Health](#)

[Joint Committee on Public Safety and Homeland Security](#)

[Joint Committee on Public Service](#)

[Joint Committee on Racial Equity, Civil Rights, and Inclusion](#)

Still More Joint Committees

[Joint Committee on Revenue](#)

[Joint Committee on Rules](#)

[Joint Committee on State Administration and Regulatory Oversight](#)

[Joint Committee on Telecommunications, Utilities and Energy](#)

[Joint Committee on Tourism, Arts and Cultural Development](#)

[Joint Committee on Transportation](#)

[Joint Committee on Veterans and Federal Affairs](#)

[Joint Committee on Ways and Means](#)

SPECIAL JOINT COMMITTEES

[Special Joint Committee on Redistricting](#)

HOUSE COMMITTEES



[House Committee on Bills in the Third Reading](#)

[House Committee on Ethics](#)

[House Committee on Federal Stimulus and Census Oversight](#)

[House Committee on Global Warming and Climate Change](#)

[House Committee on Human Resources and Employee Engagement](#)

[House Committee on Operations, Facilities and Security](#)

[House Committee on Post Audit and Oversight](#)

[House Committee on Rules](#)

[House Committee on Steering, Policy and Scheduling](#)

[House Committee on Ways and Means](#)

SENATE COMMITTEES



[Senate Committee on Bills in the Third Reading](#)

[Senate Committee on Ethics](#)

[Senate Committee on Global Warming and Climate Change](#)

[Senate Committee on Intergovernmental Affairs](#)

[Senate Committee on Personnel and Administration](#)

[Senate Committee on Post Audit and Oversight](#)

[Senate Committee on Reimagining Massachusetts Post-Pandemic Resiliency](#)

[Senate Committee on Redistricting](#)

[Senate Committee on Rules](#)

[Senate Committee on Steering and Policy](#)

[Senate Committee on Ways and Means](#)

Committees

- After the hearing, bills are considered by the committee members in executive session
- Recommendations given of “ought to pass” or “ought not to pass”, or sent to a “study”.
- Sending to a study is essentially a nice way of killing a bill without saying so.

Committees

- All bills in committee must be reported on by the 1st Wednesday in February of the second year of the two-year session (Joint rule #10).
- Extensions of time are possible.
- Committees often redraft bills by amending in committee, or combining multiple bills with a similar subject matter into one bill. New drafts are given a new bill number when reported favorably out of committee.

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	Date	Time	Event Title	Location
★	Tuesday, Oct. 4	9:00 AM	Joint Committee on Public Service	Written Testimony Only
 Upcoming	Thursday, Oct. 6	11:00 AM	Senate Session	Senate Chamber
 Upcoming	Thursday, Oct. 6	11:00 AM	Informal House Session	House Chamber
★	Thursday, Oct. 6	9:00 AM	Joint Committee on Revenue	Written Testimony Only
★	Thursday, Oct. 6	10:30 AM	Joint Committee on Telecommunications, Utilities and Energy	A-2 and Virtual
★	Thursday, Oct. 6	11:00 AM	the Official Seal and Motto of the Commonwealth	Virtual Hearing

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Bill Readings

- After being favorably reported out of Committee, there are three “readings” in each chamber before a bill is ready to become law
- First reading: when favorably reported from committee.
- After first reading a bill is sent to the House or Senate Steering & Policy committee, or to Ways and Means if financial implications

Bill Readings

- Second reading: When released from W&M or Steering and placed in the Orders of the Day (agenda) for the next session. It is now possible to debate and amend the bill. Members then vote to kill it or send to the Committee on Bills in the Third Reading
- Third reading: Committee on Bills in the Third Reading reviews bill for legal technicalities and proper citations, etc. After release from this committee it goes back to the floor for the 3rd and final time. It can be debated and amended again.

Engrossment

- Vote taken to “engross” a bill once it is done being debated and amended. If voted favorably it is “passed to be engrossed” and sent to the other chamber for consideration, where it will go through the same three readings process.
- When the other chamber completes its readings process it votes and passes to be engrossed, if a favorable vote.

Enactment

- After both chambers engross the bill, they consider enactment before sending to the Governor.
- If no differences in language, both chambers enact the bill and send it to the Governor for consideration.
- If differences, the originating chamber considers the latest draft. If it agrees with the draft engrossed by the other chamber, they vote to enact that bill.
- If they don't agree, a conference committee is formed

Conference Committee

- If disagreement about engrossed language differences, then both chambers appoint 3 members to a conference committee
- Often it includes the House and Senate Chairs of the Committee with jurisdiction
- Plus the Vice-Chairs of that Committee
- Two members of minority party

Conference Committee

- Conference Committee members meet to discuss the differences and work out a compromise bill.
- That bill is referred to as the “Conference Report”.
- It is given a new bill number and is sent to both chambers for an up or down vote – no amendments allowed.
- If approved, the bill is enacted and sent to the Governor

Governor's Process

- 10 days to act – or not – when Legislature is in session
- Can let it become law automatically without signing.
- Can sign into law as enacted by Legislature.
- Can veto entirely or use line item veto in budget bills.

More Governor's Process

- Can send the bill back to the Legislature with amendments.
- Legislature can consider those amendments and
 - Agree and send the amended bill back to the Governor for signature, or
 - Send it back with no amendments.
- Then Governor's options are to sign or veto.
- Pocket veto – let time run out when Legislature is not in session.

Effective Date of New Law

- Most laws become effective 90 days after bill officially signed by Governor
- Some laws become effective on specific dates included in the language of the bill.
- If an **emergency preamble** is included by both chambers, the law becomes effective immediately upon the Governor signing or letting the bill become law without signature.

Formal and Informal Sessions

- House and Senate rules govern what they can do and how they can do it
- Each chamber uses both formal and informal sessions to conduct business

Formal Sessions

- Usually a full complement of legislators and staff in the State House for formal sessions
- Formal sessions are required for any controversial subjects.
- Roll call votes happen only during formal sessions.
- Budget line item veto overrides need to be done in formal session as roll call votes are required.
- Usually live-streamed video – through the website

Informal Sessions

- Informal sessions address only non-controversial business.
- No roll calls taken as very few legislators attend. All votes are passed unanimously, unless an objection.
- Only takes one member to object and the matter does not pass.
- Lots of bills pass during informal sessions and can pass quickly as rules are routinely suspended “without objection” to move bills through the readings process.
- Only informal sessions are held from November through December in first year, and August through December in second year.

State Budget Process

- New budget every year
- Line items
- Earmarks are currently possible
- Starts with a joint W&M hearing on revenue projection for coming fiscal year
- Lots of expert opining at the hearing
- Governor/House/Senate all agree on the consensus revenue number for the budget

Follow Along on Website

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FY 2023 Budget

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Governor's Budget – First Step

- Governor and executive offices prepare budget proposals in the fall. All submitted to Administration & Finance to compile into the final budget document.
- Governor submits budget to the House by the 4th Wednesday of January each year, except for the first year of a new Governor's term when more time is given to prepare the budget.
- House receives Governor's budget. Bill number is H1 in first year and H2 in second year of two-year session

House Budget – Step Two

- Governor's budget bill referred to House W&M
- Joint public hearings held with Senate W&M
- House W&M releases its budget proposal in April.
- Members given a few days to submit proposed amendments.
- Floor debate of amendments, though many amendments are negotiated behind closed doors, or consolidated into omnibus amendments to be voted on as a group.
- After debate concludes, House votes a budget bill and sends it to the Senate.

Senate Budget – Step Three

- Senate receives the House budget and then Senate W&M creates its own budget bill
- Released for review mid-May
- Members submit proposed amendments
- Floor debate of amendments and then vote

Conference Committee – Step Four

- The House and Senate never agree 100% on the exact same budget numbers and earmarks and language of outside sections, so a conference committee is appointed to resolve differences.
- Line item differences -- usually a choice between the two numbers, so you know it won't be lower than the lowest or higher than the highest number.
- Outside section differences – not sure how they decide

Conference Budget and Governor

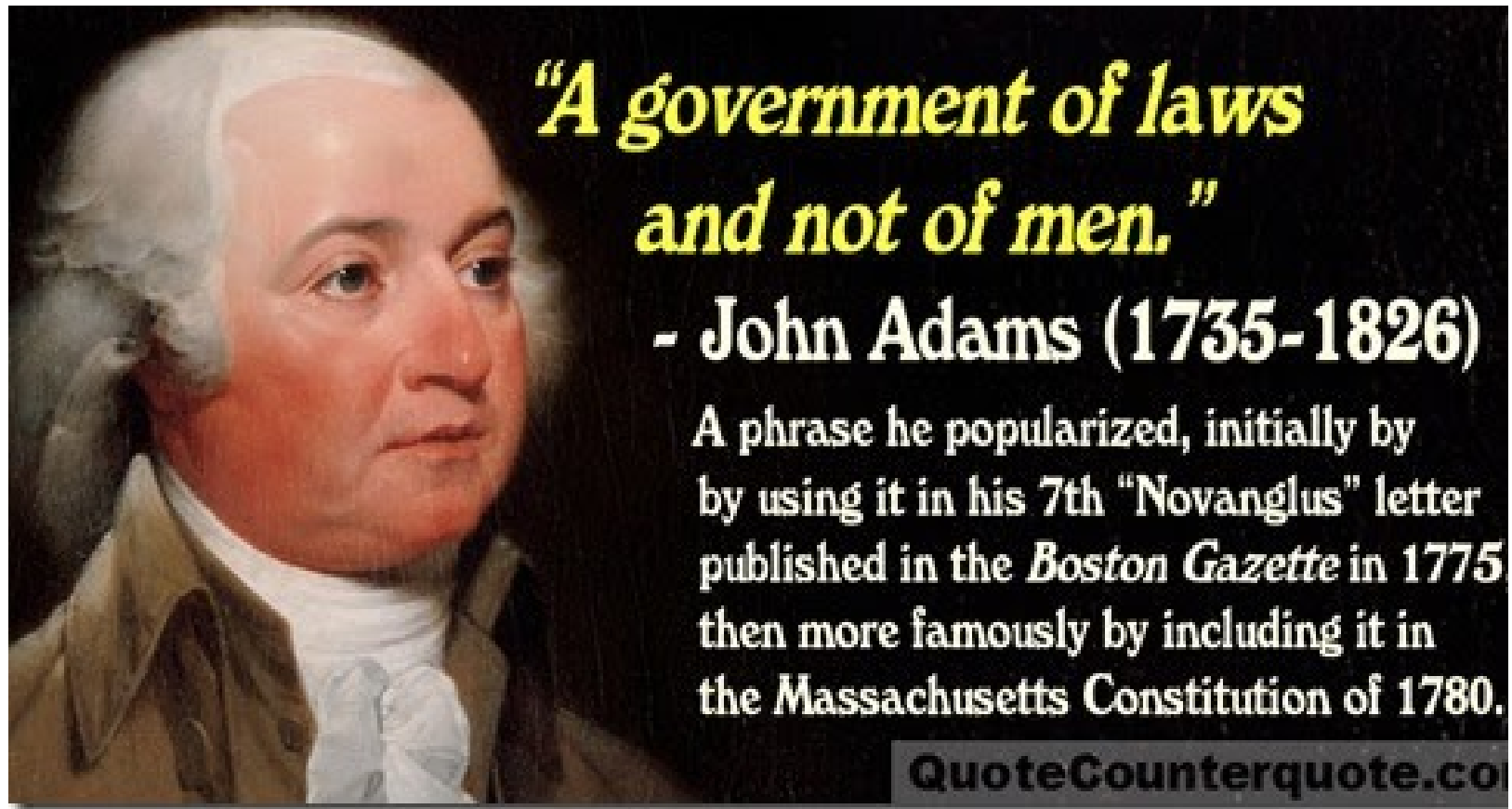
- Once a final budget is agreed to in conference, a conference report is issued and the conference budget is voted up or down in the House and Senate.
- Governor has 10 days to consider the budget.
- Can let it become law, can veto the entire bill, or can veto entire line items, or specific language from the line items or outside sections.
- Usually there are line item vetoes for the Legislature to consider overriding.
- Vetoes remain if not overridden by Legislature.

Veto Overrides

- Overrides originate in the House and must receive a 2/3 majority vote of both the House and Senate to become law over the Governor's objection.
- Given that the state budget rarely is completed prior to the July 1st start of the new fiscal year, they negotiate the final budget into July.
- Continuing resolution(s) voted to fund the budget at prior year's numbers until new budget is in place.
- If the Legislature waits too long to send a budget to the Governor in year two, they risk being out of formal sessions at the end of July when vetoes announced.

Home Rule Petitions

Allowed by Massachusetts Constitution



Home Rule Petitions

- Cities and towns may ask the Legislature for special legislation that only affects their community, such as:
 - Changing “Board of Selectmen” to “Select Board”
 - Implementing or amending a town charter
 - Allowing for recall of local elected officials
- Petitions may be initiated by the municipal government or by a group of voters

Home Rule Petitions

- Home rule authority was granted to cities and towns in 1966 with the adoption of Article 89 of the amendments to the Massachusetts Constitution, and the passage of MGL Chapter 43B
- Article 89 confirms the right of local self-government, within significant limits, and always subject to the legal **doctrine of pre-emption**.
- Pre-emption means that your locally-voted bylaw will stand as long as it is “**not inconsistent with**” the state constitution or MGLs.
- After general or zoning bylaws are passed at town meeting they must be sent to the Attorney General for a pre-emption review and approval.

Home Rule Petitions

- *Article 89, Section 6. Governmental Powers of Cities and Towns. –*

“Any city or town may, by the adoption, amendment, or repeal of local ordinances or by-laws, exercise any power or function which the general court has power to confer upon it, which is not inconsistent with the constitution or laws enacted by the general court”

Home Rule Petitions

- Article 89 authorizes and establishes the procedures for the adoption and amendment of local charters. A town does not need to get approval of the Legislature, but many do to avoid potential legal challenges.
- Article 89 sets out powers of the Legislature in relation to cities and towns. Can only make laws affecting all, or at least two or more cities and towns
- Unless one town petitions the Legislature to request a law that will apply only to itself.

Home Rule Petitions

- *Article 89, Section 8. Powers of the General Court.* –
“The general court shall have the power to act in relation to cities and towns, but only by general laws which apply alike to all cities or to all towns, or to all cities and towns, or to a class of not fewer than two, and by special laws enacted (1) on petition filed or approved by the voters of a city or town,... or the town meeting of a town, with respect to a law relating to that city or town;...”

Home Rule Petitions – Local Process

- When considering the need for a special act of the Legislature, talk with your state legislators about the situation well in advance, if possible.
- Maybe they know of another way to accomplish your goal without needing a special act.
- Rule of no surprises – Keep everyone in the loop and up-to-date

Home Rule Petitions – Local Approval

- Before submitting a petition to the Legislature, local approval is required.
- You must determine how to gain that approval, which might be through procedures covered by a local charter or by a previous special act of the Legislature.
- Most towns are not governed by a charter or previous special act, so local approval means:
 - Vote of town meeting, or
 - By local election.

Home Rule Petitions – Draft Bill

- The language of the petition usually includes a draft bill for the requested special act, but it does not require that a bill be included in the article voted on by the town.
- The vote might include instructions to a certain person/entity (select board, town administrator, state rep, etc.) to draft the bill.
- Help is available in the ***Legislative Research and Drafting Manual*** if you are tasked with drafting the bill. Find it on the General Court website.

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MASSACHUSETTS GENERAL COURT
LEGISLATIVE RESEARCH AND DRAFTING MANUAL

Fifth Edition
2010

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Home Rule Petitions – Form of Approval

- Unrestricted: Allows the Legislature to make amendments within the scope of the public objectives of the petition, without further approval of the town.
- The form of the final bill is up to the Legislature to determine.
- A downside is that the final bill might not reflect the wish of the local voters.
- Warrant example: *To see if the Town will vote to authorize the Select Board to petition the General Court for a special act (insert summary of act), and authorize the General Court to make any revisions that are necessary or appropriate to the form of such bill.*

Home Rule Petitions – Form of Approval

- Restricted: The local vote language does not allow for any amendments made by the Legislature.
- Upside is that the will of the people will be considered verbatim.
- Downside, it's an up or down vote with the likelihood that it will fail if there is an objection to anything written in the bill.
- Warrant example: *To see if the Town will vote to authorize the Select Board to petition the General Court for a special act in the exact form set forth below.*

Home Rule Petitions – Form of Approval

- Hybrid: House and Senate Counsels recommend using a hybrid approach
- The Legislature is authorized to make clerical or editorial changes of form without local approval, and
- It allows for larger amendments within the public purpose scope of the petition after approval of the Select Board.
- Upside: Allows for simple amendments without the need to go back to town meeting or hold another election ballot vote.
- Potential Downside: Select Board is given authority to make changes on behalf of the voters.

Home Rule Petitions – Form of Approval

Hybrid:

- Warrant Example:

To see if the Town will vote to authorize the Select Board to petition the general Court for a special act in the form set forth below, providing that (insert summary of act); provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Select Board approves amendments to the bill before enactment by the General Court; and provided further that the Select Board is hereby authorized to approve amendments which shall be within the scope of the general public objectives of this petition...

Home Rule Petitions -- Submittal

- Once the petition is approved by town meeting or election, send a certified copy of the vote, along with the draft bill, to your state rep and senator, asking them to file the bill.
- Give them as much explanatory information about why this is being sent to them and the need for the legislation.
- Provide any background details that will be helpful for them to make the case on your behalf.
- Tell them if it is time-sensitive, if there are any political factors to be considered, if any similar legislation has been enacted for other towns, etc.

Home Rule Petitions – Legislative Process

- When your state rep and/or senator files the bill, it goes through the same committee and 3 readings process as any other bill.
- Stay involved with your legislators to help them keep it moving through the process.
- They are tracking a lot of bills and can use the help – if it's offered constructively.

Home Rule Petitions – Voter Acceptance

- Not required by law, but you might consider adding a requirement in the petition that any special act approved by the Legislature will be brought to a local election for final town acceptance.
- The Legislature will sometimes act more quickly, especially if the issue is controversial, if there is a voter acceptance provision in the petition.
- Legislators are mainly considering the question of placing the matter described in the petition before the local voters at an election.

