



Programs & Services Committee Report

City of Newton In City Council

Special Meeting

Wednesday, January 15, 2020

Present: Councilors Krintzman (Chair), Albright, Greenberg, Wright, Ryan, Humphrey, Noel, Baker
City Staff: David Olson, City Clerk

Referred to Programs & Services Committee

#52-20 **Requesting acceptance of MGL to allow distribution of ballot question summaries**
THE CITY CLERK requesting the City Council accept the provisions of MGL, Chap 53, Section 18B to allow the City of Newton to provide voters with (1) the full text of each question; (2) a fair and concise summary of each question, including a 1 sentence statement describing the effect of a yes or no vote, which shall be prepared by the city solicitor; and (3) arguments for and against the question, for all types of municipal ballot questions.

Action: **Programs and Services Approved 8-0**

Notes: David Olson, City Clerk, addressed the Committee about this item.

Mr. Olson said that since 1987, Newton has had special legislation to allow the election commission to send a mailer out to voters before voting on ballot questions. He said that the Law Department reviewed the City's process and found that it would be unable to send out referendum information under this law. Mr. Olson said it was important to send out information to the public considering the upcoming Northland Project referendum. He said the mailer will contain statements for and against the measure as well as the text voters will see on the ballot. He finished speaking and opened for questions.

A committee member asked about the state of uncertainty regarding which law prevailed for the special election. Mr. Olson said that a final analysis has not been made and that the City continues to study the matter. The committee member asked what the effect of the difference between the two laws was. Mr. Olson answered that the difference was who was responsible for building the mailer. The acceptance of the general law would allow the Law Department to coordinate the mailer. The special act would allow the Election Commission to lead the effort, though with a summary provided by the Law Department. The special act would allow each side to use up to 200 words in its summary, while the General Law would only allow up to 150. Mr. Olson also clarified that the special act would only effect how information about the vote was mailed to the public.

The committee member was concerned about the long-term precedent this would set for similar circumstances going forward.

A committee member said that they agreed it was necessary to take measures to get information to the public.

A committee member asked if other cities had similar situations with their Home Rule procedures. Mr. Olson answered that there were not many others.

A committee member asked why the Law Department was questioning this now. Mr. Olson responded that as the Northland referendum was being prepared, the Law Department discovered this discrepancy.

A committee member asked why Massachusetts General Law did not permit Newton to send ballot information to the public. Mr. Olson answered that this is because there is nothing in the state law that allows municipalities to send information to voters.

Councilor Baker motioned to approve docket item #52-20, but he also wanted the Committee to docket an item #52-20(2) to clarify how the City Council will operate on the matter after the referendum vote and to decide on the best course of action.

The meeting adjourned at 6:46 PM.

Respectfully Submitted,

Josh Krintzman, Chair



Memorandum

To: City Council
From: David Olson
Re: Acceptance of MGL 53 18B
Date: January 10, 2020

Councilors,

The Law Department has determined that the Election Commission can not send an informational flyer to the voters of Newton for Referendum Ballot questions. The Special legislation that the City has had since 1987 which gave the authority to the Election Commission to send a mailer before a city election that would include the full text of such question, a fair and concise summary of the question prepared by the city solicitor and arguments for and against such question, is only authorized for those items that are pursuant to the Mass General Laws. The City's referendum process is different from the referendum procedures in MGL so it does not apply to a ballot question authorized by our Referendum process.

In 2011, MGL was changed to allow cities and towns to create an informational flyer similar to what we have traditionally done for all municipal ballot questions, however this section (MGL 53 18B) must be accepted by the City Council. I am seeking the Council's acceptance of this MGL so that hopefully we can have an information flyer for Referendum questions whether the Referendum happens on March 3 or some other date.

Referred to Programs & Services Committee

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The text of MGL Chap 53 Section 18B reads:

MGL Chap 53 Section 18B: Information relating to questions on city, town or district ballot; contents; written arguments by principal proponents and opponents; public inspection

Section 18B. (a) As used in this section "governing body" shall mean, in a city, the city council or board of aldermen acting with the approval of the mayor subject to the charter of the city, in a town having a town council, the town council, in every other town, the board of selectmen and in a district as provided in sections 113 to 119, inclusive, of chapter 41, the prudential committee, if any, otherwise the commissioners of the district.

(b) The governing body of a city, town or district which accepts this section in the manner provided in section 4 of chapter 4 shall print information relating to each question that shall appear on the city, town or district ballot. The information shall include: (1) the full text of each question; (2) a fair and concise summary of each question, including a 1 sentence statement describing the effect of a yes or no vote, which shall be prepared by the city solicitor, town counsel or counsel for the city, town or district; and (3) arguments for and against each question as provided in subsections (d) and (e). Not later than 7 days before an election at which the question shall be submitted to the voters in a city, town or district, the information in this subsection shall be sent to each household wherein a person whose name appears on the current voting list for the city, town or district resides.

(c) Not later than the day following the date of the determination that a question shall appear on the ballot in an election, the governing body shall provide written notification to the city solicitor or town or district counsel and to the city or town clerk.

(d) Not later than 7 days after the determination that a question shall appear on the ballot, the city solicitor or town or district counsel, as applicable, shall seek written arguments from the principal proponents and opponents of the question. For the purposes of this section, the principal proponents and opponents of a question shall be those persons determined by the solicitor or counsel to be best able to present the arguments for and against the question. The solicitor or counsel shall provide not less than 7 days' written notice to the opponents and proponents of the date on which the written arguments shall be received. Proponents and opponents shall submit their arguments, which shall be not more than 150 words, to the solicitor or counsel, together with a copy thereof to the city or town clerk or, in a district, to the clerk of each city and town within the district. The arguments and summary shall be submitted by the solicitor or counsel to the governing body at least 20 days before the election for distribution to voters in accordance with subsection (b). A copy of the arguments and summary shall also be submitted by the solicitor or counsel to the city, town or district clerk.

(e) In determining the principal proponents and opponents of a ballot question, the solicitor or counsel shall contact each ballot question committee, if any, as defined in section 1 of chapter 55. The principal proponents or opponents of a ballot question may include officers of a ballot question committee or officers of a city, town or district office or committee including, but not limited to, a finance committee or a school committee. In addition, the principal proponents or opponents may include the first 10 signers or a majority of the first 10 signers of a petition initiating the placement of such question on the ballot. The solicitor or counsel shall determine, based on a review of arguments received, the person or group best able to present arguments for and against a question. If no argument is received by the solicitor or counsel within the time specified by the solicitor or counsel, the solicitor or counsel shall prepare an argument and submit the argument to the governing body and to

the city or town clerk or, in a district, to the clerk of each city and town within the district within the time specified in subsection (d).

(f) All arguments filed or prepared pursuant to this section and the information prepared pursuant to subsection (b), shall be open to public inspection at the office of city or town clerk or, in a district, at the office of the clerk of each city and town within the district. In addition, each city or town clerk shall make such information available to the voters at all polling places within the city, town or district.

The Text of our Special Legislation reads:

ACTS, 1987. -Chap. 274.

Chapter 274. AN ACT AUTHORIZING THE ELECTION COMMISSION OF THE CITY OF NEWTON TO SEND CERTAIN INFORMATION TO REGISTERED VOTERS IN THE CITY OF NEWTON.

Be it enacted, etc., as follows:

SECTION 1. Notwithstanding the provisions of any general or special law to the contrary, the election commission of the city of Newton, at least ten days before any election at which a question shall be submitted solely to the voters of the city of Newton pursuant to any section of the General Laws including, but without limitation, section twenty-one C of chapter fifty-nine, shall cause to be printed and sent to each residence of one or more voters whose name appears on the latest voting list for said city the full text of such question, a fair and concise summary of such question prepared by the city solicitor of said city of Newton and arguments for and against such question as provided in section two.

SECTION 2. The election commission of the city of Newton shall cause to be printed and sent, in the manner provided in section one, arguments for and against each question submitted solely to the voters of the city of Newton pursuant to any General Law including, but without limitation, section twenty-one C of chapter fifty-nine of the General Laws. No argument shall contain more than two hundred and fifty words. Said election commission shall seek such arguments from the principal proponents and opponents of each such question, and such arguments shall be filed with said election commission within such time as said election commission shall designate in a written notice to the principal proponents and opponents, at least fourteen days from the date of such written notice. For the purposes of this section, the principal proponents and opponents of any such question shall be those persons determined by said election commission to be best able to present the arguments for and against such question. The principal proponents of such a question may include the first ten signers or a majority of the first ten signers of the petition initiating the placement of such question on the ballot. In determining the principal proponents and opponents of such a question, said election commission shall contact each political committee as defined in section one of chapter fifty-five of the General Laws to influence the outcome of the vote

on such question and whose statement of organization is on file with the clerk of the city of Newton. If no argument is received by said election commission within the time allowed by this section, said election commission shall prepare such argument. All arguments filed with or prepared by said election commission pursuant to this section shall be open to public inspection at the office of the clerk of said city of Newton.

SECTION 3. This act shall take effect upon its passage.

Approved July 21, 1987.