

SENATE No. 2680

Senate, May 4, 2020– Text of the Senate Bill relative to municipal governance during the COVID-19 emergency (being the text of Senate, No. 2673, printed as amended)

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to municipal governance during the COVID-19 emergency.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect forthwith both public health and the viability of town meetings in the face of the state, national and global public health emergencies existing as a result of the COVID-19 pandemic, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. (a) Notwithstanding section 13 of chapter 39 of the General Laws or any
2 other general or special law, charter provision or by-law to the contrary, a town not having a
3 representative town meeting form of government may act by vote of its select board, in
4 consultation and with the approval of the town moderator, to prescribe the number of voters
5 necessary to constitute a quorum at any town meeting held from the governor’s March 10, 2020
6 declaration of a state of emergency until 30 days after the termination of the state of emergency
7 at a number that is less than the number that would otherwise be required by law, town by-law or
8 town charter; provided, however, that the number of voters necessary to constitute a quorum
9 shall not be less than 10 per cent of the number that would otherwise be required.

10 (b) The select board shall publish notice of its intention to consider an adjustment of town
11 meeting quorum requirements under this section not less than 7 days before the vote of the select
12 board. The select board shall provide for adequate means of public access that will allow
13 interested members of the public to clearly follow the deliberations of the select board on making
14 a quorum adjustment as those deliberations are occurring.

15 (c) Not less than 10 days after a vote of the select board to adjust the quorum requirement
16 under this section, the town clerk shall notify the attorney general of the adjusted quorum
17 requirement.

18 (d) A town meeting held pursuant to this section shall take up only those matters related
19 to their budget or necessary to meet a federal deadline and shall not include warrant articles other
20 than those adopted by the select board.

21 (e) All actions taken pursuant to this section are hereby ratified, validated and confirmed
22 to the same extent as if the town meeting had been conducted in accordance with all other
23 applicable laws, charter provisions, ordinances and by-laws.

24 SECTION 2. (a) Notwithstanding any general or special law, charter provision, ordinance
25 or by-law to the contrary, during the governor's March 10, 2020 declaration of a state of
26 emergency, if the moderator in a town having a representative town meeting form of government
27 determines that it is not possible to safely assemble the town meeting members and interested
28 members of the public in a common location while complying with any applicable state or local
29 orders, directives or guidance concerning public assemblies, the moderator may request that the
30 select board of the town call for a representative town meeting to be held through remote
31 participation, including, but not limited to, by means of a video or telephone conferencing

32 platform. Such a request by the moderator to the select board shall be in writing and shall
33 include, but not be limited to: (i) the moderator's determination and request to hold a town
34 meeting through remote participation in accordance with this section; (ii) the video or telephone
35 conferencing platform the moderator has determined to use to hold the town meeting; (iii)
36 confirmation that the moderator has consulted with the local disability commission or
37 coordinator for Americans with Disabilities Act compliance; and (iv) a certification that by the
38 moderator that: (A) the moderator has tested the video or telephone conferencing platform; and
39 (B) the platform satisfactorily enables the town meeting to be conducted in substantially the
40 same manner as if the meeting occurred in person at a physical location and in accordance with
41 the operational and functional requirements set forth in this section.

42 A video or telephone conference platform used by a town meeting for remote
43 participation under this section shall, at minimum, provide for: (i) the moderator, town meeting
44 members, town officials and any other interested members of the public to identify and hear the
45 moderator and each town meeting member who attends and participates in the remotely-held
46 town meeting, as well as any other individuals who participate in the remotely-held town
47 meeting; (ii) the ability to determine whether a quorum is present; (iii) a town meeting member,
48 town official or other individual to request recognition by the moderator without prior
49 authorization; provided, however, that, to the extent technologically feasible, the request is
50 visible or audible to the public in real time and upon review of the recording of the town meeting
51 proceedings, preserved according to subsection (h); (iv) the moderator to determine when a town
52 meeting member wishes to be recognized to speak, make a motion, raise a point of order or
53 object to a request for unanimous consent; (v) the moderator to recognize a town meeting
54 member, town official or other individual to speak and to enable that person to speak; (vi) the

55 ability to conduct a roll call vote; (vii) any interested members of the public to access the
56 meeting remotely for purposes of witnessing the deliberations and actions taken at the town
57 meeting; and (viii) the town meeting to be recorded. Registered voters residing in the town
58 wishing to participate in a remote town meeting conducted pursuant to this section shall submit a
59 request to participate to the town clerk not less than 48 hours in advance of the town meeting.
60 Upon receipt of the request and verification of the requester's voter registration status, the clerk
61 shall provide to the requester instructions for participating in the remote town meeting.

62 (b) Not later than 10 business days following receipt of a written request by the
63 moderator under subsection (a), the select board shall vote to determine if the town meeting shall
64 be held remotely by means of the video or telephone conferencing platform requested by the
65 moderator.

66 (c) If the select board votes to approve the request of the moderator for remote
67 participation at a town meeting and the select board has already issued a warrant calling a town
68 meeting to be held not later than June 30, 2020, the select board shall, at the same meeting of the
69 board, approve and issue, in consultation with the moderator, a notice that expressly states: (i)
70 that the town meeting shall be held remotely by means of the video or telephone conferencing
71 platform requested by the moderator; (ii) the date and time of the meeting; and (iii) any
72 information necessary for the moderator, town meeting members, town officials and interested
73 members of the public to access and attend the town meeting remotely.

74 The notice issued by the select board shall be: (i) accompanied by the written request of
75 the moderator submitted to the select board under subsection (a); (ii) filed and posted in
76 accordance with the requirements of subsection (b) of section 10A of chapter 39 of the General

77 Laws; (iii) distributed to each town meeting member; and (iv) publicly posted not less than 10
78 days before the scheduled date of the remote town meeting. The notice may include a date, time
79 and place for the town meeting to be resumed if the town meeting does not vote to continue the
80 town meeting remotely as required under subsection (f).

81 (d) If the select board votes to approve the request of the moderator for remote
82 participation at a town meeting and the select board has not yet issued a warrant for a town
83 meeting, the select board shall approve and issue a warrant for the town meeting that expressly
84 states: (i) that the town meeting shall be held remotely by means of the video or telephone
85 conferencing platform requested by the moderator; (ii) the date and time of the meeting; and (iii)
86 any information necessary for the moderator, town meeting members, town officials and
87 interested members of the public to access and attend the town meeting remotely.

88 The warrant issued by the select board shall be: (i) accompanied by the written request of
89 the moderator submitted to the select board under subsection (a); and (ii) filed in accordance
90 with section 10 of chapter 39 of the General Laws, all other applicable laws and any relevant
91 provision of the town charter or by-laws. The warrant may include a date, time and place for the
92 town meeting to be resumed if the town meeting does not vote to continue the town meeting
93 remotely as required under subsection (f).

94 (e) Not later than 5 business days after a vote of the select board to approve the
95 request of the moderator to hold a town meeting remotely pursuant to subsection (c) or (d), the
96 town clerk shall submit a certified copy of the vote of the select board and of the written request
97 of the moderator to the attorney general.

98 (f) Before taking any other vote at a representative town meeting held through remote
99 participation under this section, the town meeting members present and voting at the meeting
100 shall vote on whether or not to continue conducting the town meeting remotely by means of the
101 chosen video or telephone conferencing platform. If the town meeting votes to continue
102 conducting the town meeting remotely, then the town meeting shall proceed by remote
103 participation to address the articles included in the warrant. If the town meeting does not vote to
104 continue conducting the town meeting remotely, then the town meeting shall be adjourned to the
105 date, time and place specified in the notice or warrant under subsection (c) or (d). If no date, time
106 and place has been specified in the notice or warrant, the town meeting shall immediately be
107 dissolved without taking any votes on any other matters and the select board may call the town
108 meeting pursuant to a new warrant that provides for the town meeting to be held in person at a
109 physical location in accordance with section 10 of chapter 39 of the General Laws, all other
110 applicable laws and provisions of the town charter and by-laws.

111 (g) A vote taken at a representative town meeting held through remote participation
112 pursuant to this section shall be taken by any means that the moderator determines accurately
113 and securely records the votes of those entitled to vote at the meeting, including, but not limited
114 to, a roll call vote, electronic voting, voting by ballot, voting by phone or any combination
115 thereof. The vote of each town meeting member on a roll call vote shall be recorded and kept
116 with the minutes of the town meeting.

117 (h) A representative town meeting held remotely pursuant to this section shall be
118 recorded and the recording shall be preserved and made publicly available on the town's website
119 for not less than 90 days after the conclusion of the town meeting.

120 (i) All actions taken pursuant to this section are hereby ratified, validated and confirmed
121 to the same extent as if the town meeting had been conducted in accordance with all other
122 applicable laws, charter provisions, ordinances and by-laws.

123 SECTION 3. Notwithstanding section 9 of chapter 39 of the General Laws or any other
124 general or special law, charter provision, ordinance or by-law to the contrary, during the
125 governor's March 10, 2020 declaration of a state of emergency, a select board, in consultation
126 and with the approval of the town moderator, may vote to hold town meeting outside the
127 geographic limits of the town if the board determines that it is not possible to adequately conduct
128 town meeting in a location within the geographic limits of the town in a manner that ensures
129 health and safety; provided, however, that a meeting for the election by ballot of federal, state or
130 other officers or the determination of other matters that are to be determined by ballot at an
131 election shall be held within the geographic limits of the town. The select board shall publicly
132 post notice of the location of town meeting to be held outside the geographic limits of the town
133 not less than 10 days before the date of the meeting. Nothing in this section shall supersede or
134 otherwise affect the validity of any a special law, charter or by-law in place before the
135 governor's March 10, 2020 declaration of a state of emergency that provides for holding town
136 meeting outside the geographic limits of the town.

137 SECTION 4. Notwithstanding section 32 of chapter 44 of the General Laws or any other
138 general or special law, charter provision or ordinance to the contrary, if the mayor of a city is
139 unable, as a result of the governor's March 10, 2020 declaration of a state of emergency, to
140 submit an annual budget for fiscal year 2021 to the city council within 170 days as required by
141 the first paragraph of said section 32 of said chapter 44, the time periods and deadlines set forth
142 in said section 32 of said chapter 44 for the mayor and city council to act on the annual budget

143 shall be extended until 60 days after the termination of the declaration of the state of emergency;
144 provided, however, that within 30 days after the termination of the declaration of emergency or
145 on July 31, 2020, whichever is earlier, the mayor shall submit to the city council the annual
146 budget for fiscal year 2021 for the purposes of said section 32 of said chapter 44 and the time
147 periods and deadlines set forth in said section 32 of said chapter 44 shall, if not inconsistent with
148 this section, otherwise thereafter apply; and provided further, that notwithstanding said section
149 32 of said chapter 44 to the contrary, the mayor may submit to the city council a continuing
150 appropriation budget for the city on a month-by-month basis for a period not to exceed 3 months
151 if the city has not approved an annual budget for fiscal year 2021 by June 30, 2020, as a result of
152 the governor's March 10, 2020 declaration of a state of emergency.

153 SECTION 5. (a) (1) Notwithstanding sections 52 and 56 of chapter 41 of the General
154 Laws, a city or town may approve a payment for the period beginning on or after March 10, 2020
155 through the remainder of fiscal year 2020 on an existing service contract for school or education-
156 related services entered into by the school committee or a service contract renegotiated or
157 modified by the school committee in order to maintain the availability of and access to the
158 services secured under the underlying contract between the parties; provided, however, that: (i)
159 the underlying service contract was in effect before March 10, 2020 and the service contractor
160 was unable to perform services under the contract as a result of the governor's March 10, 2020
161 declaration of a state of emergency or the outbreak of the 2019 novel coronavirus, also known as
162 COVID-19; and (ii) there are sufficient unencumbered available funds remaining for such
163 payment in the appropriation for the purpose.

164 (2) Before any payment, the service contractor shall present to the approving authorities
165 set forth in subsections (b) and (c), a sworn statement reporting grants, discounted loans or other

166 financial support that the service contractor has received from a state, federal or local
167 government as a result of the COVID-19 outbreak or, if the service contractor has not received
168 any such grants, discounted loans or other financial support, affirming that the service contractor
169 has not received, and shall not receive thereafter, any such grants, discounted loans or other
170 financial support. The sworn statement shall include an attestation of compliance with section 7.
171 The payment to the service contractor shall not exceed the amount to which the service
172 contractor was eligible under the service contract and shall be consistent with said section 7.

173 (b) In a city, the payment set forth in subsection (a) shall be approved by: (i) the school
174 committee; (ii) a city auditor, accountant or other officer having similar duties; and (iii) the chief
175 executive officer of the city as defined in Fifth B of section 7 of chapter 4 of the General Laws.

176 (c) In a town, the payment set forth in subsection (a) shall be approved by: (i) the school
177 committee; (ii) a town accountant or other officer having similar duties; and (iii) the chief
178 executive officer of the town as defined in Fifth B of section 7 of Chapter 4 of the General Laws.

179 (d) This section shall not apply to tuitions and rates set by the bureau of purchased
180 services within the operational services division pursuant to section 22N of chapter 7 of the
181 General Laws, which are set and are non-negotiable for fiscal year 2020.

182 SECTION 6. (a) (1) Notwithstanding sections 52 and 56 of chapter 41 and section 16A of
183 chapter 71 of the General Laws, a regional school district may approve a payment for the period
184 beginning on or after March 10, 2020 through the remainder of fiscal year 2020 on an existing
185 service contract for school or education-related services entered into by the regional school
186 district or a service contract renegotiated or modified by the regional school committee in order
187 to maintain the availability of and access to the services secured under the underlying contract

188 between the parties; provided, however that: (i) the underlying service contract was in effect
189 before March 10, 2020 and the service contractor was unable to perform services under the
190 contract as a result of the governor's March 10, 2020 declaration of a state of emergency or the
191 outbreak of the 2019 novel coronavirus, also known as COVID-19; and (ii) there are sufficient
192 unencumbered available funds remaining for such payment in the appropriation for the purpose.

193 (2) Before any payment, the service contractor shall present to the approving authorities
194 set forth in subsection (b), a sworn statement reporting grants, discounted loans or other financial
195 support that the service contractor has received from a state, federal or local government as a
196 result of the COVID-19 outbreak or, if the service contractor has not received any such grants,
197 discounted loans or other financial support, affirming that the service contractor has not received,
198 and shall not receive thereafter, any such grants, discounted loans or other financial support. The
199 sworn statement shall include an attestation of compliance with section 7. The payment to the
200 service contractor shall not exceed the amount to which the service contractor was eligible under
201 the service contract and shall be consistent with said section 7.

202 (b) The payment set forth in subsection (a) shall be approved by the regional school
203 committee and a business manager, assistant superintendent for business or other employee with
204 title of similar import and responsibilities as those of a town accountant.

205 (c) This section shall not apply to tuitions and rates set by the bureau of purchased
206 services within the operational services division pursuant to section 22N of chapter 7 of the
207 General Laws, which are set and are non-negotiable for fiscal year 2020.

208 SECTION 7. Payments made to service contractors under sections 5 and 6 shall not
209 exceed the amount to which the service contractor was eligible under the service contracts

210 through which payments are made less the amount the service contractor received in grants,
211 discounted loans or other financial support that the service contractor has received or expects to
212 receive from a state, federal or local government as a result of the COVID-19 outbreak.

213 SECTION 8. This act shall expire 35 days after the termination of the governor's March
214 10, 2020 declaration of a state of emergency and such expiration shall not affect the validity of
215 any vote or action taken by a select board or town meeting pursuant to this act.