

HOUSE . . . . . No. 4996

Substituted by the House, on motion of Mr. Speliotis of Danvers, for a bill with the same title (House, No. 4533). December 10, 2018.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court (2017-2018)

An Act relative to the removal of certain elected financial officials for the town of Sherborn.

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) For the purposes of this act, the following terms shall, unless the context  
2 clearly requires otherwise, have the following meanings:

3 "Financial official", an elected treasurer, collector or member of the board of assessors of  
4 the town of Sherborn.

5 "Reporting individual", persons whose relationship conducting town business may  
6 legitimately make said individual aware of irregularities, including, but not be limited to:  
7 members of the finance departments, other financial officials, auditors, banks, town officials and  
8 members of town committees.

9 "Review committee", a committee convened pursuant to subsection (c) consisting of: the  
10 chair of the select board of the town of Sherborn; the chair of the personnel committee of the  
11 town of Sherborn; the chair of the advisory committee of the town of Sherborn; the chair of the  
12 board of assessors of the town of Sherborn; provided, that said chair of said board of assessors is

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13 not the subject of the complaint; an elected financial official appointed by the moderator of the  
14 town of Sherborn; provided, that said elected financial official is not the subject of the complaint;  
15 and the moderator of the town of Sherborn; provided, that all members shall be voting members;  
16 and provided further, that if the chair of the board of assessors of the town of Sherborn is the  
17 subject of the complaint, the moderator shall appoint another member of the board of assessors.

18 (b) If, in the course of performing the duties required by the office and the laws that  
19 govern said office, a financial official: (i) demonstrates a pattern of errors, omissions, negligence  
20 or dishonesty, or (ii) may have committed an act so egregious that the act may put the financial  
21 well-being of the town at great risk, the financial official may be removed from office in  
22 accordance with the procedures set forth in this act.

23 (c) The town administrator of the town of Sherborn shall receive and document any  
24 written and signed reports of alleged transgressions submitted by a reporting individual. If the  
25 town administrator determines that the severity, frequency or urgency of complaints may satisfy  
26 clause (i) or (ii) of subsection (b), the town administrator shall inform the moderator of the town  
27 of Sherborn, who shall convene and preside over a meeting of the review committee.

28 A minimum of 4 members of the review committee shall be present to constitute a  
29 meeting. Counsel for the town shall be present to advise the review committee. Any of the  
30 eligible members of the review committee unable to attend shall so state in writing, to be entered  
31 into the record at the meeting. The meeting shall be held in accordance with all of the  
32 procedures set forth in clause (1) of subsection (a) of section 21 of chapter 30A of the General  
33 Laws. The financial official shall receive written notice of the review committee meeting at  
34 least 48 hours prior to the meeting, as provided in said clause (1) of said subsection (a) of said

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35 section 21 of said chapter 30A. The written notice shall include a description of relevant  
36 information relating to the issues to be addressed at the review committee meeting, an invitation  
37 to attend and submit testimony in defense of the actions in question and a statement of the right  
38 to bring legal counsel, all in accordance with said clause (1) of said subsection (a) of said section  
39 21 of said chapter 30A. The notice shall be prepared by the town administrator or a designee.

40 (d) The review committee shall review the alleged complaints to determine if the  
41 complaints constitute cause for removal from office pursuant to this act. The town administrator  
42 shall present all the facts, including any testimony, before the review committee, but shall not  
43 participate in the vote.

44 The review committee meeting shall stay in session, or be continued if necessary, until all  
45 relevant information is heard and the financial official has had all the time necessary to present  
46 the defense and rebut the charges. After all evidence has been received, the review committee  
47 shall vote to excuse, censure or remove the financial official. A vote to remove shall be for  
48 malfeasance or nonfeasance in office. The review committee shall regard this process very  
49 seriously, with the advice of town counsel.

50 If the review committee votes to remove the financial official, the financial official shall  
51 be given the choice to resign and if so chooses should be allowed to proffer a letter of  
52 resignation, in a form used by the town, to sign and be witnessed by the town moderator;  
53 provided, that if the financial official does not resign, the financial official shall be given a letter,  
54 prepared prior to the end of the meeting and signed at the meeting by each of the voting review  
55 committee members, stating the result of the vote and that there will be no unsupervised access  
56 to town funds or records by the financial official who has been removed. All keys shall be

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57 collected from the financial official who has been removed and the financial official who has  
58 been removed shall have all computer access revoked. A summary of the meeting with the  
59 resulting vote shall be reviewed before the meeting adjourns and shall become a public record  
60 immediately. The vacated position shall be filled in accordance with the General Laws.

61 SECTION 2. This act shall take effect upon its passage.