

HOUSE No. 3442

By Representative Provost of Somerville and Senator Jehlen, a joint petition (accompanied by bill, House, No. 3442) of Denise Provost and others (with the approval of the mayor and board of alderman) relative to the charter of the city of Somerville. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the charter of the City of Somerville.

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: Chapter 240 of the Acts of 1899, as amended, is hereby further amended by
2 striking the following sections in their entirety:

3 Title 2, Section 9 relating to ward caucuses

4 Title 3, Section 14 relating to the city messenger

5 Title 3, Section 19 relating to public safety

6 Title 6, Section 35 relating to the city physician

7 Title 6, Section 37 relating to the Board of Public Welfare

8 Title 6, Section 40A.1 relating to transferred employees

9 Title 6, Section 40A.2 relating to the bargaining rights of transferred employees

10 (has since expired)

11 Title 7, Section 49, relating to ethical requirements

12 Title 7, Section 55, relating to charter's effective date

13 Division 2, Article 1, Section 2 (Board of Appeals) relating to effective date

14 Division 2, Article IV, Section 1 (Election Commissioners)

15 Division 2, Article IV, Section 7 relating to effective date of change from board of

16 registrars to board of election commissioners

17 Division 2, Article V, Sections 1 -11 (inclusive), and Section 13 relating to listing board

18 Division 2, Article VI, Section 17 (Elections) relating to effective date

19 Division 2, Article VII, Sections 11 and 12 (Traffic Commission) relating to revocation

20 and effective date.

21

22 SECTION 2: Chapter 240 of the Acts of 1899, as amended, is further hereby amended by

23 striking the following provisions or parts thereof:

24 Title 3, Section 11: strike phrase in the first sentence "shall be the judge of the election

25 and qualifications of its members, and,"; strike in the second sentence the phrase, "but a less

26 number may meet and adjourn from time to time;" strike phrase at the end of the third sentence,

27 "not exceeding five hundred dollars a year each."

28 Title 3, Section 17, subsection (3): strike the entire last sentence.

29 Title 3, Section 18: strike the last sentence (relating to Somerville Hospital).

30 Title 5, Section 30: strike phrase in the first sentence, " ... be the judge of the election and
31 qualifications of its members, and shall,"; strike phrase in the second sentence, " ...but a less
32 number may meet and adjourn from time to time."

33 Title 6, Section 32: strike phrase in the first sentence "except license fees and other
34 monies the collection of which is provided by law."

35 Title 6, Section 38: Strike the fourth sentence.

36 Title 6, Section 53: Strike second sentence.

37 Division 2, Article VI, Section 2: strike phrase "said section ten", strike ()"; strike "
38 held by section three (sections 3 through 6 of this article [and] the nomination paper therein
39 described."

40 SECTION 3: Chapter 240 of the Acts of 1899, as amended, is hereby further amended as
41 follows:

42 Title 2, Section 7: ADD in the 2nd sentence between "aldermen" and "by" the phrase
43 "from amongst its members."

44 Title 3, Section 16: replace in the 4th sentence text "order[,]" with text "order,"

45 Title 3, Section 17, subsection (1): remove phrase in first sentence "and of the
46 mayor and"; in subsection (3) replace the word "town" with the word "public",
47 replace word "therefor" with word "therefore"

48 Title 3, Add "Sec. 18. Disqualification from serving.

Any elected official who has been finally convicted of a state or federal felony shall be deemed to have vacated said office and shall be disqualified from serving the remainder of his or her term.

Title 4, Section 21: Add "311 director"; replace "superintendent of the division of highways" with "superintendent of highways, electric lights and lines", provided, however, that pursuant to section 46B of this charter, administrative orders may replace or modify such titles and departmental locations of such functions; strike all of the following phrases: "a city physician;" "board of public welfare," "superintendent of streets", "one or more measurers of wood and bark," "two or more field drivers" and "two or more fence viewers." Replace "city solicitor" with "city attorney."

Title 4, Section 27: delete the present section in its entirety and insert in its place the following:

In case of the inability of the mayor to perform the duties of his office, the president of the board of aldermen shall, until such inability is removed, but in no case for a period of time longer than ten days, exercise the powers and perform the duties of mayor, under the style of acting mayor, except that he shall not, unless authorized thereto in a special instance by the board of aldermen, and then only in case of exigency requiring an immediate appointment or removal, make any permanent appointment or removal. In case of the inability of the mayor to perform the duties of his office for a period of time exceeding ten days, but prior to a vacancy occurring as provided in Title 2, Section 7 of the City Charter, the acting mayor shall be elected by the board of aldermen from amongst its membership by a majority vote of all its members. An acting mayor chosen by majority vote of the board of aldermen shall have power to approve or

71 disapprove any ordinance, order, resolution or vote of the board of aldermen, and then only in
72 case of exigency requiring an immediate appointment or removal, make any permanent
73 appointment or removal. In case of such inability on the part of the president of the board of
74 aldermen to serve as acting mayor for the initial period of ten days, his powers and duties
75 hereunder shall devolve upon the vice-president of the board, and in case of such inability on the
76 part of both the president and vice-president such powers and duties shall devolve upon the
77 president pro tempore of said board.

78 Title 5, Section 28: Replace the phrase in the first sentence “The management and control
79 of public schools including school buildings shall be vested in a school committee, which” with
80 “The school committee”.

81 Title 6, Section 34: Replace phrase “city solicitor” with phrase “city attorney”

82 Title 6, Section 36(b): replace text “accounting[,]” with text “accounting,”

83 Title 6, Section 36(c): replace all text after “The members of the board of assessors . . .”
84 and replace with “shall exercise the powers conferred and discharge the duties imposed upon
85 them by law,”

86 Title 6, Section 36(f): Replace text establish[,] with text “establish,”

87 Title 6, Section 36(g) ADD after “fixed by rule . . .” the phrase “or otherwise required by
88 law”; add phrase “and posted” following the words “dwelling

89 place” in the second sentence; after “and posted” delete all text thereafter and replace
90 with “as required by law.”

91 Title 6, Section 36 (j): strike 2nd paragraph, relating to transitional provision

Title 6, Section 43: strike phrase “and forty–six B”; replace phrase [of the Charter]; with phrase “of the Charter” insert phrase “and state law,” between the words “Charter” and “make”.

Title 6, Section 44: replace phrase “several administrative boards and officers named in this title having charge of departments shall, subject to the approval of the mayor” with the phrase, “Mayor shall...”

Title 7, Section 46C: replace word “unemcumbered” with word “unencumbered.”
Replace word “therefor” with word “therefore” and wherever else it so appears in the charter.

Title 7, Section 52: Strike present text and replace as follows: “Nothing herein shall affect the enforcement of the state's civil service laws”

Division 2, Article I, Section 1: Replace present text as follows: “There shall be a board of appeals with all powers and duties accorded to it by the State Zoning Enabling Act and authority.”

Division 2, Article II, Section 1: Replace text “Section twenty-seven of Chapter forty of the General Laws, as affected by Chapter 49 of the Acts of nineteen hundred and twenty-eight” with text “the State Zoning Enabling Act and other authority.”

Division 2, Article IV, Section 2: Add the following as first sentence: “There shall be a board of election commissioners.”

Division 2, Article IV, Section 3: Strike first sentence in its entirety and replace as follows: “The members of the board of election commissioners shall serve until the expiration of their respective terms and until their successors are qualified.”

112 Division 2, Article IV, Section 5: Strike and replace as follows: The board of election
113 commissioners shall oversee the conduct of elections pursuant to state law and regulation, and
114 provisions of this charter, as applicable, except for the power and duty of fixing the days and
115 hours and places for holding municipal elections.

116 Division 2, Article IV, Section 6: Replace phrase “board”; with word
117 “(mayor)”; replace phrase “as it” with phrase “as the mayor”.

118 Division 2, Article V, Section 12: renumber as Section 1.

119 Division 2, Article VI, Section 15: replace word “Act” with word “section”.

120 Division 2, Article VII, Section 5. - Strike present text and replace as follows: “Traffic
121 Department Staff; qualifications; removal. A member of the traffic department staff shall be a
122 traffic engineer, possessing the qualifications required for associate or full membership in the
123 Institute of Traffic Engineers and his position shall not be subject to Chapter thirty-one of the
124 General Laws. The traffic director shall be appointed and may be removed in the same manner
125 set forth for the suspension and removal of officers confirmed by the Board of Aldermen.”

126 Division 2, Article VII, Section 8A: Add sentence, “A copy of the public notice shall be
127 provided to the members of the Board of Aldermen at the time of publication thereof.”

128 SECTION 4: Gender Neutrality

129 Add: Title I, Sec. 4 Gender Neutrality.

130 Words importing either the masculine or feminine gender shall be gender neutral, unless
131 otherwise specifically set forth.

SECTION 5: Chapter 240 of the Acts of 1899, as further amended, is hereby further amended as follows by adding the following new section to Title 7:

SECTION 6: Chapter 240 of the Acts of 1899 is hereby amended by adding the following new section to Title 7:

Section 46B ORGANIZATION OF CITY AGENCIES (note: section currently reserved)

(a) The organization of the city into operating agencies for the provision of services and the administration of the government as described in various provisions of this charter or as approved by several acts of the General Court may be accomplished only through an administrative order filed with the board of aldermen by the mayor. No administrative order may originate with the board of aldermen. The mayor may, subject only to express prohibitions in a general law or this charter, propose to reorganize, consolidate or abolish any city agency, in whole or in part, or to establish such new city agencies as is deemed necessary, but no function assigned by this charter to a particular city agency may be discontinued, but may be assigned to any other city agency by administrative order.

The following special acts relating to the organization of city departments and agencies are hereby retained, provided that such acts shall be deemed to be part of the city's ordinances and may be amended, repealed or revised in accordance with the provisions of this section of the city charter:

Chapter 98 of the Acts and Resolves of 1919, Chapter 281 of the Acts and Resolves of 1932, Chapter 62 of the Acts and Resolves of 1934, Chapter 311 of the Acts and Resolves of

153 1936, Chapter 211 of the Acts and Resolves of 1937, and Chapter 124 of the Acts and Resolves
154 of 1943 relating to elections;

155 Chapter 191 of the Acts of 1923 relating to the licensing commission;

156 Chapter 81 of the Acts and Resolves of 1928 relating to the Board of Appeals;

157 Chapter 82 of the Acts and Resolves of 1928 and Chapter 178 of the Acts and Resolves
158 of 1929 relating to the election commissioners;

159 Chapter 294 of the Acts and Resolves of 1934 relating to the city auditor;

160 Chapter 295 of the Acts and Resolves of 1934 relating to the city treasurer;

161 Chapter 656 of the Acts of 1982 relating to setting of certain salaries by ordinance;

162 Chapter 23 of the Acts of 1985 relating to the Board of Assessors,

163 Chapter 486 of the Acts of Resolves of 1985 relating to the appointment of the
164 purchasing agent,

165 Chapter 369 of the Acts and Resolves of 1986 and Chapter 327 of the Acts and Resolves
166 of 2004 relating to the jurisdiction of the Police Department and department operations;

167 Chapter 368 of the Acts and Resolves of 1986 and Chapter 184 of the Acts of 2006
168 relating to special police officers;

169 Chapter 183 of the Acts and Resolves of 2006 relating to the Police Chief;

170 Chapter 171 of the Acts and Resolves of 1988 relating to ordinance violations;

171 Chapter 650 of the Acts and Resolves of 1953, Chapter 94 of the Acts and Resolves of
172 1988 and Chapter 112 of the Acts and Resolves of 2008 relating the Department of Public
173 Works;

174 Chapter 355 of the Acts and Resolves of 1989 relating to the tenure of the city clerk;
175 Chapter 316 of the Acts and Resolves of 2004, Chapter 192 of the Acts and Resolves of 2008,
176 and Chapter 316 of the Acts of 2008 relating to inspections;

177 Chapter 1026 of the Acts and Resolves of 1971 relating to the management of school
178 buildings;

179 Chapter 644 of the Acts and Resolves of 1977 and Chapter 317 of the Acts and Resolves
180 of 2004 relating to school custodians;

181 Chapter 201 of the Acts and Resolves of 1993, relating to city contracts;

182 Chapter 397 of the Acts and Resolves of 1978, Chapter 351 of the Acts and Resolves of
183 1981, and Chapter 809 of the Acts and Resolves of 1981 relating to wire inspectors;

184 Chapter 38 of the Acts and Resolves of 1988, and Chapter 285 of the Acts and Resolves
185 of 2002 relating to the traffic commission and/or parking fines; Chapter 106 of the Acts and
186 Resolves of 2008 relating to hearing officers: and Chapter 258 of the Acts of 1980 relating to
187 alcoholic beverage licenses.

188 (b) The mayor may from time to time prepare and submit to the board of aldermen
189 administrative orders that establish operating divisions for the orderly, efficient or convenient
190 conduct of the business of the city. All ordinances addressing the organization and operation of
191 town departments, agencies, boards, commissions, and offices may be modified, revised,

192 repealed, or otherwise addressed in such administrative orders. Orders may provide for the
193 combination, separation, creation, or dissolution of any departments, provided that all essential
194 city functions are assigned to a department, board, commission or office, however constituted.

195 Such administrative orders shall be accompanied by a message of the mayor which
196 explains the benefits expected to ensue and advises the board of aldermen if any provision of an
197 administrative order shall require amendments, insertions, revisions, repeal or otherwise of
198 existing ordinances.

199 Whenever the mayor proposes an administrative order, the board of aldermen shall hold
200 one or more public hearings on the proposal giving notice by publication in a local newspaper,
201 which notice shall describe the scope of the proposal and the time and place at which the public
202 hearing will be held, not less than 7 nor more than 14 days following said publication. An
203 organization or reorganization plan shall become effective upon a two-thirds vote of the board of
204 aldermen to approve the plan. The board of aldermen may vote only to approve or to disapprove
205 the plan and may not vote to amend or to alter it.

206 SECTION 6: The following special acts relating to the City of Somerville are hereby
207 repealed:

208 Chapter 182 of the Acts and Resolves of 1871 (charter prior to 1899 charter);

209 Chapter 454 of the Acts of Resolves of 1903 relative to caucuses;

210 Chapter 49 of the Acts and Resolves of 1928 relating to building ordinances;

211 Chapter 380 of the Acts and Resolves of 1932, Chapter 183 of the Acts and Resolves of
212 1936, Chapter 972 of the Acts and Resolves of 1971, Chapter 217 of the Acts and Resolves of
213 1980, and Chapter 486 of the Acts and Resolves of 1985 relating to city contracts;

214 Chapters 234 and 474 of the Acts and Resolves of 1949 relating to the board of assessors;

215 Chapter 173 of the Acts and Resolves of 1946, and Chapter 537 of the Acts and Resolves
216 of 1951, relating to operations and personnel of the city's welfare department;

217 Chapter 116 of the Acts and Resolves of 1949 relating to the city messenger; Chapter 434
218 of the Acts and Resolves of 1953, Chapter 225 of the Acts of 1955, and Chapter 842 of the Acts
219 of 1970 relating to rent control;

220 Chapter 561 of the Acts and Resolves of 1960 relating to collective bargaining
221 agreements; and

222 Chapter 34 of the Acts and Resolves of 1964 relating to the city physician.

223 SECTION 7. This act shall take effect upon passage.