

SENATE No. 2456

Senate, November 29, 2012 - Text of the Senate amendment (Senator Jehlen) to the House bill relative to the charter of the city of Somerville (House, No. 4440)

The Commonwealth of Massachusetts

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In the Year Two Thousand Twelve
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1 SECTION 1. Chapter 182 of the acts of 1871 is hereby repealed.

2 SECTION 2. Chapter 49 of the acts of 1928 is hereby repealed.

3 SECTION 3. Chapter 308 of the acts of 1932 is hereby repealed.

4 SECTION 4. Chapter 183 of the acts of 1936 is hereby repealed.

5 SECTION 5. Chapter 173 of the acts of 1946 is hereby repealed.

6 SECTION 6. Chapter 116 of the acts of 1949 is hereby repealed.

7 SECTION 7. Chapter 234 of the acts of 1949 is hereby repealed.

8 SECTION 8. Chapter 474 of the acts of 1949 is hereby repealed.

9 SECTION 9. Chapter 34 of the acts of 1964 is hereby repealed.

10 SECTION 10. Chapter 972 of the acts of 1971 is hereby repealed.

11 SECTION 11. Chapter 486 of the acts of 1985 is hereby repealed.

12 SECTION 12. The second sentence of section 7 of chapter 240 of the acts of
13 1899, as amended by chapter 167 of the acts of 1946, is hereby amended by inserting, after the
14 word “aldermen”, the following words:- from amongst its members.

15 SECTION 13. Said chapter 240 is hereby further amended by striking out section
16 9.

17 SECTION 14. Said chapter 240 is hereby further amended by striking out section
18 11, as amended by section 1 of chapter 330 of the acts of 1936, and inserting in place thereof the
19 following section:-

20 Section 11. The board of aldermen shall make rules for its proceedings. A
21 majority of the members of the board shall constitute a quorum for the transaction of business.
22 The board of aldermen may, by a 2/3 vote of all its members taken by a call of the yeas and nays,
23 establish a salary for its members. Such salary may be reduced at any time by a similar vote.

24 SECTION 15. Said chapter 240 is hereby further amended by striking out section
25 14.

26 SECTION 16. Clause 1 of section 17 of said chapter 240 is hereby further
27 amended by striking out the words “and of the mayor and aldermen” .

28 SECTION 17. Clause 3 of said section 17 of said chapter 240 is hereby amended
29 by striking out the word “town” and inserting in place thereof, in each instance, the following
30 word:- public.

31 SECTION 18. Said clause 3 of said section 17 of said chapter 240 is hereby
32 further amended by striking out the last sentence.

33 SECTION 19. Section 18 of said chapter 240 is hereby amended by striking out
34 the last sentence.

35 SECTION 20. Said chapter 240 is hereby further amended by inserting after
36 section 18 the following section:-

37 Section 18A. Disqualification from serving. An elected official who has been
38 convicted of a state or federal felony shall, upon final conviction, be deemed to have vacated that
39 office and shall be disqualified from serving the remainder of the term.

40 SECTION 21. Said chapter 240 is hereby further amended by striking out section
41 19.

42 SECTION 22. Said chapter 240 is hereby amended by striking out section 21, as
43 most recently amended by chapter 183 of the acts of 2006, and inserting in place thereof the
44 following section:-

45 Section 21. The mayor may appoint, subject to confirmation by the board of
46 aldermen, the following officers and boards; provided, however, that under section 46D of this
47 charter, administrative orders may replace or modify the titles or assign the functions to any
48 other city agency, unless otherwise provided, for 1 year and until the appointment and
49 qualification of a successor: (i) a city treasurer, who shall also be the collector of taxes and in
50 case of a vacancy, the office shall be filled for the unexpired term by the mayor, subject to
51 confirmation; (ii) a city auditor, for a term of 3 years, from the date of the appointment until the
52 qualification of a successor, and in case of a vacancy, the office shall be filled for the unexpired
53 term by the mayor, subject to like confirmation; (iii) a chief of police, who shall be appointed in
54 the manner provided by ordinance and shall have an employment agreement for a term of not

55 more than 5 years, all other officers and members of the police department, a chief engineer and
56 all other officers and members of the fire department; (iv) a city attorney; (v) a purchasing agent;
57 (vi) a board of health; (vii) a board of trustees of the public library; (viii) a commissioner of
58 public works, who shall serve for the term of the mayor; (ix) a city engineer, who may be the
59 commissioner of public works; (x) a superintendent of the division of public buildings and
60 grounds; (xi) a superintendent of inspectional services; (xii) a superintendent of highways,
61 electric lines and lights; (xiii) a superintendent of water works; (xiv) 1 animal control officer of
62 each public animal control facility in the city; (xv) the number of constables as may be deemed
63 advisable; and (xvi) a 311 director, special police officers and all other officers and boards of the
64 city whose election or appointment is not otherwise provided for in this charter. The executive
65 officers shall hold their respective offices at the pleasure of the mayor and until removed by the
66 mayor and board of alderman in the same manner in which the officer was appointed or until the
67 offices are otherwise vacated. Nothing in this section shall be construed to conflict with chapter
68 197 of the acts of 1895.

69 SECTION 23. Said 240 is hereby further amended by striking out section 27 and
70 inserting in place thereof the following section:-

71 Section 27. In case of the inability of the mayor to perform the duties of the
72 office, the president of the board of aldermen shall, until such inability is removed, but in no case
73 for a period of time longer than 10 days, exercise the powers and perform the duties of mayor,
74 under the style of acting mayor; provided, however, that the president of the board of aldermen
75 acting as mayor shall not, unless authorized in a special instance by the board of aldermen, and
76 then only in case of exigency requiring an immediate appointment or removal, make any
77 permanent appointment or removal. In case of the inability of the mayor to perform the duties of

78 the office for longer than 10 days, but prior to a vacancy occurring under section 7 of this
79 charter, the acting mayor shall be elected by the board of aldermen from amongst its membership
80 by a majority vote of all its members. An acting mayor chosen by majority vote of the board of
81 aldermen shall have power to approve or disapprove an ordinance, order, resolution or vote of
82 the board of aldermen and then, only in case of exigency requiring an immediate appointment or
83 removal, make a permanent appointment or removal. In case of such inability on the part of the
84 president of the board of aldermen to serve as acting mayor for the initial period of 10 days, the
85 powers and duties shall devolve upon the vice-president of the board, and in case of such
86 inability on the part of both the president and vice-president such powers and duties shall
87 devolve upon the president pro tempore of the board.

88 SECTION 24. The first sentence of section 28 of said chapter 240, as most
89 recently amended by section 2 of chapter 644 of the acts of 1977, is hereby further amended by
90 striking out the words "The management and control of public schools including school
91 buildings shall be vested in a school committee, which" and inserting in place thereof the
92 following words:- The school committee.

93 SECTION 25. Said chapter 240 is hereby further amended by striking out section
94 30, as most recently amended by chapter 126 of the acts of 1965, and inserting in place thereof
95 the following section:-

96 Section 30. The school committee shall make rules for its proceedings. A majority
97 of all the members of the committee shall constitute a quorum for the transaction of business.
98 The committee shall annually appoint a superintendent of schools, who shall also be its secretary
99 but shall not be a member of the school committee.

100 SECTION 26. The first sentence of section 32 of said chapter 240 is hereby
101 amended by striking out the words “, except license fees or other moneys the collection of which
102 is otherwise provided for by law”.

103 SECTION 27. Section 34 of said chapter 240 is hereby amended by striking out
104 the word “solicitor” and inserting in place thereof the following word:- attorney .

105 SECTION 28. Said chapter 240 is hereby further amended by striking out section
106 35.

107 SECTION 29. The first sentence of subsection (c) of section 36 of said chapter
108 240, as appearing in section 1 of chapter 23 of the acts of 1985, is hereby further amended by
109 striking out the words “have all the powers and perform all the duties imposed upon them” and
110 inserting in place thereof the following words:- exercise the powers conferred and discharge the
111 duties imposed upon the board of assessors by law.

112 SECTION 30. Said subsection (c) of said section 36 of said chapter 240, as so
113 appearing, is hereby further amended by striking out the last sentence.

114 SECTION 31. The first sentence of subsection (g) of said section 36 of said
115 chapter 240, as so appearing, is hereby further amended by inserting, after the word “rule” the
116 following words:- or otherwise required by law.

117 SECTION 32. The second sentence of said subsection (g) of said section 36 of
118 said chapter 240, as so appearing, is hereby further amended by striking out the words “, at least
119 forty eight hours in advance of the time set for such meeting” and inserting in place thereof the
120 following words:- and posted as required by law.

121 SECTION 33. Said subsection (g) of said section 36 of said chapter 240, as so
122 appearing, is hereby further amended by striking out the last sentence.

123 SECTION 34. Said chapter 240, is hereby further amended by striking out
124 section 37.

125 SECTION 35. Section 38 of said chapter 240 is hereby amended by striking out
126 the fourth sentence.

127 SECTION 36. Said chapter 240 is hereby further amended by striking out section
128 43 and inserting in place thereof the following section:-

129 Section 43. The purchasing agent shall, subject to section 46A and the General
130 Laws, make all purchases for the respective departments.

131 SECTION 37. The first sentence of section 44 of said chapter 240 is hereby
132 amended by striking out the words “several administrative boards and officers named in this title
133 having charge of departments shall, subject to the approval of the mayor” and inserting in place
134 thereof the following words:- mayor shall.

135 SECTION 38. Said chapter 240 is hereby further amended by inserting after
136 section 46A, as appearing in chapter 201 of the acts of 1993, the following section:-

137 Section 46D. (a) The organization of the city into operating agencies to provide
138 services and for the administration of the government, as described in this charter, special acts or
139 the General Laws, shall be accomplished through an administrative order filed with the board of
140 aldermen by the mayor. No administrative order may originate with the board of aldermen. The
141 mayor may, subject only to express prohibitions in the General Laws or this charter, propose to

142 reorganize, consolidate or abolish a city agency, in whole or in part, or to establish a new city
143 agency as is deemed necessary. No function assigned by this charter to a particular city agency
144 may be discontinued, but the function may be assigned to another city agency by administrative
145 order.

146 (b) The mayor may prepare and submit to the board of aldermen administrative
147 orders that establish operating divisions for the orderly, efficient or convenient conduct of the
148 business of the city. All ordinances addressing the organization and operation of city
149 departments, agencies, boards, commissions and offices may be modified, revised, repealed or
150 otherwise addressed in such administrative orders. Administrative orders may provide for the
151 combination, separation, creation or dissolution of departments, provided that all essential city
152 functions are assigned to a department, board, commission or office.

153 Administrative orders shall be accompanied by a message from the mayor that
154 explains the benefits expected and advises the board of aldermen if the administrative order shall
155 require amendments, insertions, revisions, repeal or otherwise of existing ordinances.

156 When the mayor proposes an administrative order, the board of aldermen shall
157 hold 1 or more public hearings on the proposal giving notice by publication in a local newspaper,
158 which notice shall describe the scope of the proposal and the time and place at which the public
159 hearing will be held, not less than 7 nor more than 14 days following said publication. An
160 organization or reorganization plan shall become effective upon a 2/3 vote of the board of
161 aldermen to approve the plan. The board of aldermen may vote only to approve or to disapprove
162 the plan and may not vote to amend or alter it.

163 SECTION 39. The third sentence of section 46C of said chapter 240, as most
164 recently amended by section 3 of chapter 972 of the acts of 1971, is hereby amended by striking
165 out the word “therefor” and inserting in place thereof the following word:- therefore.

166 SECTION 40. Said chapter 240 is hereby further amended by striking out section
167 49.

168 SECTION 41. Said chapter 240 is hereby further amended by striking out section
169 52and inserting in place thereof the following section:-

170 Section 52. Nothing in this charter shall be construed to affect the enforcement of
171 chapter 31 of the General Laws in the city of Somerville.

172 SECTION 42. Section 53 of said chapter 240 is hereby amended by striking out
173 the second sentence.

174 SECTION 43. Said chapter 240 is hereby further amended by striking out section
175 55.

176 SECTION 44. Chapter 49 of the acts of 1928 is hereby amended by striking out
177 section 1 and inserting in place thereof the following section:-

178 Section 1. There shall be a zoning board of appeals in the city of Somerville with
179 all the powers and duties under section 12 of chapter 40A of the General Laws.

180 SECTION 45. Said chapter 49 is hereby further amended by striking out section
181 2.

182 SECTION 46. The first sentence of section 1 of chapter 81 of the acts of 1928 is
183 hereby amended by striking out the words “the provisions of section twenty seven of chapter
184 forty of the General Laws, as affected by chapter forty-nine of the acts of nineteen hundred and
185 twenty-eight” and inserting in place thereof the following words:- chapter 40A of the General
186 Laws.

187 SECTION 47. Chapter 82 of the acts of 1928 is hereby amended by striking out
188 section 1.

189 SECTION 48. Section 2 of said chapter 82 is hereby amended striking out the
190 first sentence and inserting in place thereof the following 2 sentences:- There shall be a board of
191 election commissioners in the city of Somerville. The board shall consist of 4 persons, 2 of
192 whom shall always represent each of the 2 leading political parties, as defined in section 1 of
193 chapter 50 of the General Laws.

194 SECTION 49. Section 3 of said chapter 82, as most recently amended by chapter
195 178 of the acts of 1929, is hereby amended by striking out the first sentence and inserting in
196 place thereof the following sentence:- The members of the board of election commissioners shall
197 serve until the expiration of the member’s respective term and until a successor is qualified.

198 SECTION 50. Said chapter 82 is hereby further amended by striking out section 5
199 and inserting in place thereof the following section:-

200 Section 5. The board of election commissioners shall oversee the conduct of
201 elections under state laws and regulations and this charter, except for the power and duty of
202 fixing the days, hours and places for holding municipal elections.

203 SECTION 51. Said chapter 82 is hereby further amended by striking out section
204 6 and inserting in place thereof the following section:- The mayor may appoint assistant election
205 commissioners and such other assistants as the mayor deems necessary, who shall at all times
206 equally represent the 2 leading political parties as defined in section 1 of chapter 50 of the
207 General Laws.

208 SECTION 52. Said chapter 82 is hereby further amended by striking out section
209 7.

210 SECTION 53. Chapter 394 of the acts of 1938 is hereby amended by striking out
211 sections 1 to 6, inclusive.

212 SECTION 54. Said chapter 394 is hereby further amended by striking out section
213 8.

214 SECTION 55. Section 2 of chapter 281 of the acts of 1932, is hereby amended by
215 striking out the words "in said section ten".

216 SECTION 56. Said section 2 of said chapter 281, is hereby further amended by
217 striking out the words " , held as provided in this act" .

218 SECTION 57. Said chapter 281 is hereby further amended by striking out
219 section 13.

220 SECTION 58. Sections 4 and 5 of chapter 644 of the acts of 1977 are hereby
221 repealed.

222 SECTION 59. Section 2 of chapter 397 of the acts of 1978 is hereby amended by
223 striking out the fourth paragraph and inserting in place thereof the following paragraph:-

224 A member of the traffic department staff shall be a traffic engineer, possessing the
225 qualifications required for associate or full membership in the Institute of Traffic Engineers. The
226 position of traffic engineer shall not be subject to chapter 31 of the General Laws. The traffic
227 director shall be appointed and may be removed in the same manner set forth for the suspension
228 and removal of officers confirmed by the board of aldermen.

229 SECTION 60. Subsection (a) of section 3 of said chapter 397 , as most recently
230 amended by chapter 285 of the acts of 2002, is hereby further amended by adding the following
231 sentence:- A copy of the public notice shall be provided to the members of the board of aldermen
232 at the time of publication.

233 SECTION 61. Said chapter 397 is hereby further amended by striking out
234 sections 6 and 7.

235 SECTION 62. Where provisions of the Somerville charter conflict with city
236 ordinances, rules, regulations, orders or special acts or acceptances of laws, the charter shall
237 govern. All city ordinances, rules, regulations, orders and special acts not superseded by this act
238 shall remain in force.

239 All agencies of the city of Somerville shall continue to perform their duties until re-
240 elected, reappointed or until successors to their respective positions are duly appointed or elected
241 or until their duties have been transferred and assumed by another city agency.

242 SECTION 63. This act shall take effect upon its passage.