HOUSE . . . . . No. 63

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 5, 2015.

The committee on Bills in the Third Reading, to whom was referred the Bill relative to the town of Reading home rule charter (House, No. 58), reports recommending that the same be amended by substitution of the accompanying bill (House, No. 63), and that when so amended the same will be correctly drawn.

For the committee,

THEODORE C. SPELIOTIS.

HOUSE . . . . . No. 63

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(-)

An Act relative to the town of Reading home rule charter.

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

SECTION 1. Article 2 of the town of Reading home rule charter as amended through January 1, 2015, a copy of which is on file in the office of the archivist of the commonwealth pursuant to chapter 43B of the general laws, is hereby amended by striking out section 2.1 and inserting in place thereof the following section:-

2.1 Composition

The legislative body of the Town shall be a representative Town Meeting consisting of one hundred ninety-two (192) members from eight (8) precincts who shall be elected by the voters in each precinct. Each precinct shall be equally represented in Town Meetings by members elected so that the term of office of one-third of the members shall expire each year.

SECTION 2. Said article 2 of said charter is hereby further amended by striking out section 2.2 and inserting, in place thereof, the following section:-

2.2 Revision of Precincts

When required by law or every ten (10) years, the Board of Selectmen shall review and, if necessary, re-divide the territory of the Town into eight (8) plainly designated precincts. The precincts shall be divided into as nearly an equal number of inhabitants as possible. The territory of each precinct shall be contiguous and as compact as possible. The territory of each precinct shall be defined, where reasonably possible, by the centerline of known streets or other well-defined limits. Within ten (10) days of completing its review, the Board of Selectmen shall file a report with the Town Clerk and the Board of Registrars of Voters, showing any revisions to the precincts that are being made pursuant to this section. If revisions are being made, the report shall include a map showing the boundaries of each precinct and a list of its inhabitants' names and addresses.

The Board of Selectmen shall also post the map and list in the Town Hall and in at least one public place in each precinct. Any such precinct revision shall be effective on the date it is filed with the Town Clerk. The Town Clerk shall forthwith notify the Secretary of State of the revision in writing.

SECTION 3. Said article 2 of said charter is hereby further amended by striking out section 2.3 and inserting in place thereof the following section:-

2.3 Town Meeting Membership

At the first Town wide election after any precincts are revised, the voters of each precinct shall elect twenty-four (24) Town Meeting Members to represent the precinct. Terms of office shall be determined by the number of votes received. The eight (8) candidates receiving the highest number of votes shall serve for three (3) years, the eight (8) receiving the next highest number of votes shall serve for two (2) years, and the eight (8) candidates receiving the next

highest number of votes shall serve for one (1) year from the day of election. Upon the certification of such election, the term of office of all previously elected Town Meeting members shall cease.

At each Annual Election thereafter, the voters in each precinct shall elect eight (8) Town Meeting Members to represent the precinct for a term of three (3) years, and shall also elect Town Meeting Members to fill any vacant unexpired terms. After each election of Town Meeting Members, the Town Clerk shall notify each Town Meeting Member of his election in writing. In the event of a tie vote, resulting in a failure to elect the full number of Town Meeting Members in any precinct, the vacancy created thereby shall be filled until the next Annual Town Election by a vote of the remaining Town Meeting Members of the precinct, provided, however, that the balance of any unexpired term shall be filled at the next Annual Town Election. In the event of such a vacancy, the Town Clerk shall give written notice of the tie vote and the vacancy created thereby, to the remaining Town Meeting Members of that precinct and shall publish such notice in the local news medium. Such notice shall provide at least seven (7) day's advance notification of the time and place for a precinct meeting for the purpose of filling the vacancy.

SECTION 4. Said article 2 of said charter is hereby further amended by striking out section 2.5 and inserting in place thereof the following section:-

2.5 Nomination Procedures

Nomination of candidates for Town Meeting Member shall be made by nomination papers bearing no political designation and signed by not fewer than ten (10) voters from the candidate's precinct. Nomination papers shall be obtained in person and signed by the candidate

in the presence of the Town Clerk or designee. Completed nomination papers shall be filed with the Town Clerk at least thirty-five days (35) days before the election.

SECTION 5. Said article 2 of said charter is hereby further amended by striking out section 2.6 and inserting in place thereof the following section:-

2.6 Vacancies

A Town Meeting Member may resign by filing a written notice with the Town Clerk. A Town Meeting Member who terminates residency in the Town shall cease to be a Town Meeting Member. A Town Meeting Member who moves his residence from the precinct from which he was elected to another precinct shall serve only until the next Annual Town Election. If any person elected as a Town Meeting Member fails to attend one-half or more of the total Town Meeting sessions within one year preceding the most recent Annual Town Election, his seat may be declared vacant by a majority vote of the Town Meeting. The Board of Selectmen shall place an Article on the Annual Town Meeting Warrant to remove any such Town Meeting Member from office. At least seven (7) days prior to the Annual Town Meeting, the Town Clerk shall notify any such Town Meeting Member that he may be removed from office, provided, however, that such notice shall be deemed adequate if mailed postage prepaid to the Town Meeting Member's last known address. Any vacancy in a Town Meeting position may be filled until the next Annual Town Election by a vote of the remaining Town Meeting Members of the precinct, provided, however, that the balance of any unexpired term shall be filled at the next Annual Town Election. In the event of a vacancy, the Town Clerk shall give written notice thereof to the remaining Town Meeting Members of the precinct and shall publish such notice in a local news

medium. Such notice shall provide at least seven (7) day's advance notification of the time and place for a precinct meeting for the purpose of temporarily filling the vacancy.

SECTION 6. Article 3 of said charter is hereby amended by striking out section 3.2 and inserting in place thereof the following section:-

3.2 Board of Selectmen

There shall be a Board of Selectmen consisting of five (5) members elected for three (3) year terms so arranged that as nearly an equal number of terms as possible shall expire each year. The executive powers of the Town shall be vested in the Board of Selectmen. The Board of Selectmen shall have all of the powers and duties granted to Boards of Selectmen by the Constitution and General Laws of the Commonwealth of Massachusetts, and such additional powers and duties as may be provided by the Charter, by Town Bylaw, or by Town Meeting vote. The Board of Selectmen shall cause the laws and orders for the government of the Town to be enforced and shall cause a record of all its official acts to be kept. The Board of Selectmen shall appoint a Town Manager, a Town Counsel, a Town Accountant, not more than five (5) Constables, and any other appointed board or committee member for whom no other method of selection is provided by the Charter or by Town Bylaw. The Board of Selectmen or its designee shall be the Licensing Board of the Town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses, to attach such conditions and restrictions thereto as it deems to be in the public interest, and to enforce the laws relating to all businesses for which it issues licenses.

SECTION 7. Article 5 of said Charter is hereby amended by striking out section 5.1 and inserting in place thereof the following section:-

5.1 Appointment, Qualifications and Term

The Board of Selectmen shall appoint a Town Manager, who shall be appointed solely on the basis of his executive and administrative qualifications. He shall be a professionally qualified person of proven ability, especially fitted by education, training and previous experience. He shall have had at least five (5) years of full-time paid experience as a City or Town Manager or Assistant City or Town Manager or the equivalent level public or private sector experience.

The terms of the Town Manager's employment shall be the subject of a written contract, for a term not to exceed three (3) years, setting forth his tenure, compensation, vacation, sick leave, benefits, and such other matters as are customarily included in an employment contract. The Town Manager’s employment contract shall be in accordance with and subject to the provisions of the Charter and shall prevail over any conflicting provision of any personnel bylaw, rule, or regulation. The Town Manager’s compensation shall not exceed the amount annually appropriated for that purpose.

The Town Manager shall devote full time to his office and, except as expressly authorized by the Board of Selectmen, shall not engage in any other business or occupation. Except as expressly provided in the Charter, he shall not hold any other public elective or appointive office in the Town; provided, however, that, with the approval of the Board of Selectmen, the Town Manager may serve as the Town’s representative to regional boards, commissions or similar entities, but shall not receive any additional salary from the Town for such services. Upon the termination of the Town Manager's appointment, whether voluntary or otherwise, he may receive termination pay as determined by the Board of Selectmen, not to exceed twelve (12) months’ salary in total. To be eligible for this benefit upon voluntary

termination, the Town Manager shall provide the Board of Selectmen a minimum of sixty (60) days written notice of his intent to leave. This benefit shall not be available if the Town Manager is terminated for cause.

SECTION 8. Said article 5 of said charter is hereby further amended by striking out section 5.4 and inserting in place thereof the following section:-

5.4 Acting Town Manager

5.4.1 Temporary Absence - By letter filed with the Town Clerk and the Board of Selectmen, the Town Manager shall designate a qualified individual to serve as Acting Town Manager during any anticipated temporary absence, not to exceed thirty (30) days.

5.4.2 Long-Term Absence - In the event of the absence, incapacity or illness of the Town Manager in excess of thirty (30) days, the Board of Selectmen shall appoint a qualified individual to serve as Acting Town Manager until the Town Manager returns.

5.4.3 Vacancy - When the office of Town Manager is vacant or the Town Manager is under suspension as provided in Section 5.5, the Board of Selectmen shall appoint a qualified individual to serve as Acting Town Manager under terms of employment to be determined by the Board of Selectmen. In the event of vacancy, the Board of Selectmen shall initiate recruitment for a new Town Manager without delay and shall appoint a new Town Manager within one hundred eighty (180) days.

5.4.4 Powers – Except as authorized by a four-fifths (4/5) vote of the Board of Selectmen, the powers of an Acting Town Manager shall be limited to routine matters requiring immediate

action and to making emergency temporary appointments to any Town office or employment within the scope of the Town Manager's responsibilities.

SECTION 9. Article 8 of said charter is hereby amended by striking section 8.11 thereof in its entirety and inserting as section 8.9, the following section:

8.9 Elections

8.9.1 Annual Town Elections - The choice of elected Town Officers and Town Meeting Members, as well as referendum questions, shall be acted upon and determined on the date fixed by Town Bylaw by voters on official ballots without party or other designation.

8.9.2 Procedures - All elections held pursuant to the Charter shall be conducted in accordance with the election laws of the Commonwealth of Massachusetts.

8.9.3 Any town wide election shall be held at the same time for each precinct at a place or places designated by the Board of Selectmen.

SECTION 10. Article 8 of said Charter is hereby further amended by striking section 8.13 thereof in its entirety and inserting, as section 8.11, the following section:

8.11 Recall Procedures

8.11.1 Application - Any holder of an elective office, other than a Town Meeting Member, with more than six (6) months remaining in the term for which he was elected, may be recalled therefrom by the voters in the manner provided in this section. No recall petition shall be filed against a Town Officer within three (3) months after he takes office.

8.11.2 Recall Petition - Two hundred and fifty (250) or more voters, including at least twenty-five (25) voters from each of the precincts into which the Town is divided, may file with the Town Clerk an affidavit containing the name of the Town Officer whose recall is sought and a sworn statement of the grounds upon which the affidavit is based. The Town Clerk shall, within twenty-four (24) hours of receipt, submit the affidavit to the Board of Registrars of Voters who shall forthwith certify thereon the number of signatures that are names of voters. A copy of the affidavit shall be entered in a record book to be kept in the office of the Town Clerk.

If the affidavit contains sufficient signatures, the Town Clerk shall deliver to the first ten voters listed upon the affidavit, blank petition forms, in such number as requested, demanding such recall, with his signature and official seal attached thereto. They shall be dated and addressed to the Board of Selectmen; shall contain the names of all persons to whom they are issued, the name of the person whose recall is sought and the grounds for recall as stated in the affidavit; and shall demand the election of a successor to the office held by such person. The recall petitions shall be returned and filed with the Town Clerk within twenty-one (21) days following the date of the filing of the affidavit, signed by at least ten percent (10%) of the voters and containing their names and addresses; provided, however, that not more than twenty-five percent (25%) of the total number signatures may be from voters registered in any one precinct.

8.11.3 Recall Election - If the petition is certified by the Board of Registrars of Voters to be sufficient, it shall forthwith submit the petition with its certificate to the Board of Selectmen. Upon its receipt of the certificate, the Board of Selectmen shall forthwith give written notice of the petition and certificate to the Town Officer whose recall is sought, by mail, postage prepaid, to his address as shown on the most recent voting list; and shall cause notice of the petition and certificate to be publicly available. If such Town Officer does not resign his office within five (5)

days after the date of such notice, the Board of Selectmen shall order an election to be held not less than thirty-five (35) nor more than sixty (60) days after the date of the certificate of the Board of Registrars of Voters; provided, however, that if any other Town Election is to occur not less than thirty-five (35) nor more than sixty (60) days after the date of the certificate, the Board of Selectmen shall hold the recall election on the date of such other election. If a vacancy occurs in said office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, and the ballots for candidates shall, notwithstanding a recall provision to the contrary, be counted to determine a successor in office.

8.11.4 Nomination of Candidates - No Town Officer whose recall is sought may be a candidate to succeed himself in the recall election. The nomination of candidates, the publication of the Warrant for the recall election, and the conduct of the election shall all be in accordance with the provisions of law relating to elections.

8.11.5 Propositions on Ballot - Ballots used in a recall election shall state the following propositions in the order indicated:

For the recall of (name of Town Officer)

Against the recall of (name of Town Officer)

Adjacent to each proposition, there shall be a place to vote for either of the said propositions.

After the proposition shall appear the word "candidates" and the names of candidates nominated pursuant to Massachusetts General Laws Chapter 54, Section 42. If a majority of the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest

number of votes shall be declared elected and the incumbent shall be deemed removed upon the qualification of his successor, who shall hold office during the unexpired term; provided, however, that, if the successor fails to qualify within five (5) days after receiving notification of his election, the incumbent shall thereupon be deemed removed and the office shall be deemed vacant. If a majority of votes cast upon the question of recall is in the negative, no candidate shall be declared elected, and the Town Officer whose recall was sought shall continue in office for the remainder of his unexpired term, subject to recall as before.

8.11.6 Repeat of Recall Petition - No recall petition shall be filed against a Town Officer subjected to a recall election and not recalled thereby, until at least six (6) months after the election at which his recall was submitted to the voters.

SECTION 11. The Reading town clerk is hereby authorized to make non-substantive changes to the numbering of the sections of the town of Reading home rule charter.

SECTION 12. This act shall take effect upon approval by the voters, at a local election, of the further amendments to the town of Reading home rule charter adopted pursuant to article 7 of the January 5, 2015 special town meeting.