

HOUSE No. 4769

The Commonwealth of Massachusetts

PRESENTED BY:

Michelle L. Ciccolo and Tommy Vitolo

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act authorizing remote participation at representative town meetings due to the COVID-19 emergency.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>4/10/2020</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>4/10/2020</i>
<i>Nika C. Elugardo</i>	<i>15th Suffolk</i>	<i>4/16/2020</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>4/16/2020</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>4/16/2020</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>4/16/2020</i>
<i>John Barrett, III</i>	<i>1st Berkshire</i>	<i>4/16/2020</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>4/16/2020</i>
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>4/16/2020</i>
<i>Daniel R. Carey</i>	<i>2nd Hampshire</i>	<i>4/16/2020</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>4/17/2020</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>4/17/2020</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>4/17/2020</i>
<i>Michael J. Finn</i>	<i>6th Hampden</i>	<i>4/17/2020</i>
<i>Richard M. Haggerty</i>	<i>30th Middlesex</i>	<i>4/17/2020</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>4/17/2020</i>

HOUSE No. 4769

By Representatives Ciccolo of Lexington and Vitolo of Brookline, a petition (subject to Joint Rule 12) of Michelle L. Ciccolo, Tommy Vitolo and others relative to authorizing remote participation at representative town meetings due to the COVID-19 emergency. Municipalities and Regional Government.

The Commonwealth of Massachusetts

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

An Act authorizing remote participation at representative town meetings due to the COVID-19 emergency.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect 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 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. During the state of emergency declared by the governor on March 10,
2 2020, related to the COVID-19 pandemic, if the moderator in a town having a representative
3 town meeting form of government determines that it is not possible to safely assemble the town
4 meeting members and interested members of the public in a common location while complying
5 with any applicable state or local orders, directives, or guidance concerning public assemblies,
6 the moderator may, notwithstanding any general or special laws, charter provisions or bylaws to
7 the contrary, request the select board of said town to call for any such representative town
8 meeting to be held through remote participation by means of a video conferencing platform.

9 Any such request by the moderator to the select board shall be in writing and shall include the
10 following certifications and information: (a) the moderator's determination and request to hold
11 any town meeting through remote participation in accordance with this section; (b) the video
12 conferencing platform the moderator has determined to use to hold the town meeting; (c) a
13 certification that the moderator has consulted with the local disability commission or coordinator
14 for Americans with Disabilities Act compliance and has received recommendations for ensuring
15 the highest level of feasible access to the public; and (d) a certification that the moderator has
16 tested the video conferencing platform to his or her satisfaction to confirm that it will enable the
17 town meeting to be conducted in substantially the same manner as if the meeting occurred in
18 person at a physical location, including (i) the ability for the moderator, all town meeting
19 members, other town officials and any other interested members of the public to identify and
20 hear the moderator and each town meeting member who attends and participates in the remotely-
21 held town meeting, (ii) the ability to determine whether a quorum is present, (iii) the ability for
22 the moderator to determine when a town meeting member wishes to be recognized to speak,
23 make a motion, raise a point of order or object to a request for unanimous consent, (iv) the ability
24 for the moderator to recognize a town meeting member or town official to speak and to enable
25 that person to speak; (v) the ability to conduct a roll-call vote, (vi) the ability for any interested
26 members of the public to access the meeting remotely for purposes of witnessing the
27 deliberations and actions taken at the town meeting, and (vii) the ability for the town meeting to
28 be recorded.

29 SECTION 2. Notwithstanding any general or special laws, charter provisions or bylaws
30 to the contrary, not later than 10 business days following receipt of a written request of the
31 moderator pursuant to and in accordance with the requirements of section 1, and provided that

32 the state of emergency declared by the governor on March 10, 2020, related to the COVID-19
33 pandemic continues to exist, the select board shall vote to determine whether any future town
34 meeting for which a warrant has been or will be issued during the state of emergency shall be
35 held remotely by means of the video conferencing platform requested by the moderator.

36 SECTION 3. In the event that the select board votes to approve the request of the
37 moderator and if the select board has already issued a warrant calling a town meeting to be held
38 on a date or dates before June 30, 2020, then, at the same meeting of the board, the select board
39 shall approve and shall issue jointly with the moderator a notice, to be filed and posted in
40 accordance with the requirements of section 10A subsection (b) of chapter 39 of the general laws
41 and distributed to each town meeting member, that expressly states that the town meeting shall
42 be held remotely by means of the video conferencing platform requested by the moderator, states
43 the date and time of the meeting, and provides the necessary information for the moderator, town
44 meeting members, other town officials and interested members of the public to access and attend
45 the town meeting remotely.

46 SECTION 4. In the event that the select board votes to approve the request of the
47 moderator and if the select board has not yet issued a warrant for a town meeting, and if the state
48 of emergency continues to exist at the time the select board approves and issues the warrant for
49 the town meeting, the select board shall approve and issue a warrant for the town meeting
50 pursuant to and in accordance with section 10 of chapter 39 of the general laws, all other
51 applicable laws, and any relevant provisions of the town charter and bylaws which states the date
52 and time of the town meeting and the articles to be acted upon, and which expressly states that
53 the town meeting shall be held remotely by means of the video conferencing platform requested
54 by the moderator and provides the necessary information for the moderator, town meeting

55 members, other town officials and interested members of the public to access and attend the town
56 meeting remotely.

57 SECTION 5. Any notice issued pursuant to section 3 and any warrant issued pursuant to
58 section 4 providing for a town meeting to be held remotely shall also include the written request
59 of the moderator submitted to the select board pursuant to section 1. Any such notice or warrant
60 may also include a date, time and place for the town meeting to be resumed in the event that the
61 town meeting does not approve conducting the town meeting remotely as required under section
62 7. Within 5 business days after any vote of the select board to approve the request of the
63 moderator to hold any town meeting remotely pursuant to this section, the town clerk shall
64 submit a certified copy of the vote of the select board and of the written request of the moderator
65 to the attorney general.

66 SECTION 6. Notwithstanding any general or special laws, charter provisions or bylaws
67 to the contrary, each vote taken at a representative town meeting held through remote
68 participation pursuant to this act shall be taken by such means as the moderator shall determine
69 accurately and securely records the votes of those entitled to vote at the meeting, which means
70 may include without limitation roll calls, electronic voting, voting by ballot, voting by phone or
71 any combination of the foregoing. Notwithstanding any general or special laws, charter
72 provisions or bylaws to the contrary, the moderator is vested with sole discretion to determine
73 the manner and timing for submission and presentation of written and audio-visual materials and
74 the regulation of speakers at a town meeting held pursuant to this act.

75 SECTION 7. Prior to taking any other vote at a representative town meeting held
76 through remote participation pursuant to this act, the town meeting members present and voting

77 at such meeting shall vote on whether or not to approve conducting the town meeting remotely
78 by means of the video conferencing platform being used. If the town meeting votes to approve
79 conducting the town meeting remotely, then the town meeting shall proceed by remote
80 participation to address the articles included in the warrant. If the town meeting does not approve
81 conducting the town meeting remotely, then the town meeting shall be adjourned to the date,
82 time and place specified in the notice or warrant as provided in section 5, or if no such date, time
83 and place has been specified, the town meeting shall immediately and automatically be dissolved
84 without taking any votes on any other matters, and the select board may only call the town
85 meeting again pursuant to a new warrant that provides for the town meeting to be held in person
86 at a physical location in accordance with section 10 of chapter 39 of the general laws and all
87 other applicable laws, the provisions of the town charter and bylaws.

88 SECTION 8. Any representative town meeting held remotely pursuant to this act shall be
89 recorded and the recording shall be preserved and made available for public view on the town’s
90 web page for at least 30 days following the conclusion of the town meeting.

91 SECTION 9. This act shall take effect upon its passage and shall remain in effect until
92 the termination of the state of emergency declared by the governor on March 10, 2020, related to
93 the COVID-19 pandemic. Any town that has called a town meeting to be held by remote
94 participation in accordance with this act pursuant to a warrant issued by the select board prior to
95 the termination of the state of emergency may proceed to hold such town meeting by remote
96 participation in accordance with the provisions of this act.

97 SECTION 10. All acts, proceedings and votes taken by a representative town meeting
98 pursuant to and in accordance with this act and all actions taken pursuant thereto are hereby

99 ratified, validated and confirmed to the same extent as if the town meeting had been conducted in
100 accordance with all other applicable laws, charter provisions, and bylaws.