

HOUSE No. 4777

Text of a still further amendment, offered by Mr. Speliotis of Danvers, to the Senate further amendment of the Senate Bill relative to municipal governance during the COVID-19 emergency (Senate, No. 2680). June 4, 2020.

The Commonwealth of Massachusetts

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

By striking out all after the enacting clause (inserted by further amendment by the Senate) and inserting in place thereof the following:–

1 SECTION 1. Subsection (a) of section 1 of chapter 45 of the acts of 2020 is hereby
2 amended by striking out the words “May 30, 2020” and inserting in place thereof the following
3 words:- June 30, 2020.

4 SECTION 2. Said subsection (a) of said section 1 of said chapter 45 is hereby further
5 amended by striking out the words “June 30, 2020” and inserting in place thereof the following
6 words:- August 1, 2020.

7 SECION 3. Said chapter 45 is hereby further amended by inserting after said section 1
8 the following section:-

9 SECTION 1A. The select board, board of selectmen, town council or board of registrars
10 may vote to eliminate a municipal caucus, scheduled to occur between March 23, 2020 and July
11 31, 2020, if such board concludes that holding the municipal caucus would constitute a threat to
12 the public health and safety due to the 2019 novel coronavirus, also known as COVID-19. In any
13 town that eliminates the municipal caucus, nomination papers shall be used to nominate

14 candidates pursuant to sections 7 and 10 of chapter 53 of the General Laws; provided, however,
15 that such nomination papers shall be signed by not fewer than 10 registered voters of the town;
16 provided, however, that to the extent that the forty-ninth day prior to the date of the election has
17 passed, nomination papers shall be made available immediately, and shall be returned to the
18 office of the board of registrars for certification no later than the date designated by the town
19 clerk, which shall be no earlier than 36 days and no later than 32 days prior to the date of the
20 election; provided further, that candidates shall be notified if their names will be placed on the
21 ballot on the next business day after the deadline for filing, and the time for filing withdrawals
22 and objections shall expire at 5:00 p.m. on the following business day.

23 SECTION 4. The second paragraph of section 4 of said chapter 45 is hereby amended by
24 striking out the words “June 30, 2020” and inserting in place thereof the following words:-
25 August 1, 2020.

26 SECTION 5. Subsection (a) of section 5 of said chapter 45 is hereby amended by striking
27 out the words “June 30, 2020” and inserting in place thereof the following words:- August 1,
28 2020.

29 SECTION 6. The second sentence of section 11 of chapter 53 of the acts of 2020 is
30 hereby amended by striking out the words “a city or town shall not” and inserting in place
31 thereof the following words:- a city, town or district shall not.

32 SECTION 7. (a) Notwithstanding section 13 of chapter 39 of the General Laws or any
33 other general or special law, charter provision or by-law to the contrary, a town may act by vote
34 of its select board or board of selectmen, in consultation and with the approval of the town
35 moderator, to prescribe the number of voters necessary to constitute a quorum at any town

36 meeting held during the governor's March 10, 2020 declaration of a state of emergency at a
37 number that is less than the number that would otherwise be required by law, town by-law or
38 town charter; provided, however, that the number of voters necessary to constitute a quorum
39 shall not be less than 10 per cent of the number that would otherwise be required.

40 (b) The select board or board of selectmen shall publish notice of its intention to consider
41 an adjustment of town meeting quorum requirements under this section not less than 7 days
42 before the vote of the select board or board of selectmen. The select board or board of selectmen
43 shall provide for adequate means of public access that will allow interested members of the
44 public to clearly follow the deliberations of the select board or board of selectmen on making a
45 quorum adjustment as those deliberations are occurring.

46 (c) Not less than 10 days after a vote of the select board or board of selectmen to adjust
47 the quorum requirement under this section, the town clerk shall notify the attorney general of the
48 adjusted quorum requirement.

49 (d) All actions taken pursuant to this section are hereby ratified, validated and confirmed
50 to the same extent as if the town meeting had been conducted in accordance with all other
51 applicable laws, charter provisions, ordinances and by-laws.

52 SECTION 8. (a) Notwithstanding any general or special law, charter provision, ordinance
53 or by-law to the contrary, in order to address disruptions caused by the outbreak of the 2019
54 novel coronavirus, also known as COVID-19, during the governor's March 10, 2020 declaration
55 of a state of emergency, if the moderator in a town having a representative town meeting form of
56 government determines that it is not possible to safely assemble the town meeting members and
57 interested members of the public in a common location while complying with any applicable

58 state or local orders, directives or guidance concerning public assemblies, the moderator may
59 request that the select board or board of selectmen of the town call for a representative town
60 meeting to be held through remote participation, including, but not limited to, by means of a
61 video or telephone conferencing platform. Such a request by the moderator to the select board or
62 board of selectmen shall be in writing and shall include, but shall not be limited to: (i) the
63 moderator's determination and request to hold a town meeting through remote participation in
64 accordance with this section; (ii) the video or telephone conferencing platform the moderator has
65 determined to use to hold the town meeting; (iii) confirmation that the moderator has consulted
66 with the local disability commission or coordinator for federal Americans with Disabilities Act
67 compliance; and (iv) a certification by the moderator that: (A) the moderator has tested the video
68 or telephone conferencing platform; and (B) the platform satisfactorily enables the town meeting
69 to be conducted in substantially the same manner as if the meeting occurred in person at a
70 physical location and in accordance with the operational and functional requirements set forth in
71 this section.

72 A video or telephone conference platform used by a town meeting for remote
73 participation under this section shall, at minimum, provide for the ability for: (i) the moderator,
74 town meeting members, town officials and any other interested members of the public to identify
75 and hear the moderator and each town meeting member who attends and participates in the
76 remotely-held town meeting, as well as any other individuals who participate in the remotely-
77 held town meeting; (ii) the ability to determine whether a quorum is present; (iii) a town meeting
78 member, town official or other individual to request recognition by the moderator without prior
79 authorization; provided, however, that to the extent technologically feasible, the request is visible
80 or audible to the public in real time and upon review of the recording of the town meeting

81 proceedings, preserved according to subsection (h); (iv) the moderator to determine when a town
82 meeting member wishes to be recognized to speak, make a motion, raise a point of order or
83 object to a request for unanimous consent; (v) the moderator to recognize a town meeting
84 member, town official or other individual to speak and to enable that person to speak; (vi) the
85 ability to conduct a roll call vote; (vii) any interested members of the public to access the
86 meeting remotely for purposes of witnessing the deliberations and actions taken at the town
87 meeting; and (viii) the town meeting to be recorded. Registered voters residing in the town
88 wishing to participate in a remote town meeting conducted pursuant to this section shall submit a
89 request to participate to the town clerk not less than 48 hours in advance of the town meeting.
90 Upon receipt of the request and verification of the requester's voter registration status, the clerk
91 shall provide to the requester instructions for participating in the remote town meeting.

92 (b) Not later than 10 business days following receipt of a written request by the
93 moderator for remote participation at a town meeting pursuant to subsection (a), the select board
94 or board of selectmen shall vote to determine if the town meeting shall be held remotely by
95 means of the video or telephone conferencing platform requested by the moderator.

96 (c) If the select board or board of selectmen votes to approve the request of the moderator
97 for remote participation at a town meeting and the select board or board of selectmen has already
98 issued a warrant pursuant to section 10 of chapter 39 of the General Laws calling a town meeting
99 to be held not later than June 30, 2020, the select board or board of selectmen shall, at the same
100 meeting of the board, approve and issue, in consultation with the moderator, a notice that
101 expressly states: (i) that the town meeting shall be held remotely by means of the video or
102 telephone conferencing platform requested by the moderator; (ii) the date and time of the
103 meeting; and (iii) any information necessary for the moderator, town meeting members, town

104 officials and interested members of the public to access and witness the deliberations and actions
105 taken at the town meeting remotely.

106 The notice issued by the select board or board of selectmen shall be: (i) accompanied by
107 the written request of the moderator submitted to the select board or board of selectmen under
108 subsection (a); (ii) filed and posted in accordance with the requirements of subsection (b) of
109 section 10A of chapter 39 of the General Laws; (iii) distributed to each town meeting member;
110 and (iv) publicly posted not less than 10 days before the scheduled date of the remote town
111 meeting. The notice may include a date, time and place for the town meeting to be resumed if the
112 town meeting does not vote to continue the town meeting remotely pursuant to subsection (f).

113 (d) If the select board or board of selectmen votes to approve the request of the moderator
114 for remote participation at a town meeting and the select board or board of selectmen has not yet
115 issued a warrant for a town meeting, the select board or board of selectmen shall approve and
116 issue a warrant pursuant to section 10 of said chapter 39 for the town meeting that expressly
117 states: (i) that the town meeting shall be held remotely by means of the video or telephone
118 conferencing platform requested by the moderator; (ii) the date and time of the meeting; and (iii)
119 any information necessary for the moderator, town meeting members, town officials and
120 interested members of the public to access and witness the deliberations and actions taken at the
121 town meeting remotely.

122 The warrant issued by the select board or board of selectmen shall be: (i) accompanied by
123 the written request of the moderator submitted to the select board or board of selectmen under
124 subsection (a); and (ii) filed in accordance with said section 10 of said chapter 39, all other
125 applicable laws and any relevant provisions of the town charter or by-laws. The warrant may

126 include a date, time and place for the town meeting to be resumed if the town meeting does not
127 vote to continue the town meeting remotely pursuant to subsection (f).

128 (e) Not later than 5 business days after a vote of the select board or board of selectmen to
129 approve the request of the moderator to hold a town meeting remotely pursuant to subsection (c)
130 or (d), the town clerk shall submit certified copies of the vote of the select board or board of
131 selectmen and the written request of the moderator to the attorney general.

132 (f) Prior to taking up any business at a representative town meeting held through remote
133 participation under this section, the town meeting members present and voting at the meeting
134 shall vote on whether or not to commence business at the town meeting remotely by means of
135 the chosen video or telephone conferencing platform. If the town meeting votes to continue
136 conducting the town meeting remotely, then the town meeting shall proceed by remote
137 participation to address the articles included in the warrant. If the town meeting does not vote to
138 continue conducting the town meeting remotely, then the town meeting shall be adjourned to the
139 date, time and place specified in the notice or warrant under subsection (c) or (d). If no date, time
140 and place has been specified in the notice or warrant, the town meeting shall immediately be
141 dissolved without taking any votes on any other matters and the select board or board of
142 selectmen may call the town meeting pursuant to a new warrant that provides for the town
143 meeting to be held in person at a physical location in accordance with said section 10 of said
144 chapter 39, all other applicable laws and provisions of the town charter and by-laws.

145 (g) Any roll call vote taken at a representative town meeting held through remote
146 participation pursuant to this section shall be taken by any means that the moderator determines
147 accurately and securely records the votes of those entitled to vote at the meeting, including, but

148 not limited to, roll call vote, electronic voting, voting by ballot, voting by phone or any
149 combination thereof. The vote of each town meeting member on a roll call vote shall be recorded
150 and kept with the minutes of the town meeting.

151 (h) A representative town meeting held remotely pursuant to this section shall be
152 recorded and the recording shall be preserved and made publicly available on the town's website
153 for not less than 90 days after the conclusion of the remote town meeting.

154 (i) All actions taken during a remote town meeting held pursuant to this section are
155 hereby ratified, validated and confirmed to the same extent as if the town meeting had been
156 conducted in person and such actions are in accordance with all other applicable laws, charter
157 provisions, ordinances and by-laws.

158 SECTION 9. Notwithstanding section 9 of chapter 39 of the General Laws or any other
159 general or special law, charter provision, ordinance or by-law to the contrary, in order to address
160 the disruptions caused by the 2019 novel coronavirus, also known as COVID-19, during the
161 governor's March 10, 2020 declaration of a state of emergency, a select board or board of
162 selectmen, in consultation with and with the approval of the town moderator, may vote to hold
163 town meeting outside the geographic limits of the town if the select board or board of selectmen
164 determines that it is not possible to adequately conduct town meeting in a location within the
165 geographic limits of the town in a manner that ensures health and safety; provided, however, that
166 a meeting for the election by ballot of federal, state or other officers or the determination of other
167 matters that are to be determined by ballot at an election shall be held within the geographic
168 limits of the town. The select board or board of selectmen shall publicly post notice of the
169 location of town meeting to be held outside the geographic limits of the town not less than 10

170 days before the date of the meeting. Nothing in this section shall supersede or otherwise affect
171 the validity of any special law, charter or by-law in place before the governor's March 10, 2020
172 declaration of a state of emergency that provides for holding town meeting outside the
173 geographic limits of the town.

174 SECTION 10. (a) Notwithstanding section 5B of chapter 40 of the General Laws or any
175 other general or special law to the contrary, as a result of the outbreak of the 2019 novel
176 coronavirus, also known as COVID-19, and the effects of the governor's March 10, 2020
177 declaration of a state of emergency, for fiscal year 2021, a town or city may suspend the
178 dedication of revenues to 1 or more special funds for fiscal year 2021 when such revenues are
179 dedicated to a stabilization fund under said section 5B of said section 40 or dedicated to a special
180 fund pursuant to special law, and such revenues shall during fiscal year 2021 be credited to the
181 general fund of the city or town.

182 (b) Notwithstanding said section 5B of said chapter 40 or any other general or special law
183 to the contrary, for fiscal year 2021, a city, town or district may appropriate funds from any
184 stabilization fund created pursuant to said section 5B of said chapter 40 or special fund
185 established by special law for any lawful purpose notwithstanding the specified purpose of the
186 fund.

187 (c) The options exercised pursuant to subsections (a) and (b) shall be exercised in a town
188 with a town meeting form of government by a 2/3 vote of its select board, board of selectmen or
189 town council and, in a city, by a 2/3 vote of its city or town council with the approval of the
190 mayor or manager; provided, however, that an option exercised pursuant to said subsection (b)

191 shall also require the approval of a city's or town's school committee when the stabilization fund
192 has been established for educational purposes.

193 (d) Subsection (a) shall not apply to surcharges assessed pursuant to section 39M of
194 chapter 40 or chapter 44B of the General Laws or any other special fund established pursuant to
195 the General Laws.

196 SECTION 11. Notwithstanding section 32 of chapter 44 of the General Laws or any other
197 general or special law, charter provision or ordinance to the contrary, if the mayor of a city is
198 unable, as a result of the outbreak of the 2019 novel coronavirus, also known as COVID-19, and
199 the effects of the governor's March 10, 2020 declaration of a state of emergency, to submit an
200 annual budget for fiscal year 2021 to the city council within 170 days as required by the first
201 paragraph of said section 32 of said chapter 44, the time periods and deadlines set forth in said
202 section 32 of said chapter 44 for the mayor and city council to act on the annual budget shall be
203 extended until 60 days after the termination of the governor's March 10, 2020 declaration of the
204 state of emergency; provided, however, that within 30 days after the termination of the
205 declaration of emergency or on July 31, 2020, whichever is earlier, the mayor shall submit to the
206 city council the annual budget for fiscal year 2021 for the purposes of said section 32 of said
207 chapter 44 and the time periods and deadlines set forth in said section 32 of said chapter 44 shall,
208 if not inconsistent with this section, otherwise thereafter apply; and provided further, that
209 notwithstanding said section 32 of said chapter 44 to the contrary, the mayor may submit to the
210 city council a continuing appropriation budget for the city on a month-by-month basis for a
211 period not to exceed 3 months if the city has not approved an annual budget for fiscal year 2021
212 by June 30, 2020, as a result of the outbreak of COVID-19 and the governor's March 10, 2020
213 declaration of a state of emergency.

214 SECTION 12. (a)(1) Notwithstanding sections 52 and 56 of chapter 41 of the General
215 Laws , a city or town may approve a payment for the period beginning on or after March 10,
216 2020 through the remainder of fiscal year 2020 on an existing service contract for school or
217 education-related services entered into by the school committee or a service contract renegotiated
218 or modified by the school committee in order to maintain the availability of and access to the
219 services secured under the underlying contract between the parties; provided, that: (i) the
220 underlying service contract was in effect before March 10, 2020 and the service contractor was
221 unable to perform services under the contract as a result of the disruptions caused by the
222 outbreak of the 2019 novel coronavirus, also known as COVID-19 and effects of the governor's
223 March 10, 2020 declaration of a state of emergency; and (ii) there are sufficient unencumbered
224 available funds remaining for such payment in the appropriation for the purpose.

225 (2) Before any payment, the service contractor shall present to the approving authorities
226 set forth in subsections (b) and (c), a sworn statement reporting grants, discounted loans or other
227 financial support that the service contractor has received from a state, federal or local
228 government as a result of the outbreak of COVID-19 or, if the service contractor has not received
229 any such grants, discounted loans or other financial support, affirming that the service contractor
230 has not received, and shall not receive thereafter, any such grants, discounted loans or other
231 financial support. If the service contractor reports it has received grants, discounted loans or
232 other financial support from a state, federal or local government, the payments to the service
233 contractor made pursuant to this section and section 13 shall not exceed the total amount to
234 which the service contractor is eligible under the service contract less the amount the service
235 contractor received in such grants, discounted loans or other financial support and the sworn
236 statement shall include an attestation that the payment is not in excess of that amount.

237 (b) In a city, the payment set forth in subsection (a) shall be approved by: (i) the school
238 committee; (ii) a city auditor, accountant or other officer having similar duties; and (iii) the chief
239 executive officer of the city as defined in clause Fifth B of section 7 of chapter 4 of the General
240 Laws.

241 (c) In a town, the payment set forth in subsection (a) shall be approved by: (i) the school
242 committee; (ii) a town accountant or other officer having similar duties; and (iii) the chief
243 executive officer of the town as defined in clause Fifth B of section 7 of chapter 4 of the General
244 Laws.

245 (d) This section shall not apply to tuitions and rates set by the bureau of purchased
246 services within the operational services division pursuant to section 22N of chapter 7 of the
247 General Laws, which are set and are non-negotiable for fiscal year 2020.

248 SECTION 13. (a)(1) Notwithstanding sections 52 and 56 of chapter 41 and section 16A
249 of chapter 71 of the General Laws, a regional school district may approve a payment for the
250 period beginning on or after March 10, 2020 through the remainder of fiscal year 2020 on an
251 existing service contract for school or education-related services entered into by the regional
252 school district or a service contract renegotiated or modified by the regional school committee in
253 order to maintain the availability of and access to the services secured under the underlying
254 contract between the parties; provided, however, that: (i) the underlying service contract was in
255 effect before March 10, 2020 and the service contractor was unable to perform services under the
256 contract as a result of the governor's March 10, 2020 declaration of a state of emergency or the
257 outbreak of the 2019 novel coronavirus, also known as COVID-19; and (ii) there are sufficient
258 unencumbered available funds remaining for such payment in the appropriation for the purpose.

259 (2) Before any payment, the service contractor shall present to the approving authorities
260 set forth in subsection (b), a sworn statement reporting grants, discounted loans or other financial
261 support that the service contractor has received from a state, federal or local government as a
262 result of the outbreak of COVID-19 or, if the service contractor has not received any such grants,
263 discounted loans or other financial support, affirming that the service contractor has not received,
264 and shall not receive thereafter, any such grants, discounted loans or other financial support. If
265 the service contractor reports it has received grants, discounted loans or other financial support
266 from a state, federal or local government, the payments to the service contractor made pursuant
267 to this section and section 12 shall not exceed the total amount to which the service contractor is
268 eligible under the service contracts less the amount the service contractor received in such grants,
269 discounted loans or other financial support and the sworn statement shall include an attestation
270 that the payment is not in excess of that amount.

271 (b) The payment set forth in subsection (a) shall be approved by the regional school
272 committee and a business manager, assistant superintendent for business or other employee with
273 title of similar import and responsibilities as those of a town accountant.

274 (c) This section shall not apply to tuitions and rates set by the bureau of purchased
275 services within the operational services division pursuant to section 22N of chapter 7 of the
276 General Laws, which are set and are non-negotiable for fiscal year 2020.

277 SECTION 14. (a) For purposes of this section, “emergency educator license” shall mean
278 a license issued by the commissioner of elementary and secondary education pursuant to
279 subsection (b) and subject to the provisions of this section.

280 (b) Notwithstanding section 38G of chapter 71 of the General Laws or any other general
281 or special law to the contrary, in order to address disruptions caused by the outbreak of the 2019
282 novel coronavirus, also known as COVID-19, or the governor's March 10, 2020 declaration of a
283 state of emergency, the commissioner of elementary and secondary education may issue
284 emergency educator licenses to individuals upon application to the commissioner. The
285 commissioner may issue emergency educator licenses during the period of the state of
286 emergency and for a period of 180 days after the termination of the state of emergency. An
287 emergency educator license shall be valid through June 30, 2021 or a different time specified by
288 the commissioner, unless the commissioner suspends or revokes it for cause, pursuant to
289 standards and procedures that shall be established by the board of elementary and secondary
290 education.

291 (c) To be eligible to receive an emergency educator license, an individual must possess a
292 bachelor's degree and must have been prevented from completing the testing, demonstration of
293 subject matter knowledge, coursework or program requirements for an educator license as a
294 result of the outbreak of COVID-19 or the March 10, 2020 declaration of a state of emergency.
295 Emergency educator licenses shall be available only to individuals seeking their first
296 Massachusetts academic and vocational teacher, specialist teacher, administrator or professional
297 support personnel license. Individuals shall identify the field and level of the license sought in
298 their application to the commissioner. If the regulations of the board of elementary and
299 secondary education require an underlying educator license, the emergency educator license shall
300 be available in that field only to individuals who hold the underlying license.

301 (d) Service of an employee under an emergency educator license shall not be counted as
302 service in acquiring professional teacher status or other rights under section 41 of chapter 71 of

303 the General Laws; provided, however, that if the employee obtains a temporary, initial,
304 provisional or professional educator's license in the same field as the emergency educator's
305 license by June 30, 2021 or a different deadline specified by the commissioner and continues to
306 work for the same employer under the newly acquired license, the service under the emergency
307 educator license shall be counted as service toward professional teacher status.

308 (e) The commissioner shall prescribe the form and manner of applications for the
309 emergency educator license and may issue guidance or regulations for the implementation of this
310 section.

311 SECTION 15. Notwithstanding any general or special law to the contrary, the actions
312 taken by any town to postpone an election in accordance with this act or chapter 45 of the acts of
313 2020 or to postpone the statutory deadlines for circulating, filing and certifying nomination
314 papers to new dates consistent with the date of their rescheduled election shall be ratified,
315 validated and confirmed as though said chapter 45 had specifically authorized the same and this
316 act had been in place prior thereto.

317 SECTION 16. If this act does not take effect until after the date of a scheduled municipal
318 caucus or municipal election during the governor's March 10, 2020 declaration of a state of
319 emergency, the actions of the board of selectmen, town council, city council and local election
320 officials to postpone a municipal caucus or municipal election shall be ratified, validated and
321 confirmed as if this act had been in place prior thereto.

322 SECTION 17. If this act does not take effect at least 15 days prior to the date of a
323 scheduled representative town meeting to be held during the governor's March 10, 2020
324 declaration of a state of emergency, the actions of a town moderator, select board or board of

325 selectmen, and town meeting that are substantially consistent with the requirements of section 8
326 shall be ratified, validated and confirmed in all respects as if this act had been in place prior
327 thereto.

328 SECTION 18. Section 11 shall take effect on May 1, 2020.