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SENATE . . . . . No. 2440

Senate, December 19, 2019 -- Substituted by amendment by the Senate (Senator Boncore) as a new draft for Senate, No. 777

The Commonwealth of Massachusetts

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

An Act relative to local housing authority board member elections.

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. Section 1 of chapter 121B of the General Laws, as appearing in the 2018 Official Edition, is hereby amended by striking out the definition of "Tenant member" and inserting in place thereof the following definition:-

"Tenant member", a member of the board of a housing authority who is: (i) a tenant who has signed a lease for a public housing unit owned and operated by the housing authority; (ii) a tenant in a public housing unit owned and operated on behalf of a housing authority; (iii) a participant in a rental assistance program administered by a housing authority; or (iv) an adult over the age of 18 years old who is authorized to reside in the unit of another pursuant to clause (i), (ii) or (iii).

SECTION 2. Section 5 of said chapter 121B, as so appearing, is hereby amended by striking out the third paragraph and inserting in place thereof the following 3 paragraphs:-

In a town, 4 members of a redevelopment authority that is not a housing authority shall be elected by the town; provided, however, that of the members originally elected at an annual town meeting, the candidate who received the highest number of votes shall serve for 5 years, the candidate who received the next highest number of votes shall serve for 4 years, the candidate who received the next highest number of votes shall serve for 2 years and the candidate who received the next highest number of votes shall serve for 1 year. Notwithstanding the preceding sentence, upon the initial organization of a redevelopment authority that is not a housing authority, if a town so votes at an annual or special town meeting called for the purpose, 4 members of the redevelopment authority shall be appointed immediately by the board of selectmen to serve only until the qualification of their successors; provided, however, that the successors shall be elected at the next annual town meeting as provided in this paragraph.

Notwithstanding section 20 of chapter 43B or any other general or special law to the contrary, in a town, 1 member of a housing authority shall be a tenant member appointed by the board of selectmen and 3 members shall be elected by the town; provided, however, that of the members originally elected at an annual town meeting, the candidate who received the highest number of votes shall serve for 5 years, the candidate who received the next highest number of votes shall serve for 4 years and the candidate who received the next highest number of votes shall serve for 2 years. Notwithstanding the preceding sentence, upon the initial organization of a housing authority, if a town so votes at an annual or special town meeting called for the purpose, 3 members of the authority shall be appointed immediately by the board of selectmen to serve only until the qualification of their successors; provided, however, that the successors shall be elected at the next annual town meeting as provided above.

A tenant, where applicable, shall be appointed by the town from a list of names submitted by a duly recognized tenants' organization in the town. A tenants' organization may submit a list to the board of selectmen that shall contain not less than 2 and not more than 5 names and the board shall make the appointment from among the names so submitted; provided, however, that if there is no such tenants' organization, the housing authority shall immediately post notices throughout the common areas of the authority and provide each household with notice of the opportunity to be appointed to the housing authority board and, if any person wishes to be considered for such appointment, that person shall submit their name within 30 days thereafter to the town clerk; provided further, that the notice shall include contact information for the town clerk and for any independent technical training programs available pursuant to section 5B. The board of selectmen shall appoint a tenant member from the list; provided, however, that where federal law requires the town to maintain a member who is a federally-subsidized tenant, a federally-subsidized tenant shall be given preference for the appointment. If there are no public housing units owned and operated by the local housing authority and if there a no such units owned and operated on behalf of the local housing authority, the board of selectmen shall appoint a person meeting the eligibility requirements for a tenant member. If a list of names is not submitted within 60 days after a vacancy occurs, the board of selectmen shall appoint a tenant member of its own choosing to the authority. The town shall provide any written notice to tenants' organizations as required by this section not less than 90 days before the expiration of the term of a tenant member. If a vacancy occurs in the term of a tenant member for any reason other than the expiration of a term, the town shall provide written notice to the tenants' organizations within 10 business days after the vacancy occurs. The board of selectmen shall

make the appointment of the successor tenant member within a reasonable time after the expiration of 60 days following the provision of notice as provided in this section.

SECTION 3. Said chapter 121B is hereby further amended by striking out section 5A and inserting in place thereof the following section:-

Section 5A. A housing authority may request a waiver of the requirement to appoint a tenant member to a housing authority board if the department determines that a housing authority provided notice pursuant to section 5 and there is no person who is eligible and willing to serve as a tenant member on the board. The waiver shall be for a term of 1 year and may be renewed by the department. A housing authority shall submit a written statement to the department that explains why a waiver is being requested and documents the steps that it took to educate tenants about the right of a tenant to serve on a housing authority board; provided, however, that such steps shall include the housing authority meeting with all local tenants' organizations. Before issuing a waiver, the department shall, in addition to reviewing the written statement, make a determination that the housing authority provided notice pursuant to said section 5.

If the department grants a waiver, it shall notify the housing authority and the town that a person other than a person who is eligible to be a tenant member may be appointed to the tenant member seat on the board for a 1-year period. The housing authority shall notify any tenants' organizations of the waiver and post a notice of the waiver throughout common areas of the authority.

SECTION 4. Notwithstanding the fourth paragraph of section 5 of chapter 121B of the General Laws, if a town has 4 elected members of a housing authority board on the effective date of this act, any vacant seat or, if there is no vacant seat, the first seat set to expire not less than 60

days after the effective date of this act, shall be filled by the appointment of a tenant member unless a waiver has been granted by the department pursuant to section 5A of chapter 121B of the General Laws that allows for the appointment of a person who is not eligible to be a tenant member.

SECTION 5. Tenants required to be appointed to housing authority boards pursuant to the fifth paragraph of section 5 of chapter 121B of the General Laws, as appearing in section 2, shall be implemented within 90 days after the effective date of this act.

SECTION 6. On the effective date of this act, a housing authority may request a waiver of the requirement to appoint a tenant member to a housing authority board pursuant to section 5 of chapter 121B of the General Laws if a person who is eligible to be a tenant member is already serving as either an elected member or a member appointed to fill a vacancy by the board of selectmen. The waiver shall be valid for 1 year and may be renewed for successive 1-year terms until the expiration of the current tenant member's term or until the that member vacates the position and, at that time, the board of selectmen shall appoint a tenant member pursuant to said section 5 of said chapter 121B.

SECTION 7. Any votes taken by a local housing authority and any votes taken by a town with respect to a local housing authority between August 6, 2014 and the effective date of this act are hereby ratified, validated and confirmed, notwithstanding the number of elected members on the local housing authority board.

SECTION 8. This act shall take effect 120 days after its passage.".