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HOUSE . . . . . No. 4259

Substituted, on motion of Ms. Garlick of Needham, for a bill with the same title (House, No. 3899). November 16, 2021.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act amending the charter of the town of Medway.

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. The second sentence of subsection 1-4-1 of section 4 of chapter 1 of the charter of the town of Medway, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 2. Subsection 2-1-4 of section 1 of chapter 2 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 3. Subsection 2-2-1 of section 2 of said chapter 2 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 4. Subsection 2-3-1 of section 3 of said chapter 2 of said charter is hereby amended by striking out the words “board of selectmen” and insert in place thereof the following words:- select board.

SECTION 5. The first sentence of subsection 2-3-2 of said section 3 of said chapter 2 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 6. The second sentence of said subsection 2-3-2 of said section 3 of said chapter 2 of said charter is hereby amended by inserting after the word “The” the following word:- select.

SECTION 7. Subsection 2-5-2 of section 5 of said chapter 2 of said charter is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Annually, not later than July 1, an appointment committee consisting of the town moderator, the chair of the finance committee and the chair of the select board shall appoint 3 members of the finance committee for a term of 3 years in place of those whose terms expire in that year. The appointment committee shall commence its appointment process by posting a notice of annual vacancies on the town bulletin board, the town’s website and in at least 1 local newspaper of daily circulation not later than 7 days following that year’s date of annual town meeting. The appointment committee shall formally interview all applicants and shall appear before the select board to notify it and the public of its appointments in person at a regularly scheduled public meeting of the select board.

SECTION 8. The second sentence of the third paragraph of said subsection 2-5-2 of said section 5 of said chapter 2 of said charter is hereby amended by striking out the words “board of selectmen’s” and inserting in place thereof the following words:- select board’s.

SECTION 9. The first sentence of subsection 3-1-1 of section 1 of chapter 3 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 10. The first sentence of subsection 3-1-5 of said section 1 of said chapter 3 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 11. Subsection 3-1-6 of said section 1 of said chapter 3 of said charter is hereby amended by striking out the words “board of selectmen”, each time it appears, and inserting in place thereof, in each instance, the following words:- select board.

SECTION 12. Subsection 3-1-7 of said section 1 of said chapter 3 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 13. Said section 1 of said chapter 3 of said charter is hereby amended by striking out subsection 3-1-8 and inserting in place thereof the following subsection:-

3-1-8 If there exists a vacancy in an elected office that is not a multiple-member body, the select board shall provide for notice of the vacancy by posting the vacancy on the town bulletin board and the town’s website. Any person who desires to be considered to fill the vacancy shall file with the select board a statement that sets forth in clear and specific terms the

person's qualifications for the position within 10 days following the date the notice is posted. The select board shall fill the vacancy not earlier than 14 days and not later than 30 days after the notice is posted. The person who receives a majority of the votes cast at the select board's meeting shall be the person appointed to fill the vacancy. The person appointed to fill the vacancy shall hold office until the next regularly scheduled annual town election at which time the vacant position shall be included on the ballot.

SECTION 14. Subsection 3-1-9 of said section 1 of said chapter 3 of said charter is hereby amended by striking out the words "board of selectmen" and inserting in place thereof the following words:- select board.

SECTION 15. Section 2 of said chapter 3 of said charter is hereby amended by striking out the title and inserting in place thereof the following heading:- Select Board.

SECTION 16. Subsection 3-2-1 of said section 2 of said chapter 3 of said charter is hereby amended by striking out the words "board of selectmen" and inserting in place thereof the following words:- select board.

SECTION 17. Said section 2 of said chapter 3 of said charter is hereby amended by striking out subsection 3-2-2 and inserting in place thereof the following subsection:-

3-2-2 The executive powers of the town shall be vested in the select board, which shall be the chief executive office of the town. The select board shall have all of the executive powers available to boards of selectmen under the constitution and the General Laws, and such additional powers and duties as may be authorized by this charter, by-law or other town meeting vote. The select board shall serve as the chief policy making agency of the town and shall be responsible for formulating and promulgating police directives and guidelines to be followed by

all town agencies serving under it and, in consultation with other elected town officers and multiple-member bodies, for developing and promulgating policy guidelines designed to bring all town agencies into harmony; provided, however, that nothing in this section shall authorize a member of the select board or a majority of such members to become involved in the day-to-day administration of a town agency. As chief policymaking agency of the town, the select board shall seek to secure the cooperation of the town's elected boards, committees and officials in the implementation of such policies. The select board shall be responsible for the efficient and effective coordination of the activities of all elected and appointed boards and committees and, for such purpose, may call together for consultation, conference and discussion at reasonable times all elected and appointed boards and committees. This provision shall not apply to the school committee.

SECTION 18. Subsection 3-2-3 of said section 2 of said chapter 3 of said charter is hereby amended by striking out the words "board of selectmen, or a designee appointed by the board" and inserting in place thereof the following words:- select board, or a designee appointed by the select board.

SECTION 19. Subsection 3-2-4 of said section 2 of said chapter 3 of said charter is hereby amended by striking out the words "board of selectmen" and inserting in place thereof the following words:- select board.

SECTION 20. Said section 2 of said chapter 3 of said charter is hereby amended by striking out subsection 3-2-5 and inserting in place thereof the following subsection:-

3-2-5 The select board shall appoint a town manager for a term not to exceed 3 years. Appointment of a town manager shall be by the affirmative vote of not less than 3 members of

the select board, with reappointment not less than 3 affirmative votes of the select board. Removal of the town manager shall require the affirmative vote of 4 members of the select board and shall be in accordance with procedures outlined in subsection 5-4-1.

SECTION 21. Subsection 3-2-6 of said section 2 of said chapter 3 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 22. Subsection 3-2-7 of said section 2 of said chapter 3 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 23. The first sentence of subsection 3-2-8 of said section 2 of said chapter 3 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 24. Said subsection 3-2-8 of said section 2 of said chapter 3 of said charter is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- A report of the investigation shall be placed on file in the office of the select board. SECTION 25. Subsection 3-7-1 of section 7 of said chapter 3 of said charter is hereby amended by striking out the words “board of selectmen”, each time they appear, and inserting in place thereof, in each instance, the following words:- select board.

SECTION 26. Subsection 3-8-1 of section 8 of said chapter 3 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 27. The first sentence of subsection 3-10-1 of section 10 of said chapter 3 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 28. The second sentence of said subsection 3-10-1 of said section 10 of said chapter 3 of said charter is hereby amended by inserting after the word “The”, the first time it appears, the following word:- select.

SECTION 29. The fourth sentence of subsection 3-11-2 of section 11 of said chapter 3 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 30. The first sentence of subsection 3-11-3 of said section 11 of said chapter 3 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 31. Said subsection 3-11-3 of said chapter 3 of said charter is hereby further amended by striking out the second sentence and inserting in place thereof the following sentence:- The select board shall immediately give written notice to the officer sought to be recalled of the receipt of the certificate and shall, if the officer does not resign within 5 days thereafter, order a recall election to be held on a day fixed by the select board not less than 64 days from the date the select board calls for the election but not more than 90 days after the date of the town clerk’s certificate; provided, however, that if another town election is to occur within 100 days after the date of the certificate, the select board may postpone the date of the recall election to the date of the other election, with the recall election to be held as a separate special election.

SECTION 32. Subsection 4-1-1 of section 1 of chapter 4 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 33. The first sentence of subsection 4-1-2 of said section 1 of said chapter 4 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 34. Said section 1 of said chapter 4 of said charter is hereby further amended by striking out subsection 4-1-3 and inserting in place thereof the following subsection:-

4-1-3 The select board shall appoint an independent external auditor, who shall report to the select board and ensure compliance with the finance and fiscal procedures provided in this charter. SECTION 35. Subsection 4-1-4 of said section 1 of said chapter 4 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 36. Subsection 4-1-5 of said section 1 of said chapter 4 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 37. The first sentence of subsection 5-1-1 of section 1 of chapter 5 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 38. Subsection 5-1-2 of said section 1 of said chapter 5 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 39. Subsection 5-1-3 of said section 1 of said chapter 5 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 40. Subsection 5-1-5 of said section 1 of said chapter 5 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 41. Said section 1 of said chapter 5 of said charter is hereby amended by striking out subsection 5-1-6 and inserting in place thereof the following subsection:-

5-1-6 The select board may establish additional duties or qualifications for the office of town manager. The town manager shall perform such other duties consistent with the office as may be required by by-law, vote of the select board or town meeting.

SECTION 42. Section 2 of said chapter 5 of said charter is hereby amended by striking out subsection 5-2-1 and inserting in place thereof the following subsection:-

5-2-1 The town manager shall be the administrative officer of the town and shall be responsible to the select board for the proper operation of town affairs for which the town manager has been given responsibility by this charter, vote of the town meeting or vote of the select board.

SECTION 43. The fourth sentence of subsection 5-2-2 of said section 2 of said chapter 5 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 44. The second sentence of subsection 5-2-5 of said section 2 of said chapter 5 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 45. Subsection 5-2-6 of said section 2 of said chapter 5 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 46. Subsection 5-2-7 of said section 2 of said chapter 5 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 47. Subsection 5-2-10 of said section 2 of said chapter 5 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 48. Subsection 5-2-11 of said section 2 of said chapter 5 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 49. The second sentence of subsection 5-2-14 of said section 2 of said chapter 5 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 50. Said section 2 of said chapter 5 of said charter is hereby amended by striking out subsection 5-2-15 and inserting in place thereof the following subsection:-

5-2-15 The town manager shall keep full and complete records of the financial and administrative activities of the town and shall render a full report to the select board at the end of each fiscal year and otherwise as the select board may require.

SECTION 51. Subsection 5-3-1 of section 3 of said chapter 5 of said charter is hereby amended by striking out the words “board of selectmen”, each time they appear, and inserting in place thereof, in each instance, the following words:- select board.

SECTION 52. Said section 3 said chapter 5 of said charter is hereby amended by striking out subsection 5-3-2 and inserting in place thereof the following subsection:-

5-3-2 Any vacancy in the office of the town manager shall be filled as soon as possible by the select board. Pending such regular appointment, the select board shall appoint a qualified administrative officer or other qualified individual to perform the duties of the office on temporary basis. The temporary appointment shall not exceed 3 months; provided, however, that successive temporary appointments shall not exceed 1 year. Compensation for the person appointed for the temporary appointment shall be set by the select board.

SECTION 53. Section 4 of said chapter 5 of said charter is hereby amended by striking out subsection 5-4-1 and inserting in place thereof the following subsection:-

5-4-1 The select board may for just cause, by the affirmative vote of 4 of its members, remove or suspend the town manager from office in accordance with this section.

(a) The select board shall adopt a preliminary resolution of removal or suspension by affirmative vote of 4 members that shall state the reason for removal or suspension. This preliminary resolution may suspend the town manager for a period of not more than 45 days. A copy of the resolution shall be delivered to the town manager immediately.

(b) Within 5 days after receipt of the preliminary resolution, the town manager may request a public hearing by filing a written request for the hearing with the select board. The hearing shall be held at a meeting of the select board not later than 30 days after the request is filed nor earlier than 20 days after such request is filed. The town manager may file a written statement responding to the reasons stated in the resolution of removal or suspension with the select board; provided however, that the written statement is received at the select board's office more than 48 hours in advance of the public hearing.

(c) The select board may adopt a final resolution of removal or suspension, which may be made effective immediately, by the affirmative vote of 4 of its members: (i) not less than 10 nor more than 21 days following the date of delivery of a copy of the preliminary resolution to the town manager if the town manager has not requested a public hearing; or (ii) within 10 days following the close of the public hearing if the town manager has requested one. Failure to adopt a final resolution of removal or suspension within the time periods provided in this section shall nullify the preliminary resolution of removal or suspension and the town manager shall resume the duties of the office at the expiration of the time.

(d) Faced with action by the select board to terminate, remove or suspend the town manager, the town manager shall be afforded all of the provisions provided municipal employees under sections 18 to 25, inclusive, of chapter 30A of the General Laws.

SECTION 54. Said section 4 of said chapter 5 of said charter is hereby further amended by striking out subsection 5-4-2 and inserting in place thereof the following subsection:-

5-4-2 The action of the select board in suspending or removing the town manager shall be final and all authority and responsibility for such suspension and removal shall be vested solely in the select board.

SECTION 55. Subsection 5-6-1 of section 6 of said chapter 5 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 56. The first paragraph of subsection 6-1-2 of section 1 of chapter 6 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 57. The first sentence of the second paragraph of said subsection 6-1-2 of said section 1 of said chapter 6 of said charter is hereby amended by inserting after the word “the”, the second time it appears, the following word:- select.

SECTION 58. Subsection 6-2-3 of section 2 of said chapter 6 of said charter is hereby amended by striking out first sentence and inserting in place thereof the following sentence:- The select board may set water and sewer rates and promulgate regulations in connection with the scope of the authority of the department of public works; provided, however, that before taking any action hereunder the select board, following consultation with the water and sewer advisory board, shall hold a public hearing for which notice is provided on the town website and in the same manner required by sections 18 to 25, inclusive, of chapter 30A of the General Laws for a period of not less than 14 days before the date of the public hearing.

SECTION 59. Subsection 7-2-1 of section 2 of chapter 7 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 60. Subsection 7-2-2 of said section 2 of said chapter 7 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 61. Subsection 7-2-3 of said section 2 of said chapter 7 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 62. Subsection 7-2-4 of said section 2 of said chapter 7 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 63. Subsection 7-2-5 of said section 2 of said chapter 7 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 64. Said section 2 of said chapter 7 of said charter is hereby further amended by striking out subsection 7-2-6 and inserting in place thereof the following subsection:-

7-2-6 The town manager shall submit to the select board, in accordance with the select board’s budgeting calendar, a comprehensive draft budget for all town functions for the ensuing fiscal year and an accompanying budget message.

SECTION 65. The first sentence of subsection 7-2-9 of said section 2 of said chapter 7 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 66. The second sentence of said subsection 7-2-9 of said chapter 7 of said charter is hereby amended by inserting after the word “The”, the first time it appears, the following word:- select.

SECTION 67. Subsection 7-2-10 of said section 2 of said chapter 7 of said charter is hereby amended by striking out the words “board of selectmen’s” and inserting in place thereof the following words:- select board’s.

SECTION 68. Said section 2 of said chapter 7 of said charter is hereby amended by striking out subsection 7-2-11 and inserting in place thereof the following subsection:-

7-2-11 The select board shall meet with and consider all finance committee recommendations and present the select board’s proposed budget to the town meeting, with or without finance committee changes thereto. SECTION 69. The second sentence of subsection 7-3-1 of section 3 of said chapter 7 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 70. Said section 3 of said chapter 7 of said charter is hereby amended by striking out subsection 7-3-2 and inserting in place thereof the following subsection:-

7-3-2 Wherever variances to the budget exist, the select board shall ensure that corrective action is taken by each agency or department to bring the town’s revenues and expenses in line. Annually, at the fall town meeting, the select board shall report all significant,

anticipated and actual variances to the budget and the corrective actions being taken to bring the total revenues and expenses in line.

SECTION 71. Subsection 8-2-1 of section 2 of chapter 8 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 72. Subsection 8-2-2 of said section 2 of said chapter 8 of said charter is hereby amended by striking out the words “board of selectmen” and inserting in place thereof the following words:- select board.

SECTION 73. This act shall take effect upon its passage.