

HOUSE No. 2194

The Commonwealth of Massachusetts

PRESENTED BY:

James J. O'Day

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 further addressing challenges to municipal governance caused by the COVID-19 emergency.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>2/19/2021</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>2/26/2021</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>2/26/2021</i>
<i>David Allen Robertson</i>	<i>19th Middlesex</i>	<i>2/26/2021</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/26/2021</i>
<i>Tommy Vitolo</i>	<i>15th Norfolk</i>	<i>2/26/2021</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>2/23/2021</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>3/8/2021</i>

HOUSE No. 2194

By Mr. O'Day of West Boylston, a petition (accompanied by bill, House, No. 2194) of James J. O'Day and others relative to further addressing challenges to municipal governance caused by the COVID-19 emergency. Municipalities and Regional Government.

The Commonwealth of Massachusetts

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

An Act further addressing challenges to municipal governance caused by the COVID-19 emergency.

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. (a) Notwithstanding any general or special law, charter provision, ordinance
2 or by-law to the contrary, in order to address disruptions caused by the outbreak of the 2019
3 novel coronavirus, also known as COVID-19, during the governor’s March 10, 2020 declaration
4 of a state of emergency, the moderator in a town having an open town meeting form of
5 government may request that the select board or board of selectmen of the town call for a town
6 meeting to be held through remote participation, including, but not limited to, by means of a
7 video or telephone conferencing platform. Such a request by the moderator to the select board or
8 board of selectmen shall be in writing and shall include, but shall not be limited to: (i) the
9 moderator’s request to hold town meeting through remote participation in accordance with this
10 section; (ii) the video or telephone conferencing platform the moderator intends to use to hold
11 the town meeting; (iii) confirmation that the moderator has consulted with the local disability
12 commission or coordinator for federal Americans with Disabilities Act compliance; and (iv) a

13 certification by the moderator that: (A) the moderator has tested the video or telephone
14 conferencing platform; and (B) the platform satisfactorily enables the town meeting to be
15 conducted in substantially the same manner as if the meeting occurred in person at a physical
16 location and in accordance with the operational and functional requirements set forth in this
17 section.

18 (b) A video or telephone conference platform used by a town meeting for remote
19 participation under this section shall, at minimum, provide for the ability for: (i) the moderator,
20 persons registered to vote in the town, town officials and any other interested members of the
21 public to identify and hear the moderator and each registered voter of the town who attends and
22 participates in the remotely-held town meeting, as well as any other individuals who participate
23 in the remotely-held town meeting; (ii) the ability to determine whether a quorum is present; (iii)
24 a registered voter, town official or other individual to request recognition by the moderator
25 without prior authorization; provided, however, that to the extent technologically feasible, the
26 request is visible or audible to the public in real time and upon review of the recording of the
27 town meeting proceedings, preserved according to paragraph (i); (iv) the moderator to determine
28 when a registered voter wishes to be recognized to speak, make a motion, raise a point of order
29 or object to a request for unanimous consent; (v) the moderator to recognize a registered voter,
30 town official or other individual to speak and to enable that person to speak; (vi) the ability to
31 conduct a roll call vote; (vii) any interested members of the public to access the meeting
32 remotely for purposes of witnessing the deliberations and actions taken at the town meeting; and
33 (viii) the town meeting to be recorded. Registered voters residing in the town wishing to
34 participate in a remote town meeting conducted pursuant to this section shall submit a request to
35 participate to the town clerk not less than 72 hours in advance of the town meeting. Upon receipt

36 of the request and verification of the requester's voter registration status, the clerk shall provide
37 to the requester instructions for participating in the remote town meeting.

38 (c) Not later than 10 business days following receipt of a written request by the
39 moderator for remote participation at a town meeting pursuant to paragraph (a), the select board
40 or board of selectmen shall vote to determine if the town meeting shall be held remotely by
41 means of the video or telephone conferencing platform requested by the moderator.

42 (d) If the select board or board of selectmen votes to approve the request of the moderator
43 for remote participation at a town meeting and the select board or board of selectmen has already
44 issued a warrant pursuant to section 10 of chapter 39 of the General Laws, the select board or
45 board of selectmen shall, at the same meeting of the board and in consultation with the
46 moderator, approve and issue a notice that expressly states: (i) that the town meeting shall be
47 held remotely by means of the video or telephone conferencing platform requested by the
48 moderator; (ii) the date and time of the meeting; and (iii) any information necessary for the
49 moderator, registered voters, town officials and interested members of the public to access and
50 witness the deliberations and actions taken at the town meeting remotely.

51 The notice issued by the select board or board of selectmen shall be: (i) accompanied by
52 the written request of the moderator submitted to the select board or board of selectmen under
53 paragraph (a); (ii) filed and posted in accordance with the requirements of paragraph (b) of
54 section 10A of chapter 39 of the General Laws; (iii) distributed to each registered voter of the
55 town; and (iv) publicly posted not less than 10 days before the scheduled date of the remote town
56 meeting. The notice may include a date, time and place for the town meeting to be resumed if the
57 town meeting does not vote to continue the town meeting remotely pursuant to paragraph (g).

58 (e) If the select board or board of selectmen votes to approve the request of the moderator
59 for remote participation at a town meeting and the select board or board of selectmen has not yet
60 issued a warrant for a town meeting, the select board or board of selectmen shall approve and
61 issue a warrant pursuant to section 10 of said chapter 39 for the town meeting that expressly
62 states: (i) that the town meeting shall be held remotely by means of the video or telephone
63 conferencing platform requested by the moderator; (ii) the date and time of the meeting; and (iii)
64 any information necessary for the moderator, registered voters, town officials and interested
65 members of the public to access and witness the deliberations and actions taken at the town
66 meeting remotely.

67 The warrant issued by the select board or board of selectmen shall be: (i) accompanied by
68 the written request of the moderator submitted to the select board or board of selectmen under
69 paragraph (a); and (ii) filed in accordance with said section 10 of said chapter 39, all other
70 applicable laws and any relevant provisions of the town charter or by-laws. The warrant may
71 include a date, time and place for the town meeting to be resumed if the town meeting does not
72 vote to continue the town meeting remotely pursuant to paragraph (g).

73 (f) Not later than 5 business days after a vote of the select board or board of selectmen to
74 approve the request of the moderator to hold a town meeting remotely pursuant to paragraph (d)
75 or (e), the town clerk shall submit certified copies of the vote of the select board or board of
76 selectmen and the written request of the moderator to the attorney general.

77 (g) Prior to taking up any business at a town meeting held through remote participation
78 under this section, the registered voters present and voting at the meeting shall vote on whether
79 or not to commence business at the town meeting remotely by means of the chosen video or

80 telephone conferencing platform. If the town meeting votes to continue conducting the town
81 meeting remotely, then the town meeting shall proceed by remote participation to address the
82 articles included in the warrant. If the town meeting does not vote to continue conducting the
83 town meeting remotely, then the town meeting shall be adjourned to the date, time and place
84 specified in the notice or warrant under paragraph (d) or (e). If no date, time and place has been
85 specified in the notice or warrant, the town meeting shall immediately be dissolved without
86 taking any votes on any other matters and the select board or board of selectmen may call the
87 town meeting pursuant to a new warrant that provides for the town meeting to be held in person
88 at a physical location in accordance with said section 10 of said chapter 39, all other applicable
89 laws and provisions of the town charter and by-laws.

90 (h) Any vote taken at a town meeting held through remote participation pursuant to this
91 section shall be taken by any means that the moderator determines accurately and securely
92 records the votes of those entitled to vote at the meeting, including but not limited to roll call
93 vote, electronic voting, voting by ballot, voting by phone or any combination thereof. The vote
94 of each registered voter on a roll call vote shall be recorded and kept with the minutes of the
95 town meeting.

96 (i) A town meeting held remotely pursuant to this section shall be recorded and the
97 recording shall be preserved and made publicly available on the town's website for not less than
98 90 days after the conclusion of the remote town meeting.

99 (i) All actions taken during a remote town meeting held pursuant to this section are
100 hereby ratified, validated and confirmed to the same extent as if the town meeting had been

101 conducted in person and such actions are in accordance with all other applicable laws, charter
102 provisions, ordinances and by-laws.

103 SECTION 2: Notwithstanding section 57, 57A and 57C of chapter 59 of the General
104 Laws, section 2 of chapter 60A of the General Laws or any other general or special law to the
105 contrary, as a result of the outbreak of the 2019 novel coronavirus, also known as COVID-19, or
106 the governor's March 10, 2020 declaration of a state of emergency, the chief executive officer of
107 a city or town, as defined in clause Fifth B of section 7 of chapter 4 of the General Laws, or the
108 prudential committee or commissioners of a district may waive the payment of interest and other
109 penalty in the event of late payment of any excise, tax, betterment assessment or apportionment
110 thereof, water rate or annual sewer use or other charge added to a tax for any payments with a
111 due date on or after March 10, 2020 and made after its respective due date but before ninety days
112 after the expiration of the governor's March 10, 2020 declaration of a state of emergency.
113 Notwithstanding the forgoing, no municipality or district shall terminate an essential service of a
114 resident, including but not limited to water, trash collection or electricity, for nonpayment of
115 taxes or fees with a due date on or after March 10, 2020, made after its respective due date but
116 before ninety days after the expiration of the governor's March 10, 2020 declaration of a state of
117 emergency, if the nonpayment resulted from a demonstrated inability to pay due to
118 circumstances related to the outbreak of COVID-19 or the governor's March 10, 2020
119 declaration of a state of emergency; provided that the inability to pay shall include a
120 demonstrated financial hardship of a resident, which may include, but shall not be limited to, loss
121 of employment or serious illness or death of someone within the home.

122 SECTION 3: Notwithstanding any general or special law, charter provision, ordinance or
123 by-law to the contrary, in order to address disruptions caused by the outbreak of the 2019 novel

124 coronavirus, also known as COVID-19, during the governor’s March 10, 2020 declaration of a
125 state of emergency, the notice of a meeting of a local public body required by section 20(c) of
126 chapter 30A may be provided by electronic means.

127 SECTION 4: Notwithstanding section 9 of chapter 39, sections 26 and 28 of chapter 51
128 and chapters 53 and 54 of the General Laws or any other general or special law or by-law to the
129 contrary, the select board, board of selectmen, town council or board of registrars of a town with
130 a municipal caucus scheduled between the effective date of this act and June 30, 2022, may vote
131 to eliminate said municipal caucus, if such board concludes that holding the municipal caucus
132 would constitute a threat to the public health and safety due to the 2019 novel coronavirus, also
133 known as COVID-19. In any town that eliminates the municipal caucus, nomination papers shall
134 be used to nominate candidates pursuant to sections 7 and 10 of chapter 53 of the General Laws;
135 provided, however, that such nomination papers shall be signed by not fewer than 10 registered
136 voters of the town; provided, however, that to the extent that the forty-ninth day prior to the date
137 of the election has passed, nomination papers shall be made available immediately, and shall be
138 returned to the office of the board of registrars for certification no later than the date designated
139 by the town clerk, which shall be no earlier than 36 days and no later than 32 days prior to the
140 date of the election; provided further, that candidates shall be notified if their names will be
141 placed on the ballot on the next business day after the deadline for filing, and the time for filing
142 withdrawals and objections shall expire at 5:00 p.m. on the following business day.