

**HOUSE . . . . . No. 03442**

**[LOCAL APPROVAL RECEIVED.]**

The Commonwealth of Massachusetts

PRESENTED BY:

*Denise Provost and*

*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 passage of the accompanying bill:

An Act relative to the charter of the City of Somerville.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex, Suffolk, and Essex</i>
<i>Timothy J. Toomey, Jr.</i>	<i>26th Middlesex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>

# HOUSE . . . . . No. 03442

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By Representative Provost of Somerville and Senator Jehlen, a joint petition of Denise Provost, Patricia D. Jehlen and others (with the approval of the mayor and board of alderman) relative to the charter of the city of Somerville. Municipalities and Regional Government. [Local Approval Received.]

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## The Commonwealth of Massachusetts

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**In the Year Two Thousand Eleven**  
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An Act relative to the charter of the City of Somerville.

*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: Chapter 240 of the Acts of 1899, as amended, is hereby further amended by
- 2 striking the following sections in their entirety:
- 3 Title 2, Section 9 relating to ward caucuses
- 4 Title 3, Section 14 relating to the city messenger
- 5 Title 3, Section 19 relating to public safety
- 6 Title 6, Section 35 relating to the city physician
- 7 Title 6, Section 37 relating to the Board of Public Welfare
- 8 Title 6, Section 40A.1 relating to transferred employees
- 9 Title 6, Section 40A.2 relating to the bargaining rights of transferred employees

10 (has since expired)

11 Title 7, Section 49, relating to ethical requirements

12 Title 7, Section 55, relating to charter's effective date

13 Division 2, Article 1, Section 2 (Board of Appeals) relating to effective date

14 Division 2, Article IV, Section 1 (Election Commissioners)

15 Division 2, Article IV, Section 7 relating to effective date of change from board of registrars to

16 board of election commissioners

17 Division 2, Article V, Sections 1 -11 (inclusive), and Section 13 relating to listing board

18 Division 2, Article VI, Section 17 (Elections) relating to effective date

19 Division 2, Article VII, Sections 11 and 12 (Traffic Commission) relating to revocation and

20 effective date.

21

22 SECTION 2: Chapter 240 of the Acts of 1899, as amended, is further hereby amended by

23 striking the following provisions or parts thereof:

24 Title 3, Section 11: strike phrase in the first sentence "shall be the judge of the election and

25 qualifications of its members, and,"; strike in the second sentence the phrase, "but a less number

26 may meet and adjourn from time to time;" strike phrase at the end of the third sentence, "not

27 exceeding five hundred dollars a year each."

28 Title 3, Section 17, subsection (3): strike the entire last sentence.

29 Title 3, Section 18: strike the last sentence (relating to Somerville Hospital).

30 Title 5, Section 30: strike phrase in the first sentence, " ... be the judge of the election and  
31 qualifications of its members, and shall,"; strike phrase in the second sentence, " ...but a less  
32 number may meet and adjourn from time to time."

33 Title 6, Section 32: strike phrase in the first sentence "except license fees and other monies the  
34 collection of which is provided by law."

35 Title 6, Section 38: Strike the fourth sentence.

36 Title 6, Section 53: Strike second sentence.

37 Division 2, Article VI, Section 2: strike phrase "said section ten", strike ( )"; strike ", held by  
38 section three (sections 3 through 6 of this article [and] the nomination paper therein described."

39 SECTION 3: Chapter 240 of the Acts of 1899, as amended, is hereby further amended as  
40 follows:

41 Title 2, Section 7: ADD in the 2nd sentence between "aldermen" and "by" the phrase "from  
42 amongst its members."

43 Title 3, Section 16: replace in the 4th sentence text "order[,]" with text "order,"

44 Title 3, Section 17, subsection (1): remove phrase in first sentence "and of the  
45 mayor and"; in subsection (3) replace the word "town" with the word "public",  
46 replace word "therefor" with word "therefore"

47 Title 3, Add "Sec. 18. Disqualification from serving.

48 Any elected official who has been finally convicted of a state or federal felony shall be deemed  
49 to have vacated said office and shall be disqualified from serving the remainder of his or her  
50 term.

51 Title 4, Section 21: Add "311 director"; replace "superintendent of the division of highways"  
52 with "superintendent of highways, electric lights and lines", provided, however, that pursuant to  
53 section 46B of this charter, administrative orders may replace or modify such titles and  
54 departmental locations of such functions; strike all of the following phrases: "a city physician;"  
55 "board of public welfare," "superintendent of streets", "one or more measurers of wood and  
56 bark," "two or more field drivers" and "two or more fence viewers." Replace "city solicitor" with  
57 "city attorney."

58 Title 4, Section 27: delete the present section in its entirety and insert in its place the following:

59 In case of the inability of the mayor to perform the duties of his office, the president of the board  
60 of aldermen shall, until such inability is removed, but in no case for a period of time longer than  
61 ten days, exercise the powers and perform the duties of mayor, under the style of acting mayor,  
62 except that he shall not, unless authorized thereto in a special instance by the board of aldermen,  
63 and then only in case of exigency requiring an immediate appointment or removal, make any  
64 permanent appointment or removal. In case of the inability of the mayor to perform the duties of  
65 his office for a period of time exceeding ten days, but prior to a vacancy occurring as provided in  
66 Title 2, Section 7 of the City Charter, the acting mayor shall be elected by the board of aldermen  
67 from amongst its membership by a majority vote of all its members. An acting mayor chosen by  
68 majority vote of the board of aldermen shall have power to approve or disapprove any ordinance,  
69 order, resolution or vote of the board of aldermen, and then only in case of exigency requiring an

70 immediate appointment or removal, make any permanent appointment or removal. In case of  
71 such inability on the part of the president of the board of aldermen to serve as acting mayor for  
72 the initial period of ten days, his powers and duties hereunder shall devolve upon the vice-  
73 president of the board, and in case of such inability on the part of both the president and vice-  
74 president such powers and duties shall devolve upon the president pro tempore of said board.

75 Title 5, Section 28: Replace the phrase in the first sentence “The management and control of  
76 public schools including school buildings shall be vested in a school committee, which” with  
77 “The school committee”.

78 Title 6, Section 34: Replace phrase “city solicitor” with phrase “city attorney”

79 Title 6, Section 36(b): replace text “accounting[,]” with text “accounting,”

80 Title 6, Section 36(c): replace all text after “The members of the board of assessors . . .” and  
81 replace with “shall exercise the powers conferred and discharge the duties imposed upon them by  
82 law,”

83 Title 6, Section 36(f): Replace text establish[,] with text “establish,”

84 Title 6, Section 36(g) ADD after “fixed by rule . . .” the phrase “or otherwise required by law”;  
85 add phrase “and posted” following the words “dwelling  
86 place” in the second sentence; after “and posted” delete all text thereafter and replace with “as  
87 required by law.”

88 Title 6, Section 36 (j): strike 2nd paragraph, relating to transitional provision

89 Title 6, Section 43: strike phrase “and forty–six B”; replace phrase [of the Charter]; with phrase  
90 “of the Charter” insert phrase “and state law,” between the words “Charter” and “make”.

91 Title 6, Section 44: replace phrase “several administrative boards and officers  
92 named in this title having charge of departments shall, subject to the approval of  
93 the mayor” with the phrase, “Mayor shall...”

94 Title 7, Section 46C: replace word “unemcumbered” with word “unencumbered.” Replace word  
95 “therefor” with word “therefore” and wherever else it so appears in the charter.

96 Title 7, Section 52: Strike present text and replace as follows: “Nothing herein shall affect the  
97 enforcement of the state's civil service laws”

98 Division 2, Article I, Section 1: Replace present text as follows: “There shall be a board of  
99 appeals with all powers and duties accorded to it by the State Zoning Enabling Act and  
100 authority.”

101 Division 2, Article II, Section 1: Replace text “Section twenty-seven of Chapter forty of the  
102 General Laws, as affected by Chapter 49 of the Acts of nineteen hundred and twenty-eight” with  
103 text “the State Zoning Enabling Act and other authority.”

104 Division 2, Article IV, Section 2: Add the following as first sentence: “There shall be a board of  
105 election commissioners.”

106 Division 2, Article IV, Section 3: Strike first sentence in its entirety and replace as follows: “The  
107 members of the board of election commissioners shall serve until the expiration of their  
108 respective terms and until their successors are qualified.”

109 Division 2, Article IV, Section 5: Strike and replace as follows: The board of election  
110 commissioners shall oversee the conduct of elections pursuant to state law and regulation, and  
111 provisions of this charter, as applicable, except for the power and duty of fixing the days and  
112 hours and places for holding municipal elections.

113 Division 2, Article IV, Section 6: Replace phrase “board”; with word  
114 “(mayor)”; replace phrase “as it” with phrase “as the mayor”.

115 Division 2, Article V, Section 12: renumber as Section 1.

116 Division 2, Article VI, Section 15: replace word “Act” with word “section”.

117 Division 2, Article VII, Section 5. - Strike present text and replace as follows: “Traffic  
118 Department Staff; qualifications; removal. A member of the traffic department staff shall be a  
119 traffic engineer, possessing the qualifications required for associate or full membership in the  
120 Institute of Traffic Engineers and his position shall not be subject to Chapter thirty-one of the  
121 General Laws. The traffic director shall be appointed and may be removed in the same manner  
122 set forth for the suspension and removal of officers confirmed by the Board of Aldermen.”

123 Division 2, Article VII, Section 8A: Add sentence, “A copy of the public notice shall be  
124 provided to the members of the Board of Aldermen at the time of publication thereof.”

125 SECTION 4: Gender Neutrality

126 Add: Title I, Sec. 4 Gender Neutrality.

127 Words importing either the masculine or feminine gender shall be gender neutral, unless  
128 otherwise specifically set forth.



129 SECTION 5: Chapter 240 of the Acts of 1899, as further amended, is hereby further amended as  
130 follows by adding the following new section to Title 7:

131 SECTION 6: Chapter 240 of the Acts of 1899 is hereby amended by adding the following new  
132 section to Title 7:

133 Section 46B ORGANIZATION OF CITY AGENCIES (note: section currently reserved)

134 (a) The organization of the city into operating agencies for the provision of services and the  
135 administration of the government as described in various provisions of this charter or as  
136 approved by several acts of the General Court may be accomplished only through an  
137 administrative order filed with the board of aldermen by the mayor. No administrative order may  
138 originate with the board of aldermen. The mayor may, subject only to express prohibitions in a  
139 general law or this charter, propose to reorganize, consolidate or abolish any city agency, in  
140 whole or in part, or to establish such new city agencies as is deemed necessary, but no function  
141 assigned by this charter to a particular city agency may be discontinued, but may be assigned to  
142 any other city agency by administrative order.

143 The following special acts relating to the organization of city departments and agencies are  
144 hereby retained, provided that such acts shall be deemed to be part of the city's ordinances and  
145 may be amended, repealed or revised in accordance with the provisions of this section of the city  
146 charter:

147 Chapter 98 of the Acts and Resolves of 1919, Chapter 281 of the Acts and Resolves of 1932,  
148 Chapter 62 of the Acts and Resolves of 1934, Chapter 311 of the Acts and Resolves of 1936,  
149 Chapter 211 of the Acts and Resolves of 1937, and Chapter 124 of the Acts and Resolves of  
150 1943 relating to elections;

- 151 Chapter 191 of the Acts of 1923 relating to the licensing commission;
- 152 Chapter 81 of the Acts and Resolves of 1928 relating to the Board of Appeals;
- 153 Chapter 82 of the Acts and Resolves of 1928 and Chapter 178 of the Acts and Resolves of 1929
- 154 relating to the election commissioners;
- 155 Chapter 294 of the Acts and Resolves of 1934 relating to the city auditor;
- 156 Chapter 295 of the Acts and Resolves of 1934 relating to the city treasurer;
- 157 Chapter 656 of the Acts of 1982 relating to setting of certain salaries by ordinance;
- 158 Chapter 23 of the Acts of 1985 relating to the Board of Assessors,
- 159 Chapter 486 of the Acts of Resolves of 1985 relating to the appointment of the purchasing agent,
- 160 Chapter 369 of the Acts and Resolves of 1986 and Chapter 327 of the Acts and Resolves of 2004
- 161 relating to the jurisdiction of the Police Department and department operations;
- 162 Chapter 368 of the Acts and Resolves of 1986 and Chapter 184 of the Acts of 2006 relating to
- 163 special police officers;
- 164 Chapter 183 of the Acts and Resolves of 2006 relating to the Police Chief;
- 165 Chapter 171 of the Acts and Resolves of 1988 relating to ordinance violations;
- 166 Chapter 650 of the Acts and Resolves of 1953, Chapter 94 of the Acts and Resolves of 1988 and
- 167 Chapter 112 of the Acts and Resolves of 2008 relating the Department of Public Works;

168 Chapter 355 of the Acts and Resolves of 1989 relating to the tenure of the city clerk; Chapter  
169 316 of the Acts and Resolves of 2004, Chapter 192 of the Acts and Resolves of 2008, and  
170 Chapter 316 of the Acts of 2008 relating to inspections;

171 Chapter 1026 of the Acts and Resolves of 1971 relating to the management of school buildings;

172 Chapter 644 of the Acts and Resolves of 1977 and Chapter 317 of the Acts and Resolves of 2004  
173 relating to school custodians;

174 Chapter 201 of the Acts and Resolves of 1993, relating to city contracts;

175 Chapter 397 of the Acts and Resolves of 1978, Chapter 351 of the Acts and Resolves of 1981,  
176 and Chapter 809 of the Acts and Resolves of 1981 relating to wire inspectors;

177 Chapter 38 of the Acts and Resolves of 1988, and Chapter 285 of the Acts and Resolves of 2002  
178 relating to the traffic commission and/or parking fines; Chapter 106 of the Acts and Resolves of  
179 2008 relating to hearing officers: and Chapter 258 of the Acts of 1980 relating to alcoholic  
180 beverage licenses.

181 (b) The mayor may from time to time prepare and submit to the board of aldermen administrative  
182 orders that establish operating divisions for the orderly, efficient or convenient conduct of the  
183 business of the city. All ordinances addressing the organization and operation of town  
184 departments, agencies, boards, commissions, and offices may be modified, revised, repealed, or  
185 otherwise addressed in such administrative orders. Orders may provide for the combination,  
186 separation, creation, or dissolution of any departments, provided that all essential city functions  
187 are assigned to a department, board, commission or office, however constituted.

188 Such administrative orders shall be accompanied by a message of the mayor which explains the  
189 benefits expected to ensue and advises the board of aldermen if any provision of an  
190 administrative order shall require amendments, insertions, revisions, repeal or otherwise of  
191 existing ordinances.

192 Whenever the mayor proposes an administrative order, the board of aldermen shall hold one or  
193 more public hearings on the proposal giving notice by publication in a local newspaper, which  
194 notice shall describe the scope of the proposal and the time and place at which the public hearing  
195 will be held, not less than 7 nor more than 14 days following said publication. An organization or  
196 reorganization plan shall become effective upon a two-thirds vote of the board of aldermen to  
197 approve the plan. The board of aldermen may vote only to approve or to disapprove the plan and  
198 may not vote to amend or to alter it.

199 SECTION 6: The following special acts relating to the City of Somerville are hereby repealed:

200 Chapter 182 of the Acts and Resolves of 1871 (charter prior to 1899 charter);

201 Chapter 454 of the Acts of Resolves of 1903 relative to caucuses;

202 Chapter 49 of the Acts and Resolves of 1928 relating to building ordinances;

203 Chapter 380 of the Acts and Resolves of 1932, Chapter 183 of the Acts and Resolves of 1936,

204 Chapter 972 of the Acts and Resolves of 1971, Chapter 217 of the Acts and Resolves of 1980,

205 and Chapter 486 of the Acts and Resolves of 1985 relating to city contracts;

206 Chapters 234 and 474 of the Acts and Resolves of 1949 relating to the board of assessors;

207 Chapter 173 of the Acts and Resolves of 1946, and Chapter 537 of the Acts and Resolves of

208 1951, relating to operations and personnel of the city's welfare department;

- 209 Chapter 116 of the Acts and Resolves of 1949 relating to the city messenger; Chapter 434 of the
- 210 Acts and Resolves of 1953, Chapter 225 of the Acts of 1955, and Chapter 842 of the Acts of
- 211 1970 relating to rent control;
- 212 Chapter 561 of the Acts and Resolves of 1960 relating to collective bargaining agreements; and
- 213 Chapter 34 of the Acts and Resolves of 1964 relating to the city physician.
- 214 SECTION 7. This act shall take effect upon passage.