

# HOUSE . . . . . No. 4752

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Text of an amendment, recommended by the committee on Ways and Means, to the Senate Bill relative to municipal governance during the COVID-19 emergency (Senate, No. 2680). May 26, 2020.

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## The Commonwealth of Massachusetts

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

By striking out all after the enacting clause 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:- July 31, 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 SECTION 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 no fewer than 10 registered voters of the town;  
16 provided, that to the extent that the forty-ninth day prior to the date of the election has passed,  
17 nomination papers shall be made available immediately, and shall be returned to the office of the  
18 board of registrars for certification no later than the date designated by the town clerk, which  
19 shall be no earlier than 36 days and no later than 32 days prior to the date of the election;  
20 provided further, that candidates shall be notified if their names will be placed on the ballot on  
21 the next business day after the deadline for filing, and the time for filing withdrawals and  
22 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.

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

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

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

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

118           The warrant issued by the select board or board of selectmen shall be: (i) accompanied by  
119 the written request of the moderator submitted to the select board or board of selectmen under  
120 subsection (a); and (ii) filed in accordance with said section 10 of said chapter 39, all other  
121 applicable laws and any relevant provisions of the town charter or by-laws. The warrant may  
122 include a date, time and place for the town meeting to be resumed if the town meeting does not  
123 vote to continue the town meeting remotely pursuant to subsection (f).

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

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

141 (g) Any roll call vote taken at a representative town meeting held through remote  
142 participation pursuant to this section shall be taken by any means that the moderator determines  
143 accurately and securely records the votes of those entitled to vote at the meeting, including, but  
144 not limited to, roll call vote, electronic voting, voting by ballot, voting by phone or any  
145 combination thereof. The vote of each town meeting member on a roll call vote shall be recorded  
146 and kept with the minutes of the town meeting.

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

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

154 SECTION 9. Notwithstanding section 9 of chapter 39 of the General Laws or any other  
155 general or special law, charter provision, ordinance or by-law to the contrary, in order to address  
156 the disruptions caused by the 2019 novel coronavirus, also known as COVID-19, during the  
157 governor's March 10, 2020 declaration of a state of emergency, a select board or board of  
158 selectmen, in consultation with and with the approval of the town moderator, may vote to hold  
159 town meeting outside the geographic limits of the town if the select board or board of selectmen  
160 determines that it is not possible to adequately conduct town meeting in a location within the  
161 geographic limits of the town in a manner that ensures health and safety; provided, however, that  
162 a meeting for the election by ballot of federal, state or other officers or the determination of other  
163 matters that are to be determined by ballot at an election shall be held within the geographic  
164 limits of the town. The select board or board of selectmen shall publicly post notice of the  
165 location of town meeting to be held outside the geographic limits of the town not less than 10  
166 days before the date of the meeting. Nothing in this section shall supersede or otherwise affect  
167 the validity of any special law, charter or by-law in place before the governor's March 10, 2020  
168 declaration of a state of emergency that provides for holding town meeting outside the  
169 geographic limits of the town.



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

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

183 (c) The options exercised pursuant to subsections (a) and (b) shall be exercised in a town  
184 with a town meeting form of government by a 2/3 vote of its select board, board of selectmen or  
185 town council and, in a city, by a 2/3 vote of its city or town council with the approval of the  
186 mayor or manager.

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

190 SECTION 11. Notwithstanding section 32 of chapter 44 of the General Laws or any other  
191 general or special law, charter provision or ordinance to the contrary, if the mayor of a city is

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

208 SECTION 12. (a)(1) Notwithstanding sections 52 and 56 of chapter 41 of the General  
209 Laws or any other general or special law to the contrary, a city or town may approve a payment  
210 for the period beginning on or after March 10, 2020 through the remainder of fiscal year 2020 on  
211 an existing service contract for school or education-related services entered into by the school  
212 committee or a service contract renegotiated or modified by the school committee in order to  
213 maintain the availability of and access to the services secured under the underlying contract  
214 between the parties; provided, that: (i) the underlying service contract was in effect before March

215 10, 2020 and the service contractor was unable to perform services under the contract as a result  
216 of the disruptions caused by the outbreak of the 2019 novel coronavirus, also known as COVID-  
217 19 and effects of the governor's March 10, 2020 declaration of a state of emergency; and (ii)  
218 there are sufficient unencumbered available funds remaining for such payment in the  
219 appropriation for the purpose.

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

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

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

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

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

255 (2) Before any payment, the service contractor shall present to the approving authorities  
256 set forth in subsection (b), a sworn statement reporting grants, discounted loans or other financial  
257 support that the service contractor has received from a state, federal or local government as a

258 result of the outbreak of COVID-19 or, if the service contractor has not received any such grants,  
259 discounted loans or other financial support, affirming that the service contractor has not received,  
260 and shall not receive thereafter, any such grants, discounted loans or other financial support. If  
261 the service contractor reports it has received grants, discounted loans or other financial support  
262 from a state, federal or local government, the payments to the service contractor made pursuant  
263 to this section and section 12 shall not exceed the total amount to which the service contractor is  
264 eligible under the service contracts less the amount the service contractor received in such grants,  
265 discounted loans or other financial support and the sworn statement shall include an attestation  
266 that the payment is not in excess of that amount.

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

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

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

276 (b) Notwithstanding section 38G of chapter 71 of the General Laws or any other general  
277 or special law to the contrary, in order to address disruptions caused by the outbreak of the 2019  
278 novel coronavirus, also known as COVID-19, or the governor’s March 10, 2020 declaration of a  
279 state of emergency, the commissioner of elementary and secondary education may issue

280 emergency educator licenses to individuals upon application to the commissioner. The  
281 commissioner may issue emergency educator licenses during the period of the state of  
282 emergency and for a period of 180 days after the termination of the state of emergency. An  
283 emergency educator license shall be valid through June 30, 2021 or a different time specified by  
284 the commissioner, unless the commissioner suspends or revokes it for cause, pursuant to  
285 standards and procedures that shall be established by the board of elementary and secondary  
286 education.

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

297 (d) Service of an employee under an emergency educator license shall not be counted as  
298 service in acquiring professional teacher status or other rights under section 41 of chapter 71 of  
299 the General Laws; provided, that if the employee obtains a temporary, initial, provisional or  
300 professional educator's license in the same field as the emergency educator's license by June 30,  
301 2021 or a different deadline specified by the commissioner and continues to work for the same

302 employer under the newly acquired license, the service under the emergency educator license  
303 shall be counted as service toward professional teacher status.

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

307 SECTION 15. Notwithstanding any general or special law to the contrary, the actions  
308 taken by any town to postpone an election in accordance with this act or chapter 45 of the acts of  
309 2020 or to postpone the statutory deadlines for circulating, filing and certifying nomination  
310 papers to new dates consistent with the date of their rescheduled election shall be ratified,  
311 validated and confirmed as though said chapter 45 had specifically authorized the same and this  
312 act had been in place prior thereto.

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

318 SECTION 17. Section 11 shall take effect on May 1, 2020.