

SENATE No. 2733

Senate, June 1, 2020 -- Text of the Senate further amendment (Senator Rodrigues) to the Senate Bill relative to municipal governance during the COVID-19 emergency (Senate, No. 2680)

The Commonwealth of Massachusetts

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

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:- June 30, 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 not fewer than 10 registered voters of the town;

16 provided, however, that to the extent that the forty-ninth day prior to the date of the election has
17 passed, nomination papers shall be made available immediately, and shall be returned to the
18 office of the board of registrars for certification no later than the date designated by the town
19 clerk, which shall be no earlier than 36 days and no later than 32 days prior to the date of the
20 election; provided further, that candidates shall be notified if their names will be placed on the
21 ballot on the next business day after the deadline for filing, and the time for filing withdrawals
22 and 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) A town meeting held pursuant to this section shall take up only those matters: (i)
50 related to their budget; (ii) necessary to meet a federal deadline; or (iii) deemed necessary by the
51 select board; provided, however, that a matter taken up pursuant to clause (iii) shall require
52 approval of 2/3 of the town meeting members present and voting if the quorum is set at a number
53 that is less than the number that would otherwise be required by law, town by-law or town
54 charter and the number of members present is less than the number that would otherwise be
55 required by law, town by-law or town charter to constitute a quorum. A town meeting held
56 pursuant to this section shall not include warrant articles other than those adopted by the select
57 board.

58 (e) All actions taken pursuant to this section are hereby ratified, validated and confirmed
59 to the same extent as if the town meeting had been conducted in accordance with all other
60 applicable laws, charter provisions, ordinances and by-laws.

61 SECTION 8. (a) Notwithstanding any general or special law, charter provision, ordinance
62 or by-law to the contrary, in order to address disruptions caused by the outbreak of the 2019
63 novel coronavirus, also known as COVID-19, during the governor's March 10, 2020 declaration
64 of a state of emergency, if the moderator in a town having a representative town meeting form of
65 government determines that it is not possible to safely assemble the town meeting members and
66 interested members of the public in a common location while complying with any applicable
67 state or local orders, directives or guidance concerning public assemblies, the moderator may
68 request that the select board or board of selectmen of the town call for a representative town
69 meeting to be held through remote participation, including, but not limited to, by means of a
70 video or telephone conferencing platform. Such a request by the moderator to the select board or
71 board of selectmen shall be in writing and shall include, but shall not be limited to: (i) the
72 moderator's determination and request to hold a town meeting through remote participation in
73 accordance with this section; (ii) the video or telephone conferencing platform the moderator has
74 determined to use to hold the town meeting; (iii) confirmation that the moderator has consulted
75 with the local disability commission or coordinator for federal Americans with Disabilities Act
76 compliance; and (iv) a certification by the moderator that: (A) the moderator has tested the video
77 or telephone conferencing platform; and (B) the platform satisfactorily enables the town meeting
78 to be conducted in substantially the same manner as if the meeting occurred in person at a
79 physical location and in accordance with the operational and functional requirements set forth in
80 this section.

81 A video or telephone conference platform used by a town meeting for remote
82 participation under this section shall, at minimum, provide for the ability for: (i) the moderator,
83 town meeting members, town officials and any other interested members of the public to identify
84 and hear the moderator and each town meeting member who attends and participates in the
85 remotely-held town meeting, as well as any other individuals who participate in the remotely-
86 held town meeting; (ii) the ability to determine whether a quorum is present; (iii) a town meeting
87 member, town official or other individual to request recognition by the moderator without prior
88 authorization; provided, however, that to the extent technologically feasible, the request is visible
89 or audible to the public in real time and upon review of the recording of the town meeting
90 proceedings, preserved according to subsection (h); (iv) the moderator to determine when a town
91 meeting member wishes to be recognized to speak, make a motion, raise a point of order or
92 object to a request for unanimous consent; (v) the moderator to recognize a town meeting
93 member, town official or other individual to speak and to enable that person to speak; (vi) the
94 ability to conduct a roll call vote; (vii) any interested members of the public to access the
95 meeting remotely for purposes of witnessing the deliberations and actions taken at the town
96 meeting; and (viii) the town meeting to be recorded. Registered voters residing in the town
97 wishing to participate in a remote town meeting conducted pursuant to this section shall submit a
98 request to participate to the town clerk not less than 48 hours in advance of the town meeting.
99 Upon receipt of the request and verification of the requester's voter registration status, the clerk
100 shall provide to the requester instructions for participating in the remote town meeting.

101 (b) Not later than 10 business days following receipt of a written request by the
102 moderator for remote participation at a town meeting pursuant to subsection (a), the select board

103 or board of selectmen shall vote to determine if the town meeting shall be held remotely by
104 means of the video or telephone conferencing platform requested by the moderator.

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

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

122 (d) If the select board or board of selectmen votes to approve the request of the moderator
123 for remote participation at a town meeting and the select board or board of selectmen has not yet
124 issued a warrant for a town meeting, the select board or board of selectmen shall approve and

125 issue a warrant pursuant to section 10 of said chapter 39 for the town meeting that expressly
126 states: (i) that the town meeting shall be held remotely by means of the video or telephone
127 conferencing platform requested by the moderator; (ii) the date and time of the meeting; and (iii)
128 any information necessary for the moderator, town meeting members, town officials and
129 interested members of the public to access and witness the deliberations and actions taken at the
130 town meeting remotely.

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

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

141 (f) Prior to taking up any business at a representative town meeting held through remote
142 participation under this section, the town meeting members present and voting at the meeting
143 shall vote on whether or not to commence business at the town meeting remotely by means of
144 the chosen video or telephone conferencing platform. If the town meeting votes to continue
145 conducting the town meeting remotely, then the town meeting shall proceed by remote
146 participation to address the articles included in the warrant. If the town meeting does not vote to

147 continue conducting the town meeting remotely, then the town meeting shall be adjourned to the
148 date, time and place specified in the notice or warrant under subsection (c) or (d). If no date, time
149 and place has been specified in the notice or warrant, the town meeting shall immediately be
150 dissolved without taking any votes on any other matters and the select board or board of
151 selectmen may call the town meeting pursuant to a new warrant that provides for the town
152 meeting to be held in person at a physical location in accordance with said section 10 of said
153 chapter 39, all other applicable laws and provisions of the town charter and by-laws.

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

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

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

167 SECTION 9. Notwithstanding section 9 of chapter 39 of the General Laws or any other
168 general or special law, charter provision, ordinance or by-law to the contrary, in order to address

169 the disruptions caused by the 2019 novel coronavirus, also known as COVID-19, during the
170 governor's March 10, 2020 declaration of a state of emergency, a select board or board of
171 selectmen, in consultation with and with the approval of the town moderator, may vote to hold
172 town meeting outside the geographic limits of the town if the select board or board of selectmen
173 determines that it is not possible to adequately conduct town meeting in a location within the
174 geographic limits of the town in a manner that ensures health and safety; provided, however, that
175 a meeting for the election by ballot of federal, state or other officers or the determination of other
176 matters that are to be determined by ballot at an election shall be held within the geographic
177 limits of the town. The select board or board of selectmen shall publicly post notice of the
178 location of town meeting to be held outside the geographic limits of the town not less than 10
179 days before the date of the meeting. Nothing in this section shall supersede or otherwise affect
180 the validity of any special law, charter or by-law in place before the governor's March 10, 2020
181 declaration of a state of emergency that provides for holding town meeting outside the
182 geographic limits of the town.

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

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

196 (c) The options exercised pursuant to subsections (a) and (b) shall be exercised in a town
197 with a town meeting form of government by a 2/3 vote of its select board, board of selectmen or
198 town council and, in a city, by a 2/3 vote of its city or town council with the approval of the
199 mayor or manager; provided, however, that an option exercised pursuant to said subsection (b)
200 shall also require the approval of a city's or town's school committee when the stabilization fund
201 has been established for educational purposes.

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

205 SECTION 11. Notwithstanding section 32 of chapter 44 of the General Laws or any other
206 general or special law, charter provision or ordinance to the contrary, if the mayor of a city is
207 unable, as a result of the outbreak of the 2019 novel coronavirus, also known as COVID-19, and
208 the effects of the governor's March 10, 2020 declaration of a state of emergency, to submit an
209 annual budget for fiscal year 2021 to the city council within 170 days as required by the first
210 paragraph of said section 32 of said chapter 44, the time periods and deadlines set forth in said
211 section 32 of said chapter 44 for the mayor and city council to act on the annual budget shall be
212 extended until 60 days after the termination of the governor's March 10, 2020 declaration of the

213 state of emergency; provided, however, that within 30 days after the termination of the
214 declaration of emergency or on July 31, 2020, whichever is earlier, the mayor shall submit to the
215 city council the annual budget for fiscal year 2021 for the purposes of said section 32 of said
216 chapter 44 and the time periods and deadlines set forth in said section 32 of said chapter 44 shall,
217 if not inconsistent with this section, otherwise thereafter apply; and provided further, that
218 notwithstanding said section 32 of said chapter 44 to the contrary, the mayor may submit to the
219 city council a continuing appropriation budget for the city on a month-by-month basis for a
220 period not to exceed 3 months if the city has not approved an annual budget for fiscal year 2021
221 by June 30, 2020, as a result of the outbreak of COVID-19 and the governor's March 10, 2020
222 declaration of a state of emergency.

223 SECTION 12. (a)(1) Notwithstanding sections 52 and 56 of chapter 41 of the General
224 Laws , a city or town may approve a payment for the period beginning on or after March 10,
225 2020 through the remainder of fiscal year 2020 on an existing service contract for school or
226 education-related services entered into by the school committee or a service contract renegotiated
227 or modified by the school committee in order to maintain the availability of and access to the
228 services secured under the underlying contract between the parties; provided, that: (i) the
229 underlying service contract was in effect before March 10, 2020 and the service contractor was
230 unable to perform services under the contract as a result of the disruptions caused by the
231 outbreak of the 2019 novel coronavirus, also known as COVID-19 and effects of the governor's
232 March 10, 2020 declaration of a state of emergency; and (ii) there are sufficient unencumbered
233 available funds remaining for such payment in the appropriation for the purpose.

234 (2) Before any payment, the service contractor shall present to the approving authorities
235 set forth in subsections (b) and (c), a sworn statement reporting grants, discounted loans or other

236 financial support that the service contractor has received from a state, federal or local
237 government as a result of the outbreak of COVID-19 or, if the service contractor has not received
238 any such grants, discounted loans or other financial support, affirming that the service contractor
239 has not received, and shall not receive thereafter, any such grants, discounted loans or other
240 financial support. If the service contractor reports it has received grants, discounted loans or
241 other financial support from a state, federal or local government, the payments to the service
242 contractor made pursuant to this section and section 13 shall not exceed the total amount to
243 which the service contractor is eligible under the service contract less the amount the service
244 contractor received in such grants, discounted loans or other financial support and the sworn
245 statement shall include an attestation that the payment is not in excess of that amount.

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

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

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

257 SECTION 13. (a)(1) Notwithstanding sections 52 and 56 of chapter 41 and section 16A
258 of chapter 71 of the General Laws, a regional school district may approve a payment for the
259 period beginning on or after March 10, 2020 through the remainder of fiscal year 2020 on an
260 existing service contract for school or education-related services entered into by the regional
261 school district or a service contract renegotiated or modified by the regional school committee in
262 order to maintain the availability of and access to the services secured under the underlying
263 contract between the parties; provided, however, that: (i) the underlying service contract was in
264 effect before March 10, 2020 and the service contractor was unable to perform services under the
265 contract as a result of the governor's March 10, 2020 declaration of a state of emergency or the
266 outbreak of the 2019 novel coronavirus, also known as COVID-19; and (ii) there are sufficient
267 unencumbered available funds remaining for such payment in the appropriation for the purpose.

268 (2) Before any payment, the service contractor shall present to the approving authorities
269 set forth in subsection (b), a sworn statement reporting grants, discounted loans or other financial
270 support that the service contractor has received from a state, federal or local government as a
271 result of the outbreak of COVID-19 or, if the service contractor has not received any such grants,
272 discounted loans or other financial support, affirming that the service contractor has not received,
273 and shall not receive thereafter, any such grants, discounted loans or other financial support. If
274 the service contractor reports it has received grants, discounted loans or other financial support
275 from a state, federal or local government, the payments to the service contractor made pursuant
276 to this section and section 12 shall not exceed the total amount to which the service contractor is
277 eligible under the service contracts less the amount the service contractor received in such grants,
278 discounted loans or other financial support and the sworn statement shall include an attestation
279 that the payment is not in excess of that amount.

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

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

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

289 (b) Notwithstanding section 38G of chapter 71 of the General Laws or any other general
290 or special law to the contrary, in order to address disruptions caused by the outbreak of the 2019
291 novel coronavirus, also known as COVID-19, or the governor’s March 10, 2020 declaration of a
292 state of emergency, the commissioner of elementary and secondary education may issue
293 emergency educator licenses to individuals upon application to the commissioner. The
294 commissioner may issue emergency educator licenses during the period of the state of
295 emergency and for a period of 180 days after the termination of the state of emergency. An
296 emergency educator license shall be valid through June 30, 2021 or a different time specified by
297 the commissioner, unless the commissioner suspends or revokes it for cause, pursuant to
298 standards and procedures that shall be established by the board of elementary and secondary
299 education.

300 (c) To be eligible to receive an emergency educator license, an individual must possess a
301 bachelor’s degree and must have been prevented from completing the testing, demonstration of

302 subject matter knowledge, coursework or program requirements for an educator license as a
303 result of the outbreak of COVID-19 or the March 10, 2020 declaration of a state of emergency.
304 Emergency educator licenses shall be available only to individuals seeking their first
305 Massachusetts academic and vocational teacher, specialist teacher, administrator or professional
306 support personnel license. Individuals shall identify the field and level of the license sought in
307 their application to the commissioner. If the regulations of the board of elementary and
308 secondary education require an underlying educator license, the emergency educator license shall
309 be available in that field only to individuals who hold the underlying license.

310 (d) Service of an employee under an emergency educator license shall not be counted as
311 service in acquiring professional teacher status or other rights under section 41 of chapter 71 of
312 the General Laws; provided, however, that if the employee obtains a temporary, initial,
313 provisional or professional educator's license in the same field as the emergency educator's
314 license by June 30, 2021 or a different deadline specified by the commissioner and continues to
315 work for the same employer under the newly acquired license, the service under the emergency
316 educator license shall be counted as service toward professional teacher status.

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

320 SECTION 15. Notwithstanding any general or special law to the contrary, the actions
321 taken by any town to postpone an election in accordance with this act or chapter 45 of the acts of
322 2020 or to postpone the statutory deadlines for circulating, filing and certifying nomination
323 papers to new dates consistent with the date of their rescheduled election shall be ratified,

324 validated and confirmed as though said chapter 45 had specifically authorized the same and this
325 act had been in place prior thereto.

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

331 SECTION 17. If this act does not take effect at least 15 days prior to the date of a
332 scheduled representative town meeting to be held during the governor's March 10, 2020
333 declaration of a state of emergency, the actions of a town moderator, select board or board of
334 selectmen, and town meeting that are substantially consistent with the requirements of section 8
335 shall be ratified, validated and confirmed in all respects as if this act had been in place prior
336 thereto.

337 SECTION 18. Section 11 shall take effect on May 1, 2020.