

HOUSE No. 4572

The Commonwealth of Massachusetts



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KARYN POLITO
LIEUTENANT GOVERNOR

March 16, 2020

To the Honorable Senate and House of Representatives,

I am filing for your consideration a bill entitled “An Act to Address Challenges in Town Governance Resulting from COVID-19.” This legislation is designed to provide flexible solutions for communities across the Commonwealth as the challenges of the COVID-19 epidemic disrupt the normal conduct of administering Town government.

The bill creates several options for Towns to address the immediate problem that COVID-19 and the risks of large, public gatherings present to Town Meetings that may be scheduled to occur in the coming weeks. The bill would permit the Moderator of Town meeting to declare a 30-day postponement due to a “public health emergency” after consulting with the Select Board, a provision that parallels existing authority on the grounds of a “public safety emergency.” In addition, to accommodate the possibility of longer delays, the bill would permit a Select Board to vote to extend the date of annual Town Meeting beyond the existing statutory cut-off of June 30.

Recognizing that delays and extensions may not provide an optimal solution for every Town and that the continuing health risks associated with COVID-19 work against the normal incentive to encourage full attendance at Town Meeting, the bill would also permit Towns to reduce quorum requirements for Town Meeting as a short-term measure in order to permit communities to conduct their most pressing business with a reduced number of members in attendance.

The bill also offers solutions for a number of complications in Town budgeting and finance that would arise as a consequence of postponing Town Meeting beyond the close of the current fiscal year. The bill would permit Towns that are unable to finalize a budget before the start of the new fiscal year to continue month-to-month spending on essential operations at the same levels as the current fiscal year, including from revolving funds, while also permitting Towns to spend out of existing cash balances until a budget is adopted for the new fiscal year. Consistent with these provisions, the bill also authorizes a three-year amortization period for deficit spending related to the COVID-19 emergency, an allowance that will relieve Towns from the obligation to figure the entirety of these costs into their fiscal year 2021 tax rates.

I urge your prompt enactment of this legislation.

Respectfully submitted,

Charles D. Baker

Governor

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The Commonwealth of Massachusetts

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

An Act to address challenges in town governance resulting from COVID-19.

Whereas, The deferred operation of this act would tend to defeat its purpose, which are forthwith to make certain changes in law in response to a public health emergency, each of which is immediately necessary to carry out to accomplish important public purposes, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience.

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. Section 9 of chapter 39 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by striking out, in lines 13 to 14, the word “thirtieth” and
3 inserting in place thereof the following words:- 30th except in the event of an emergency that
4 poses an immediate threat to the health or safety of persons or property which prevents the
5 completion of the business of the delayed town meeting on or before June 30, but then only upon
6 a declaration of a state of emergency by the governor with respect to such emergency.

7 SECTION 2. Subsection (a) of section 10A of said chapter 39, as so appearing, is hereby
8 amended by striking out the first sentence and inserting in place thereof the following sentence:-
9 Whenever the moderator determines that voters, or in a town having a representative town
10 meeting form of government, the town meeting members, may be unable to attend a town
11 meeting, called pursuant to a warrant issued pursuant to section 10, because of a weather-related,

12 public safety or public health emergency, the moderator shall consult with local public safety or
13 public health officials and members of the board of selectmen and then, upon the moderator's
14 own declaration, the moderator shall recess and continue the town meeting to a time, date and
15 place certain.

16 SECTION 3. Subsection (d) of said section 10A of said chapter 39, as so appearing, is
17 hereby amended by inserting, in line 59, after the words "public safety" the following words:- or
18 public health.

19 SECTION 4. The first paragraph of section 31 of chapter 44 of the General Laws, as so
20 appearing, is hereby amended by inserting after the second sentence the following 2 sentences:-
21 If the declared emergency prevents the adoption of an annual budget by a town by the June 30
22 preceding the start of the fiscal year, the treasurer shall notify the director and the director shall
23 have authority to approve expenditure of an amount sufficient for the essential operations of the
24 town during the month of July not less than 1/12 of the total budget approved by the town in the
25 most recent fiscal year and such authority shall continue for each successive month while the
26 emergency continues to prevent the adoption of a budget. The director may promulgate and
27 revise rules or regulations regarding the approval of emergency expenditures described in this
28 section and accounting with regard to such expenditures.

29 SECTION 5. (a) Notwithstanding section 13 of chapter 39 of the General Laws or any
30 other general or special law or town by-law or town charter to the contrary, a town may act by
31 vote of its select board to prescribe the number of voters necessary to constitute a quorum at any
32 town meeting held during the state of emergency declared by the Governor on March 10, 2020 at

33 a number that is lower than the number that would otherwise be required by law or town by-law
34 or town charter.

35 (b) A select board shall publish notice of its intention to consider an adjustment of town
36 meeting quorum requirements under this section at least 7 days prior to the vote of the select
37 board. No vote of the select board to make such a quorum adjustment shall be valid if taken
38 without such notice and without provision for adequate means of public access that will allow
39 interested members of the public to clearly follow the deliberations of the select board as those
40 deliberations are occurring.

41 (c) Within 10 days after an affirmative vote of the select board under this section, the
42 town clerk shall notify the attorney general of the adjusted quorum requirement.

43 (d) This section will expire upon termination of the state of emergency declared by the
44 Governor on March 10, 2020, but such expiration shall have no effect on the validity of any vote
45 or action taken by a select board or town meeting in reliance on and pursuant to this section
46 while effective.

47 SECTION 6. Notwithstanding any general or special law to the contrary, if the adoption
48 of an annual budget in a town or district is delayed beyond June 30, 2020 as a result of the
49 outbreak of the 2019 novel Coronavirus or “COVID-19” and the declaration of a state of
50 emergency issued by the governor on March 10, 2020, the director of accounts may authorize the
51 appropriation from the available balance of the town’s or district’s undesignated fund balance or
52 “free cash” certified by the director under section 23 of chapter 59 of the General Laws as of July
53 1, 2019, as a funding source for the town’s or district’s fiscal year 2021 expenditures. The

54 director of accounts is authorized to promulgate and revise rules or regulations regarding the
55 implementation of this section.

56 SECTION 7. Notwithstanding section 31 of chapter 44 of the General Laws, section 23
57 of chapter 59 of the General Laws, or any other general or special law to the contrary, a city,
58 town or district may amortize over fiscal years 2021 to 2023, inclusive, in equal installments or
59 more rapidly, the amount of its fiscal year 2020 deficit pertaining to expenditures made to
60 address the outbreak of the 2019 novel Coronavirus or “COVID-19” as described in the
61 governor’s declaration of a state of emergency issued on March 10, 2020. The local
62 appropriating authority as defined in section 21C of chapter 59 and, in the case of a district, the
63 prudential committee or commissioners, shall adopt a deficit amortization schedule in
64 accordance with the preceding sentence before setting the city’s, town’s or district’s fiscal year
65 2021 tax rate. The commissioner of revenue may issue guidelines or instructions for reporting
66 the amortization of deficits authorized by this section.

67 SECTION 8. Notwithstanding any general or special law to the contrary, as a result of the
68 outbreak of the 2019 novel Coronavirus or “COVID-19” and the declaration of a state of
69 emergency issued by the governor on March 10, 2020, for fiscal year 2021, a city or town may
70 expend from each revolving fund established under section 53E1/2 of chapter 44 of the General
71 Laws an amount not to exceed the amount authorized to be expended in fiscal year 2020 until the
72 city or town adopts an annual budget for fiscal year 2021 at which time, the legislative body of
73 the city or town shall also vote on the total amount that may be expended from each revolving
74 fund in fiscal year 2021.

75 SECTION 9. Sections 2 and 3 shall take effect on March 10, 2020.

SECTION 10. Except as otherwise specified, this act shall take effect upon its passage.