

HOUSE No. 4849

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 9, 2020.

The committee on Municipalities and Regional Government to whom was referred the recommitted petition (accompanied by bill, House, No. 4769) of Michelle L. Ciccolo, Tommy Vitolo and others relative to authorizing remote participation at representative town meetings due to the COVID-19 emergency, reports recommending that the accompanying bill (House, No. 4849) ought to pass.

For the committee,

JAMES J. O'DAY.

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

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

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to protect both public health and the viability of town meetings in the face of the state, national, and global public health emergencies existing as a result of COVID-19 pandemic, 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 8 of chapter 44 of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by inserting after the word “approval”, in clause (9) the
3 following words:- , or a state of emergency declared by the governor and in effect at the time of
4 submission of the annual budget for approval.

5 SECTION 2. Section 53F³/₄ of chapter 44 of the General Laws, as appearing in the 2016
6 Official Edition, is hereby amended by inserting, in line 6, after the word “municipality” the
7 following:- “. A municipality may also direct payment of franchise related fees by a cable
8 operator to a designated PEG Access provider of its choosing.”.

9 SECTION 3. Said section 53F³/₄, as so appearing, is hereby further amended by striking
10 out, in line 7, the word “appropriated” and inserting in place thereof the word “expended”.

11 SECTION 4. Chapter 352 of the Acts of 2014 shall be amended by adding at the end
12 thereof the following new section:- “SECTION 3. This section shall take effect on July 1, 2020.”

13 SECTION 5. Notwithstanding any general or special law, charter provision,
14 ordinance or by-law to the contrary, in order to address disruptions caused by the outbreak of the
15 2019 novel coronavirus, also known as COVID-19, during the governor’s March 10, 2020
16 declaration of a state of emergency, if the moderator in a town having an open town meeting
17 form of government determines that it is not possible to safely conduct the town meeting in a
18 common location while complying with any applicable state or local orders, directives or
19 guidance concerning public assemblies, the moderator may request that the select board or board
20 of selectmen of the town call for a town meeting to be held through remote participation,
21 including, but not limited to, by means of a video or telephone conferencing platform. Such a
22 request by the moderator to the select board or board of selectmen shall be in writing and shall
23 include, but shall not be limited to: (i) the moderator’s determination and request to hold a town
24 meeting through remote participation in accordance with this section; (ii) the video or telephone
25 conferencing platform the moderator has determined to use to hold the town meeting; (iii)
26 confirmation that the moderator has consulted with the local disability commission or
27 coordinator for federal Americans with Disabilities Act compliance; and (iv) a certification by
28 the moderator that: (A) the moderator has tested the video or telephone conferencing platform;
29 and (B) the platform satisfactorily enables the town meeting to be conducted in substantially the
30 same manner as if the meeting occurred in person at a physical location and in accordance with
31 the operational and functional requirements set forth in this section.

32 A video or telephone conference platform used by a town meeting for remote
33 participation under this section shall, at minimum, provide for the ability for: (i) the moderator,

34 persons registered to vote in the town (registered voter), town officials and any other interested
35 members of the public to identify and hear the moderator and each registered voter of the town
36 who attends and participates in the remotely-held town meeting, as well as any other individuals
37 who participate in the remotely-held town meeting; (ii) the ability to determine whether a
38 quorum is present; (iii) a registered voter, town official or other individual to request recognition
39 by the moderator without prior authorization; provided, however, that to the extent
40 technologically feasible, the request is visible or audible to the public in real time and upon
41 review of the recording of the town meeting proceedings, preserved according to subsection (h);
42 (iv) the moderator to determine when a registered voter wishes to be recognized to speak, make a
43 motion, raise a point of order or object to a request for unanimous consent; (v) the moderator to
44 recognize a registered voter, town official or other individual to speak and to enable that person
45 to speak; (vi) the ability to conduct a roll call vote; (vii) any interested members of the public to
46 access the meeting remotely for purposes of witnessing the deliberations and actions taken at the
47 town meeting; and (viii) the town meeting to be recorded. Registered voters residing in the town
48 wishing to participate in a remote town meeting conducted pursuant to this section shall submit a
49 request to participate to the town clerk not less than 96 hours in advance of the town meeting.
50 Upon receipt of the request and verification of the requester's voter registration status, the clerk
51 shall provide to the requester instructions for participating in the remote town meeting.

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

56 (c) If the select board or board of selectmen votes to approve the request of the moderator
57 for remote participation at a town meeting and the select board or board of selectmen has already
58 issued a warrant pursuant to section 10 of chapter 39 of the General Laws calling a town meeting
59 to be held not later than June 30, 2020, the select board or board of selectmen shall, at the same
60 meeting of the board, approve and issue, in consultation with the moderator, a notice that
61 expressly states: (i) that the town meeting shall be held remotely by means of the video or
62 telephone conferencing platform requested by the moderator; (ii) the date and time of the
63 meeting; and (iii) any information necessary for the moderator, registered voters, town officials
64 and interested members of the public to access and witness the deliberations and actions taken at
65 the town meeting remotely.

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

73 (d) If the select board or board of selectmen votes to approve the request of the moderator
74 for remote participation at a town meeting and the select board or board of selectmen has not yet
75 issued a warrant for a town meeting, the select board or board of selectmen shall approve and
76 issue a warrant pursuant to section 10 of said chapter 39 for the town meeting that expressly
77 states: (i) that the town meeting shall be held remotely by means of the video or telephone
78 conferencing platform requested by the moderator; (ii) the date and time of the meeting; and (iii)

79 any information necessary for the moderator, registered voters, town officials and interested
80 members of the public to access and witness the deliberations and actions taken at the town
81 meeting remotely.

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

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

92 (f) Prior to taking up any business at a town meeting held through remote participation
93 under this section, the registered voters present and voting at the meeting shall vote on whether
94 or not to commence business at the town meeting remotely by means of the chosen video or
95 telephone conferencing platform. If the town meeting votes to continue conducting the town
96 meeting remotely, then the town meeting shall proceed by remote participation to address the
97 articles included in the warrant. If the town meeting does not vote to continue conducting the
98 town meeting remotely, then the town meeting shall be adjourned to the date, time and place
99 specified in the notice or warrant under subsection (c) or (d). If no date, time and place has been
100 specified in the notice or warrant, the town meeting shall immediately be dissolved without

101 taking any votes on any other matters and the select board or board of selectmen may call the
102 town meeting pursuant to a new warrant that provides for the town meeting to be held in person
103 at a physical location in accordance with said section 10 of said chapter 39, all other applicable
104 laws and provisions of the town charter and by-laws.

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

111 (h) A town meeting held remotely pursuant to this section shall be recorded and the
112 recording shall be preserved and made publicly available on the town's website for not less than
113 90 days after the conclusion of the remote town meeting.

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

118 SECTION 6. Section 5 of chapter 59 of the General Laws, as appearing in the 2018
119 Official Edition, is hereby amended by inserting after the word "enlistment", in clause (18A) the
120 following words:- or resulting from illness or economic hardship related to a public health
121 emergency.

122 Said section 5 of chapter 59 is hereby further amended by striking out the final two words
123 as so appearing in clause (18A), and inserting in place thereof the following words:- 5 years.

124 Said section 5 of chapter 59 is hereby further amended by striking out the remainder of
125 the paragraph after the word “annum” in clause (18A) subclause (1).

126 Said section 5 of chapter 59 is hereby further amended by striking out “3” after the word
127 “exceed” in clause (18A) subclause (6), and inserting in place thereof the following: - 5.

128 SECTION 6. The last paragraph of clause Eighteenth A of section 5 of chapter 59 of the
129 General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the
130 word “or”, in line 556, the following words:- one year after

131 The last paragraph of clause Forty-first A of said section 5 is hereby further amended by
132 inserting after the word “or”, in line 1197, the following words:- one year after

133 SECTION 7. Said section 5 of chapter 59 is hereby amended by inserting the following
134 after clause 18A:

135 Eighteenth B, Real property, to an amount determined as hereinafter provided, of a
136 person who by reason of financial hardship resulting from the COVID-19 pandemic is in the
137 judgment of the assessors unable to contribute fully toward the public charges and which
138 property is owned and occupied by him as his domicile or owns the same jointly with a spouse or
139 jointly or as a tenant in common with a person not a spouse and is occupied by him as his
140 domicile provided, that such person has been domiciled in the commonwealth for the preceding
141 5 years.

142 Any such person may, on or before April 1 of Fiscal Year 2021, or within 6 months after
143 the bill or notice of assessment was sent, whichever is later for an exemption of such real
144 property from taxation during said year; provided, however, that in the case of real estate owned
145 by a person jointly or as a tenant in common with a person not such person's spouse, the
146 exemption shall not exceed that proportion of total valuation which the amount of such person's
147 interest in such property bears to the whole tax due. The board of assessors may grant such
148 exemption provided that the owner or owners of such real property have entered into a tax
149 deferral and recovery agreement with the board of assessors on behalf of the city or town. The
150 agreement shall provide:—

151 (1) that no sale or transfer of such real property may be consummated unless the taxes
152 which would otherwise have been assessed on such portion of the real property as is so exempt
153 have been paid, with interest at the rate of not more than 2 percent above the US. Prime Rate as
154 published in the Wall Street Journal;

155 (2) that the total amount of such taxes due, plus interest, thereon, does not exceed 50 per
156 cent of the owner's proportional share of the full and fair cash value of such real property;

157 (3) that upon the demise of the owner of such real property, the heirs-at-law, assignees or
158 devisees shall have first priority to said real property by paying in full the total taxes which
159 would otherwise have been due, plus interest; provided, however, that if such heir-at-law,
160 assignee or devisee in a surviving spouse who enters into a tax deferral and recovery agreement
161 under this clause, payment of the taxes and interest due shall not be required during the life of
162 such surviving spouse. Any additional taxes deferred, plus interest, on said real property under a
163 tax deferral and recovery agreement signed by a surviving spouse shall be added to the taxes and

164 interest which would otherwise have been due, and the payment of which has been postponed
165 during the life of such surviving spouse, in determining the 50 per cent requirement of clause (2);

166 (4) that if the taxes due, plus interest, are not paid by the heir-at-law, assignee or devisee
167 or if payment is not postponed during the life of a surviving spouse, such taxes and interest shall
168 be recovered from the estate of the owner; and

169 (5) that any joint owner or mortgagee holding a mortgage on such property has given
170 written prior approval for such agreement, which written approval shall be made a part of such
171 agreement; and

172 (6) that the tax deferral and recovery agreement shall not exceed 1 tax year, that the total
173 amount of the taxes due, plus interest, shall be paid in 5 equal payments over a 5-year period,
174 and that the first payment shall be due 1 year after the last day of the tax deferral.

175 In the case of each tax deferral and recovery agreement entered into between the board of
176 assessors and the owner or owners of such real property, the board of assessors shall forthwith
177 cause to be recorded in the registry of deeds of the county or district in which the city or town is
178 situated a statement of their action which shall constitute a lien upon the land covered by such
179 agreement for such taxes as have been assessed under this chapter, plus interest as provided
180 hereinafter.

181 A lien filed pursuant to this section shall be subsequent to any liens securing a reverse
182 mortgage, excepting shared appreciation instruments. The statement shall name the owner or
183 owners and shall include a description of the land adequate for identification. Unless such a
184 statement is recorded the lien shall not be effective with respect to a bona fide purchaser or other

185 transferee without actual knowledge of such lien. The filing fee for such statement shall be paid
186 by the city or town and shall be added to and become a part of the taxes due.

187 In addition to the remedies provided by this clause, the recorded statement of the
188 assessors provided for in this clause shall have the same force and effect as a valid taking for
189 nonpayment of taxes under the provisions of section 53 of chapter 60, except that: (1) no
190 assignment of the municipality's interest under this clause may be made pursuant to section 52 of
191 said chapter 60; (2) no petition under section 65 of said chapter 60 to foreclose the lien may be
192 filed before the expiration of 6 months from the conveyance of the property or the death of the
193 person whose taxes have been deferred.

194 SECTION 8. Said section 59 of chapter 59 is hereby amended by inserting at the end of
195 the third paragraph after the word "later" the following sentence:- The board of assessors may
196 extend this deadline up to 6 additional months upon a declaration by the governor of a state of
197 emergency.

198 SECTION 9 Notwithstanding section 23 of chapter 59 of the General Laws, or any other
199 general or special laws to the contrary, in order to address disruptions caused by the outbreak of
200 the 2019 novel coronavirus, also known as COVID-19, during the governor's March 10, 2020
201 declaration of a state of emergency, the board of selectmen or select board of a town may, by a
202 two-thirds vote, authorize the expenditure of unrestricted available funds, also known as "free
203 cash" for fiscal year 2020, provided that such funds have previously been certified by the
204 director of accounts in accordance with applicable provisions of said section 23.

205 SECTION 10. Property Tax Deferral Revolving Fund

206 (1) There is hereby established a revolving fund in the State Treasury to be used by the
207 Department of Revenue for the purpose of making payments to:

208 (a) Municipal tax collectors in regular installments of property taxes deferred for tax
209 years beginning on or after (insert appropriate date), in deferred in accordance with (M.G.L. c.
210 59 § 5).

211 (b) The Department for its expenses in administering the Property Tax Deferral
212 Revolving Fund.

213 (2) The Property Tax Deferral Revolving Fund may include a reserve for payment of
214 general department administrative expenses.

215 (3) Repayments of property taxes deferred in accordance with (M.G.L. c. 59 § 5) shall be
216 made by the taxpayer to their municipality with interest in accordance with (M.G.L. c. 59 § 5).
217 For purposes of this section, the maximum interest rate that a municipality may charge a property
218 owner, their heirs or estate shall be not more than 2 percent above the U.S. Prime Rate in effect
219 at the time the repayment is due.

220 (a) Municipalities shall repay the Department with interest included.

221 (b) Municipalities may not amend this interest rate for purposes of payment regarding
222 this fund.

223 (4) All monies received by the Department as repayments of deferred property taxes shall
224 be credited to the revolving fund and are continuously appropriated for the purposes of
225 subsection (1) of this section.

226 (5) If there is insufficient money in the revolving fund to make the payments required by
227 subsection (1), the appropriate Department official shall request an appropriation from the
228 General Fund which together with the money in the revolving fund will provide an amount
229 sufficient to make the required payments.

230 (a) If the monies appropriated from the general fund in addition with the monies from the
231 revolving fund are insufficient to make the required payments, the State Treasurer may lend to
232 the Department such amounts as may be necessary to make the payments.

233 (b) Any monies lent under this subsection shall be repaid within five years together with
234 interest at a rate determined by the state treasurer, no greater than 8%.

235 SECTION 11. Section 11 of chapter 53 of the acts of 2020 is hereby amended by striking
236 out, in each place that they appear, the words “before June 30, 2020” and inserting in each place
237 thereof the following words: -within ninety days after the expiration of the governor’s March 10,
238 2020 declaration of a state of emergency.