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H.406

Introduced by Representatives Devereux of Mount Holly, Higley of Lowell,
Martin of Wolcott, Browning of Arlington, Consejo of Sheldon,
Mook of Bennington, Townsend of South Burlington, and
Wilson of Manchester

Referred to Committee on

Date:

Subject: Municipal government; local elections; listers; selectboard;
appointment; assessors

Statement of purpose of bill as introduced: This bill proposes to allow a town
to eliminate the office of lister and in lieu thereof permit its selectboard to
appoint an assessor.

An act relating to *town* listers, ~~and~~ assessors, *and auditors*

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 17 V.S.A. § 2646 is amended to read:

§ 2646. TOWN OFFICERS; QUALIFICATION; ELECTION

At the annual meeting, a town shall choose from among its legally qualified
voters the following town officers, who shall serve until the next annual
meeting and until successors are chosen, unless otherwise provided by law:

- (1) A moderator;

1 (2) A town clerk for a term of one year unless a town votes that a town
2 clerk shall be elected for a term of three years. When a town votes for a
3 three-year term for the office of town clerk, that three-year term shall remain in
4 effect until the town rescinds it by the majority vote of the legal voters present
5 and voting at an annual meeting, duly warned for that purpose;

6 (3) A town treasurer for a term of one year unless a town votes that a
7 town treasurer shall be elected for a term of three years. When a town votes
8 for a three-year term for the office of town treasurer, that three-year term shall
9 remain in effect until the town rescinds it by the majority vote of the legal
10 voters present and voting at an annual meeting, duly warned for that purpose;

11 (4) One ~~selectman~~ selectboard member for a term of three years who
12 shall be elected by ballot;

13 (5) One lister for a term of three years who shall be elected by ballot,
14 unless the town has voted to eliminate the office of lister in accordance with
15 the provisions of section 2651c of this chapter;

16 (6) One auditor for the term of three years who shall be elected by
17 ballot, unless the town has voted to eliminate the office of auditor in
18 accordance with the provisions of section 2651b of this ~~title~~ chapter;

19 (7) A first constable, and if needed a second constable, unless the town
20 has voted to authorize the ~~selectmen~~ selectboard to appoint constables as
21 provided in section 2651a of this ~~title~~ chapter. The terms of office of the first

1 and second constable elected or appointed shall be for one year unless a town
2 votes that they shall be elected or appointed for terms of two years. When a
3 town votes for a two-year term for the offices of first and second constable, the
4 two-year terms shall remain in effect until the town rescinds them by a
5 majority vote of the legal voters voting at an annual meeting, duly warned for
6 that purpose;

7 (8) A collector of current taxes, if the town so orders;

8 (9) A collector of delinquent taxes, if the town so orders, for a term of
9 one year unless a town votes that a collector of delinquent taxes shall be
10 elected for a term of three years. When a town votes for a three-year term for
11 the collector of delinquent taxes, that three-year term shall remain in effect
12 until the town rescinds it by the majority vote of the legal voters present and
13 voting at an annual meeting, duly warned for that purpose;

14 (10) One or more grand jurors;

15 (11) A town agent to prosecute and defend suits in which the town or
16 town school district is interested;

17 (12) A trustee of public funds if the town has so ordered;

18 (13) A trustee of public money, but only in towns that retain possession
19 of a portion of the surplus funds of the United States received under the Act of
20 1836;

21 (14) A cemetery commissioner if the town has so ordered;

1 (15) One or more ~~patrolmen~~ patrol officers to patrol town highways
2 under the direction of the ~~selectmen~~ selectboard, if the town so orders;

3 (16) One or two road commissioners who shall be elected by ballot if
4 the town has so ordered; otherwise they shall be appointed by the ~~selectmen~~
5 selectboard as provided in section 2651 of this ~~title~~ chapter. The road
6 commissioners shall be elected for a term of one year unless a town votes that
7 the commissioners shall be elected for a term of two or three years. When a
8 town votes for a two-year or three-year term for the office of road
9 commissioner, that two-year or three-year term shall remain in effect until the
10 town rescinds it by the majority vote of the legal voters present and voting at
11 an annual meeting, duly warned for that purpose;

12 (17) Three water commissioners unless the town votes to elect
13 additional selectboard members, in which case the number of water
14 commissioners shall, at the discretion of the selectboard, be the same as the
15 number of members that comprise the selectboard. The commissioners shall
16 be elected by ballot if the town has so ordered; otherwise they shall be
17 appointed by the selectboard as provided in section 2651 of this ~~title~~ chapter.

18 Sec. 2. 17 V.S.A. § 2647 is amended to read:

19 § 2647. INCOMPATIBLE OFFICES

20 (a)(1) An auditor shall not be town clerk, town treasurer, ~~selectman~~
21 selectboard member, first constable, collector of current or delinquent taxes,

1 trustee of public funds, town manager, road commissioner, water
2 commissioner, sewage system commissioner, sewage disposal commissioner,
3 or town district school director; nor shall a spouse of or any person assisting
4 any of these officers in the discharge of official duties be eligible to hold office
5 as auditor.

6 (2) A ~~selectman~~ selectboard member or school director shall not be first
7 constable, collector of taxes, town treasurer, auditor, or town agent. A
8 ~~selectman~~ selectboard member shall not be lister or assessor.

9 (3) A town manager shall not hold any elective office in the town or
10 town school district.

11 (4) Election officers at local elections shall be disqualified as provided
12 in section 2456 of this title.

13 (b) Notwithstanding subsection (a) of this section, if a school district
14 prepares and reports its budget independently from the budget of the town and
15 the school district is audited by an independent public accountant, a person
16 shall be eligible to hold office as auditor even if that person's spouse holds
17 office as a school director.

1 Sec. 3. 17 V.S.A. § 2649 is amended to read:

2 § 2649. NUMBER OF OFFICERS

3 (a)(1) Each town shall have:

4 (A) ~~three selectmen and three listers~~ selectboard members, unless
5 additional ~~selectmen or listers~~ selectboard members are elected under the
6 provisions of section 2650 of this ~~title, and~~ chapter;

7 (B) three listers, unless additional listers are elected under the
8 provisions of section 2650 of this chapter or the town has voted to eliminate
9 the office of lister under the provisions of section 2651c of this chapter; and

10 (C) three auditors, unless the town has voted to eliminate the office
11 of auditor under the provisions of section 2651b of this chapter.

12 (2) ~~At~~ Except as otherwise provided, at each annual meeting one
13 ~~selectman~~ selectboard member, one lister, and one auditor shall be elected,
14 each for a term of three years.

15 (b) A town so voting may elect one or two road commissioners for a term
16 of one, two, or three years, as provided in section 2646 of this ~~title~~ chapter.

17 (c) A town so voting may elect three water commissioners. The terms of
18 the water commissioners shall be the same as those of ~~selectmen~~ selectboard
19 members under sections 2646 and 2650 of this ~~title~~ chapter, except that of
20 those commissioners first elected one shall have a term of one year, one a term
21 of two years, one a term of three years. One or two additional water

1 commissioners may be authorized for one or two year terms as provided in
2 subsection 2650(b) of this ~~title~~ chapter relating to additional ~~selectmen~~
3 selectboard members.

Sec. 3a. 17 V.S.A. § 2651b is amended to read:

*§ 2651b. ELIMINATION OF OFFICE OF AUDITOR; APPOINTMENT OF
PUBLIC ACCOUNTANT*

* * *

*(c) The authority to vote to eliminate the office of town auditor as provided
in this section shall extend to all towns except those towns that have a charter
that specifically provides for the election or appointment of the office of town
auditor.*

Sec. 3b. REPEAL

1998 Acts and Resolves No. 83, Sec. 9 (municipal charters) is repealed.

4 Sec. 4. 17 V.S.A. § 2651c is amended to read:

5 § 2651c. LACK OF ELECTED LISTER; APPOINTMENT OF LISTER;

6 ELIMINATION OF OFFICE

7 (a) Notwithstanding any other provisions of law to the contrary and except
8 as provided in subsection (b) of this section, in the event the board of listers of
9 a municipality falls below a majority and the selectboard is unable to find a
10 person or persons to appoint as a lister or listers under the provisions of
11 24 V.S.A. § 963, the selectboard may appoint an assessor to perform the duties

1 of a lister as set forth in 32 V.S.A. chapter 121, subchapter 2 until the next
2 annual meeting. The appointed person need not be a resident of the
3 municipality and shall have the same powers and be subject to the same duties
4 and penalties as a duly elected lister for the municipality.

5 (b)(1) A town may vote by ballot at an annual meeting to eliminate the
6 office of lister. If a town votes to eliminate the office of lister, the selectboard
7 shall contract with *or employ* a professionally qualified assessor, who need not
8 be a resident of the town. The assessor shall have the same powers, discharge
9 the same duties, proceed in the discharge thereof in the same manner, and be
10 subject to the same liabilities as are prescribed for listers or the board of listers
11 under the provisions of Title 32.

12 (2) A vote to eliminate the office of lister shall remain in effect until
13 rescinded by majority vote of the legal voters present and voting at an annual
14 meeting warned for that purpose.

15 (3) The term of office of any lister in office on the date a town votes to
16 eliminate that office shall expire on the 45th day after the vote or on the date
17 upon which the selectboard appoints an assessor under this subsection,
18 whichever occurs first.

19 ~~(4) The authority to vote to eliminate the office of lister as provided in~~
20 ~~this subsection shall extend to all towns, notwithstanding any charter provision~~
21 ~~to the contrary.~~

(4) The authority to vote to eliminate the office of lister as provided in this subsection shall extend to all towns except those towns that have a charter that specifically provides for the election or appointment of the office of lister.

1 Sec. 5. EFFECTIVE DATE

2 This act shall take effect on July 1, 2013.