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S.354

Introduced by Committee on Government Operations

Date: September 11, 2020

Subject: Government operations; emergency provisions; Open Meeting Law;
municipal corporations; local elections; professional regulation;
sheriff funding

Statement of purpose of bill as introduced: This bill proposes to establish
statutory provisions that may be used for the operation of government in cases
of emergency.

~~An act relating to emergency provisions for the operation of government~~

*An act relating to using Australian ballot for municipal meetings in the year
2021*

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

~~*** Open Meeting Law ***~~

Sec. 1. 1 V.S.A. § 312a is added to read:

§ 312a. MEETINGS OF PUBLIC BODIES; STATE OF EMERGENCY

(a) As used in this section:

(1) “Affected public body” means a public body:

(A) whose regular meeting location is located in an area affected by a

~~hazard, and~~

1 (B) that cannot meet in a designated physical meeting location due to
2 a declared state of emergency pursuant to 20 V.S.A. chapter 1.

3 (2) "Hazard" means an "all-hazards" as defined in 20 V.S.A. § 2(1).

4 (b) Notwithstanding subdivisions 312(a)(2)(D) and (c)(2) of this title,
5 during a declared state of emergency under 20 V.S.A. chapter 1:

6 (1) a quorum or more of an affected public body may attend a regular,
7 special, or emergency meeting by electronic or other means without
8 designating a physical meeting location where the public may attend;

9 (2) the members and staff of an affected public body shall not be
10 required to be physically present at a designated meeting location; and

11 (3) an affected public body of a municipality may post any meeting
12 agenda or notice of a special meeting in two publicly accessible designated
13 electronic locations in lieu of the two designated public places in the
14 municipality, or in a combination of a designated electronic location and a
15 designated public place.

16 (c) When an affected public body meets electronically under subsection (b)
17 of this section, the affected public body shall:

18 (1) use technology that permits the attendance and participation of the
19 public through electronic or other means;

20 (2) whenever feasible, allow the public to access the meeting by
21 telephone, and

1 ~~(3) post information that enables the public to directly access and~~
2 participate in meetings electronically and shall include this information in the
3 published agenda for each meeting.

4 (d) Unless unusual circumstances make it impossible for them to do so, the
5 legislative body of each municipality and each school board shall record any
6 meetings held pursuant to this section.

7 (e) An affected public body of a municipality shall continue to post notices
8 and agendas in or near the municipal clerk's office pursuant to
9 subdivision 312(c)(2) of this title and shall provide a copy of each notice or
10 agenda to the newspapers of general circulation for the municipality.

11 * * * Municipal Quasi-Judicial Proceedings * * *

12 Sec. 2. 32 V.S.A. § 4404 is amended to read:

13 § 4404. APPEALS FROM LISTERS AS TO GRAND LIST

14 * * *

15 (c)(1) The ~~Board~~ board shall meet at the time and place so designated, and
16 on that day and from day to day thereafter shall hear and determine such
17 appeals until all questions and objections are heard and decided. Each
18 property, the appraisal of which is being appealed, shall be inspected by a
19 committee of not less than three members of the board who shall report to the
20 board within 30 days from the hearing on the appeal and before the final
21 ~~decision pertaining to the property is given. If, after notice, the appellant~~

1 ~~ses to allow an inspection of the property as required under this subsection,~~
2 including the interior and exterior of any structure on the property, the appeal
3 shall be deemed withdrawn. The board shall, within 15 days from the time of
4 the report, certify in writing its notice of decision, with reasons, in the
5 premises, and shall file ~~such~~ the notice with the town clerk who shall
6 thereupon record the same in the book wherein the appeal was recorded and
7 forthwith notify the appellant in writing of the action of such board, by
8 certified mail. If the board does not substantially comply with the
9 requirements of this subsection and if the appeal is not withdrawn by filing
10 written notice of withdrawal with the board or deemed withdrawn as provided
11 in this subsection, the grand list of the appellant for the year for which appeal
12 is being made shall remain at the amount set before the appealed change was
13 made by the listers; except, if there has been a complete reappraisal, the grand
14 list of the appellant for the year for which appeal is being made shall be set at
15 a value ~~which~~ that will produce a tax liability equal to the tax liability for the
16 preceding year. The town clerk shall immediately record the same in the book
17 wherein the appeal was recorded and forthwith notify the appellant in writing
18 of ~~such~~ the action, by certified mail. Thereupon the appraisal so determined
19 pursuant to this subsection shall become a part of the grand list of ~~such~~ the
20 ~~person.~~

1 ~~(2) During a declared state of emergency under 20 V.S.A. chapter 1, a~~
2 ~~board of civil authority within a municipality affected by an all-hazard shall~~
3 ~~not be required to physically inspect any property that is the subject of an~~
4 ~~appeal. If the appellant requests in writing that the property be inspected for~~
5 ~~purposes of the appeal, a member or members of the board shall conduct the~~
6 ~~inspection through electronic means. If the appellant does not facilitate the~~
7 ~~inspection through electronic means, then the appeal shall be deemed~~
8 ~~withdrawn.~~

9 (3) As used in this subsection, “electronic means” means the transmittal
10 of video or photographic evidence by the appellant at the direction of the
11 board members conducting the inspection.

12 (d) Listers and agents to prosecute and defend suits wherein a town is
13 interested shall not be eligible to serve as members of the board while
14 convened to hear and determine such appeals nor shall an appellant, his or her
15 servant, agent, or attorney be eligible to serve as a member of the Board board
16 while convened to hear and determine any appeals. However, listers and
17 agents to prosecute and defend suits wherein a town is interested shall be given
18 the opportunity to defend the appraisals in question.

1 ~~Sec. 3. 32 V.S.A. § 4467 is amended to read:~~

2 § 4467. DETERMINATION OF APPEAL

3 (a) Upon appeal to the Director or the ~~Court~~ court, the hearing officer or
4 ~~Court~~ court shall proceed de novo and determine the correct valuation of the
5 property as promptly as practicable and to determine a homestead and a
6 housesite value if a homestead has been declared with respect to the property
7 for the year in which the appeal is taken. The hearing officer or ~~Court~~ court
8 shall take into account the requirements of law as to valuation, and the
9 provisions of Chapter I, Article 9 of the Constitution of Vermont and the 14th
10 Amendment to the Constitution of the United States.

11 (b) If the hearing officer or ~~Court~~ court finds that the listed value of the
12 property subject to appeal does not correspond to the listed value of
13 comparable properties within the town, the hearing officer or ~~Court~~ court shall
14 set ~~said~~ the property in the list at a corresponding value. The findings and
15 determinations of the hearing officer shall be made in writing and shall be
16 available to the appellant.

17 (c)(1) If the appeal is taken to the Director, the hearing officer may inspect
18 the property prior to making a determination, unless one of the parties requests
19 an inspection, in which case the hearing officer shall inspect the property prior
20 ~~to making a determination. Within 10 days of the appeal being filed with the~~

1 ~~Director, the Director shall notify the property owner in writing of his or her~~
2 option to request an inspection under this section.

3 (2) During a declared state of emergency under 20 V.S.A. chapter 1, a
4 hearing officer shall not be required to physically inspect any property that is
5 the subject of an appeal. If the appellant requests in writing that the property
6 be inspected for purposes of the appeal, the hearing officer shall conduct the
7 inspection through electronic means. If the appellant does not facilitate the
8 inspection through electronic means, then the appeal shall be deemed
9 withdrawn.

10 (3) As used in this subsection, "electronic means" means the transmittal
11 of video or photographic evidence by the appellant at the direction of the
12 hearing officer conducting the inspection.

13 * * * Temporary Moratoria on Water Service Disconnections * * *

14 Sec. 4. 24 V.S.A. § 5152 is added to read:

15 § 5152. DISCONNECTIONS PROHIBITED; STATE OF EMERGENCY

16 (a) Notwithstanding this chapter or any provision of law to the contrary, a
17 municipality; a person who is permitted as a public water system pursuant to
18 10 V.S.A. chapter 56 and who provides another person water as a part of the
19 operation of that public water system; or a company engaged in the collecting,
20 sale, and distribution of water for domestic, industrial, business, or fire
21 protection purposes that is regulated by the Public Utility Commission under

1 ~~30 V.S.A. § 203(3) shall be prohibited from disconnecting any person from~~
2 services during a declared state of emergency under 20 V.S.A. chapter 1,
3 provided that:

4 (1) the state of emergency is declared in response to an all-hazard that
5 will cause financial hardship and the inability of ratepayers to pay for water or
6 sewer services; and

7 (2) the all-hazard does not require the water or sewer service provider to
8 disconnect services to protect the health and safety of the public.

9 (b)(1) A violation of subsection (a) of this section by a municipality or a
10 person who is permitted as a public water system pursuant to 10 V.S.A.
11 chapter 56 may be enforced by the Agency of Natural Resources pursuant to
12 10 V.S.A. chapter 201.

13 (2) A violation of subsection (a) of this section by a company engaged
14 in the collecting, sale, and distribution of water for domestic, industrial,
15 business, or fire protection purposes that is regulated by the Public Utility
16 Commission under 30 V.S.A. § 203(3) may be enforced by the Public Utility
17 Commission pursuant to 30 V.S.A. § 30.

18 (c) A ratepayer shall remain obligated for any amounts due to a water or
19 sewer service provider subject to this section. The ratepayer shall have a
20 minimum of 90 days after the end of the declared state of emergency to pay
21 the amounts due.

~~*** Municipal Deadlines ***~~

1
2 Sec. 5. 20 V.S.A. § 47 is added to read:

3 § 47. MUNICIPAL DEADLINES, PLANS, AND LICENSES; EXTENSION

4 (a) During a state of emergency declared under this chapter, a municipal
5 corporation may:

6 (1) extend any statutory deadline applicable to municipal corporations,
7 provided that the deadline does not relate to a license, permit, program, or plan
8 issued or administered by the State or federal government; and

9 (2) extend or waive deadlines applicable to licenses, permits, programs,
10 or plans that are issued by the municipal corporation.

11 (b) During a state of emergency declared under this chapter, any expiring
12 license, permit, program, or plan issued by a municipal corporation that is due
13 for renewal or review shall remain valid for 90 days after the date that the
14 declared state of emergency ends.

15 ~~*** Town Highway Funds ***~~

16 Sec. 6. REPEAL

17 19 V.S.A. § 312 (use of town highway funds) is repealed.

18 ~~*** Local Elections ***~~

19 Sec. 7. 17 V.S.A. 2643a is added read:

20 § 2643a. EMERGENCY PROVISION; MOVING DATE AND TIME OF

21 LOCAL ELECTION

1 Notwithstanding the provisions of sections 2640 and 2643 of this
2 subchapter or any other provision of law to the contrary, during a state of
3 emergency declared under 20 V.S.A. chapter 1 that affects a municipality, the
4 municipality's legislative body may move the time and date of the
5 municipality's upcoming annual or special meeting if the legislative body
6 determines that the circumstances of the state of emergency may harm the
7 public health, safety, or welfare if the meeting is held at its scheduled time and
8 date. If it makes such a determination, the legislative body shall schedule a
9 new time and date for the meeting so that it is held as soon as practicable and
10 shall warn the meeting accordingly.

11 Sec. 8. 17 V.S.A. § 2680a is added to read:

12 § 2680a. EMERGENCY PROVISION; AUSTRALIAN BALLOT APPLIED

13 BY LEGISLATIVE BODY

14 (a) Notwithstanding the provisions of subsection 2680(a) of this subchapter
15 that require the voters of a municipality to vote to apply the provisions of the
16 Australian ballot system to the annual or special meeting of the municipality or
17 any other provision of law to the contrary, during a state of emergency
18 declared under 20 V.S.A. chapter 1 that affects a municipality, the legislative
19 body may vote to apply the Australian ballot system to an upcoming annual or
20 special meeting not less than 60 days in advance of that meeting if the
21 legislative body determines that it is necessary to do so in order to protect the

1 ~~public health, safety, or welfare due to the circumstances of the state of~~
2 ~~emergency.~~

3 ~~(b) A legislative body that uses the authority set forth in subsection (a) of~~
4 ~~this section shall not be subject to any statutory deadlines or other statutory~~
5 ~~provisions, or provisions set forth in a school district's articles of agreement,~~
6 ~~related to the municipal meeting that conflict with the need to apply the~~
7 ~~Australian ballot system to the meeting, to the extent necessary to enable the~~
8 ~~municipality to apply the Australian ballot system to that meeting.~~

9 * * * Professional Regulation * * *

10 Sec. 9. 3 V.S.A. § 138 is added to read:

11 § 138. EMERGENCY PROVISION; EXTENSION OF LICENSE TERMS

12 Notwithstanding any provision of law to the contrary, during a state of
13 emergency declared under 20 V.S.A. chapter 1, the Director may extend for up
14 to 90 days at a time the expiration dates of current licenses to practice a
15 profession attached to the Office and waive any associated late fees for license
16 renewal that would have otherwise applied if the circumstances of the state of
17 emergency create a barrier to obtaining renewal.

1 ~~Sec. 10. 3 V.S.A. § 139 is added to read:~~

2 § 139. EMERGENCY PROVISION; OUT-OF-STATE HEALTH CARE

3 PROFESSIONALS

4 (a) Notwithstanding any provision of law to the contrary, during a state of
5 emergency declared under 20 V.S.A. chapter 1, and in consultation with the
6 Commissioner of Health, the Director may authorize a health care professional
7 who practices a profession attached to the Office and who holds a valid
8 license, certificate, or registration to provide those health care services in any
9 other U.S. jurisdiction, to be deemed to be licensed, certified, or registered to
10 provide health care services to a patient located in Vermont using telehealth or
11 as part of the staff of a licensed facility, provided the health care professional:

12 (1) is licensed, certified, or registered in good standing in the other U.S.
13 jurisdiction or jurisdictions in which the health care professional holds a
14 license, certificate, or registration;

15 (2) is not subject to any professional disciplinary proceedings in any
16 other U.S. jurisdiction; and

17 (3) is not affirmatively barred from practice in Vermont for reasons of
18 fraud or abuse, patient care, or public safety.

19 (b) A health care professional who is deemed to be authorized to provide
20 health care services under this section shall submit, or have submitted on the

1 individual's behalf, to the Office the individual's name, contact information,
2 and the location or locations at which the individual will be practicing.

3 (c) A health care professional who delivers health care services in Vermont
4 pursuant to subsection (a) of this section shall be deemed to consent to, and
5 shall be subject to, the regulatory jurisdiction of the Office.

6 (d) The authority to practice under this section shall remain in effect until
7 the termination of the declared state of emergency and provided the health care
8 professional remains licensed, certified, or registered in good standing.

9 Sec. 11. 3 V.S.A. § 140 is added to read:

10 § 140. EMERGENCY PROVISION; INACTIVE HEALTH CARE

11 PROFESSIONALS

12 (a) Notwithstanding any provision of law to the contrary, during a state of
13 emergency declared under 20 V.S.A. chapter 1, and in consultation with the
14 Commissioner of Health, the Director may authorize a former health care
15 professional who practiced a profession attached to the Office and who left
16 active practice not more than three years earlier with the individual's Vermont
17 license, certificate, or registration in good standing to provide health care
18 services to a patient located in Vermont using telehealth or as part of the staff
19 of a licensed facility after submitting, or having submitted on the individual's
20 behalf, to the Office the individual's name, contact information, and the
21 location or locations at which the individual will be practicing.

1 ~~(b) Such a returning health care professional shall be authorized to provide~~
2 health care services without a license for not more than 30 days pending the
3 individual's application for a temporary license or until the Director
4 determines whether to issue that individual a temporary license, whichever
5 comes first.

6 (c) The Director may issue a temporary license to such a returning health
7 care professional at no charge and may impose limitations on the
8 professional's scope of practice as the Director deems appropriate.

9 (d) A former health care professional who returns to the Vermont health
10 care workforce pursuant to this section shall be subject to the regulatory
11 jurisdiction of the Office.

12 Sec. 12. 3 V.S.A. § 141 is added to read:

13 § 141. EMERGENCY PROVISION; DIRECTOR; AUTHORITY TO ACT
14 FOR BOARDS

15 (a) During a state of emergency declared under 20 V.S.A. chapter 1, if the
16 Director finds that a board attached to the Office cannot reasonably, safely, and
17 expeditiously convene a quorum to transact business, and if authorized by the
18 Secretary of State, the Director may exercise the full powers and authorities of
19 that board, including disciplinary authority.

20 (b) The signature of the Director shall have the same force and effect as a
21 voted act of the board.

1 ~~(c) A record of the actions of the Director taken pursuant to the authority~~
2 granted by this section shall be published conspicuously on the website of the
3 board on whose behalf the Director took the action.

4 Sec. 13. 3 V.S.A. § 142 is added to read:

5 § 142. EMERGENCY PROVISION; DIRECTOR; EMERGENCY
6 REGULATORY ORDERS

7 During a state of emergency declared under 20 V.S.A. chapter 1, the
8 Director may issue such orders governing regulated professional activities and
9 practices as may be necessary to protect the public health, safety, and welfare.

10 If the Director finds that a professional practice, act, offering, therapy, or
11 procedure by a person licensed or required to be licensed by the Office is
12 exploitative, deceptive, or detrimental to the public health, safety, or welfare,
13 or a combination of these, the Director may issue an order to cease and desist
14 from the applicable activity, which, after reasonable efforts to publicize or
15 serve the order on the affected persons, shall be binding upon all persons
16 licensed or required to be licensed by the Office, and a violation of the order
17 shall subject the person or persons to professional discipline, may be a basis
18 for injunction by the Superior Court, and shall be deemed a violation of
19 ~~section 127 of this subchapter (unauthorized practice).~~

1 Sec. 14. 26 V.S.A. § 1378 is added to read:

2 § 1378. EMERGENCY PROVISION; EXECUTIVE DIRECTOR;

3 AUTHORITY TO ACT FOR BOARD

4 (a) During a state of emergency declared under 20 V.S.A. chapter 1, if the
5 Executive Director finds that the Board cannot reasonably, safely, and
6 expeditiously convene a quorum to transact business, and if authorized by the
7 Commissioner of Health, the Executive Director may exercise the full powers
8 and authorities of the Board, including disciplinary authority.

9 (b) The signature of the Executive Director shall have the same force and
10 effect as a voted act of the Board.

11 (c) A record of the actions of the Executive Director taken pursuant to the
12 authority granted by this section shall be published conspicuously on the
13 Board's website.

14 Sec. 15. 26 V.S.A. § 1405 is added to read:

15 § 1405. EMERGENCY PROVISION; OUT-OF-STATE HEALTH CARE

16 PROFESSIONALS

17 (a) Notwithstanding any provision of law to the contrary, during a state of
18 emergency declared under 20 V.S.A. chapter 1, and when authorized by the
19 Commissioner of Health, the Executive Director may authorize a health care
20 professional who practices a profession regulated by the Board and who holds
21 a valid license, certificate, or registration to provide those health care services

1 ~~in any other U.S. jurisdiction, to be deemed to be licensed, certified, or~~
2 ~~registered to provide health care services to a patient located in Vermont using~~
3 ~~telehealth, or as part of the staff of a licensed facility, provided the health care~~
4 ~~professional:~~

5 ~~(1) is licensed, certified, or registered in good standing in the other U.S.~~
6 ~~jurisdiction or jurisdictions in which the health care professional holds a~~
7 ~~license, certificate, or registration;~~

8 ~~(2) is not subject to any professional disciplinary proceedings in any~~
9 ~~other U.S. jurisdiction; and~~

10 ~~(3) is not affirmatively barred from practice in Vermont for reasons of~~
11 ~~fraud or abuse, patient care, or public safety.~~

12 ~~(b) A health care professional who is deemed to be authorized to provide~~
13 ~~health care services under this section shall submit, or have submitted on the~~
14 ~~individual's behalf, to the Board the individual's name, contact information,~~
15 ~~and the location or locations at which the individual will be practicing.~~

16 ~~(c) A health care professional who delivers health care services in Vermont~~
17 ~~pursuant to subsection (a) of this section shall be deemed to consent to, and~~
18 ~~shall be subject to, the regulatory jurisdiction of the Board.~~

1 ~~(d) The authority to practice under this section shall remain in effect until~~
2 ~~the termination of the declared state of emergency and provided the health care~~
3 ~~professional remains licensed, certified, or registered in good standing.~~

4 Sec. 16. 20 V.S.A. § 1406 is added to read:

5 § 1406. EMERGENCY PROVISION; INACTIVE HEALTH

6 CARE PROFESSIONALS

7 (a) Notwithstanding any provision of law to the contrary, during a state of
8 emergency declared under 20 V.S.A. chapter 1, and when authorized by the
9 Commissioner of Health, the Executive Director may authorize a former health
10 care professional who practiced a profession regulated by the Board and who
11 left active practice not more than three years earlier with the individual's
12 Vermont license, certificate, or registration in good standing to provide health
13 care services to a patient located in Vermont using telehealth or as part of the
14 staff of a licensed facility after submitting, or having submitted on the
15 individual's behalf, to the Board the individual's name, contact information,
16 and the location or locations at which the individual will be practicing.

17 (b) Such a returning health care professional shall be authorized to provide
18 health care services without a license for not more than 30 days pending the
19 individual's application for a temporary license or until the Executive Director
20 determines whether to issue that individual a temporary license, whichever
21 comes first.

1 (c) The Executive Director may issue a temporary license to such a
2 returning health care professional at no charge and may impose limitations on
3 the professional's scope of practice as the Executive Director deems
4 appropriate.

5 (d) A former health care professional who returns to the Vermont health
6 care workforce pursuant to this section shall be subject to the regulatory
7 jurisdiction of the Board.

8 * * * Emergency Sheriff Funding * * *

9 Sec. 17. 24 V.S.A. § 313 is added to read:

10 § 313. EMERGENCY PROVISION; COUNTY RESERVE FUNDS;

11 FUNDING OF EMERGENCY SHERIFF NEEDS

12 (a) Funding.

13 (1)(A) During a state of emergency declared under 20 V.S.A. chapter 1
14 that affects a county, in order to support the emergency needs of that county's
15 sheriff due to that emergency, the county's operations reserve funds and capital
16 reserve funds described in subsection 133(e) of this chapter may be allowed to
17 be used for the emergency needs of the sheriff subject to the approval of the
18 assistant judges.

19 (B) As used in this section, "emergency needs" means the needs to
20 respond to the emergency and includes hiring deputies, dispatchers, and other
21 personnel and purchasing equipment and supplies.

1 ~~(2) The funding of these emergency needs under this subsection shall be~~
2 in addition to the support of the sheriff's department set forth in section 73 of
3 this title.

4 (b) Reimbursement.

5 (1) Any sheriff who receives county reserve funds for emergency needs
6 under subsection (a) of this section shall apply to any applicable resources for
7 emergency relief, such as the Federal Emergency Management Agency
8 (FEMA), that are known to the sheriff for any allowable reimbursement.

9 (2) Within 30 days of receiving any such allowable reimbursement, the
10 sheriff shall provide those funds to the county in order to reimburse the county
11 for the funds allocated to the sheriff under subsection (a) of this section.

12 A sheriff shall only be responsible for reimbursing the county an amount equal
13 to the allowable reimbursement the sheriff received under subdivision (1) of
14 this subsection.

15 (c) Sunset. The authority for a sheriff to obtain funding for emergency
16 needs under subsection (a) of this section shall sunset two weeks after the day
17 the Governor terminates the state of emergency.

1 *** Effective Dates ***

2 Sec. 18. EFFECTIVE DATES

3 This act shall take effect on January 1, 2021, except that Sec. 6 (repeal of
4 19 V.S.A. § 312 (use of town highway funds)) shall take effect on July 1,
5 2021.

*Sec. 1. MUNICIPAL MEETINGS IN THE YEAR 2021; AUSTRALIAN
BALLOT AUTHORITY*

(a)(1) Notwithstanding the provisions of 17 V.S.A. § 2680(a) and 16 V.S.A. § 711e that require the voters of a municipality to vote to apply the provisions of the Australian ballot system to the annual or special meeting of the municipality, in the year 2021, any municipality may apply the Australian ballot system to any or all of its municipal meetings held in the year 2021 by vote of its legislative body.

(2) Notwithstanding 17 V.S.A. § 2681(b) or any other provision of law to the contrary, a person shall not be required to collect voter signatures in order to have the person's name placed on the ballot as a candidate for a local election that is held at a 2021 municipal meeting.

(b) The Secretary of State may waive statutory deadlines or other statutory provisions, or provisions set forth in a school district's articles of agreement, related to a municipal election as necessary in order for a municipality to apply the Australian ballot system to its meeting in accordance with subsection (a) of this section. This waiver authority applies to statutory provisions set forth in a municipal charter or provisions set forth in a school district's articles of agreement if the waiver is requested by that municipality.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.