

HOUSE No. 4598

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 27, 2020.

The committee on Ways and Means, to whom was referred the message from His Excellency the Governor recommending legislation relative to further addressing challenges faced by municipalities and state authorities resulting from COVID-19 (House, No. 4586), reports, in part, recommending that the accompanying bill (House, No. 4598) ought to pass.

For the committee,

AARON MICHLEWITZ.

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

An Act to address challenges faced by municipalities and state authorities resulting from COVID-19.

Whereas, The deferred operation of this act would tend to defeat its purposes, which are 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 that prevents the
5 completion of the business of the delayed town meeting on or before June 30 if the governor has
6 declared a state of emergency 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 2
9 sentences:-

10 Notwithstanding any general or special law, charter provision or by-law to the contrary,
11 during and for a period of 5 days after the termination of any weather-related, public safety or
12 public health emergency, the town moderator or person designated to perform the duties of town
13 moderator may, in consultation with local public safety or public health officials and the board of
14 selectmen, recess and continue a town meeting previously called pursuant to a warrant issued
15 pursuant to section 10 to a time, date and place certain; provided, however, that any such recess
16 and continuance period shall not exceed 30 days. The moderator or person designated to perform
17 the duties of town moderator may renew the declaration of recess and continuance period for up
18 to 30 days at a time but not more than 30 days following the date of rescission of a state of
19 emergency declared by the governor.

20 SECTION 3. Said section 10A of said chapter 39, as so appearing, is hereby amended by
21 striking out subsection (d) and inserting in place thereof the following subsection:-

22 (d) Within 10 days after the initial declaration of recess and continuance of a town
23 meeting pursuant to this section, a local public safety or public health official designated by the
24 board of selectmen shall submit a report to the attorney general providing the justification for the
25 declaration.

26 SECTION 4. The first paragraph of section 31 of chapter 44 of the General Laws, as so
27 appearing, is hereby amended by inserting after the second sentence the following 2 sentences:-
28 If the declared emergency prevents the adoption of an annual budget by a town or district by the
29 June 30 preceding the start of the fiscal year, the board of selectmen or district commissioners
30 shall notify the director and the director may approve expenditures, from any appropriate fund or
31 account, of an amount sufficient for the operations of the town or district during the month of

32 July not less than 1/12 of the total budget approved by the town or district in the most recent
33 fiscal year pursuant to a plan approved by the board of selectmen or district commissioners and
34 such authority shall continue for each successive month while the emergency continues to
35 prevent the adoption of a budget. The director may promulgate and revise rules or regulations
36 regarding the approval of emergency expenditures described in this section and accounting with
37 regard to such expenditures.

38 SECTION 5. Notwithstanding any general or special law to the contrary, if the adoption
39 of an annual budget in a town or district is delayed beyond June 30, 2020, as a result of the
40 governor's March 10, 2020 declaration of a state of emergency or the outbreak of the 2019 novel
41 coronavirus, also known as COVID-19, the director of accounts of the department of revenue
42 may authorize the appropriation from the available balance of the town's or district's
43 undesignated fund balance or "free cash" certified by the director under section 23 of chapter 59
44 of the General Laws as of July 1, 2019, as a funding source for the town's or district's fiscal year
45 2021 expenditures, including but not limited to any such undesignated fund balance in an
46 enterprise fund or special revenue account. The director of accounts may promulgate and revise
47 rules or regulations regarding the implementation of this section.

48 SECTION 6. Notwithstanding section 31 of chapter 44 of the General Laws, section 23
49 of chapter 59 of the General Laws or any other general or special law to the contrary, a city,
50 town or district may amortize over fiscal years 2021 to 2023, inclusive, in equal installments or
51 more rapidly, the amount of its fiscal year 2020 deficit resulting from the outbreak of the 2019
52 novel coronavirus, also known as COVID-19, as described in the governor's March 10, 2020
53 declaration of a state of emergency, including but not limited to any such deficit in an enterprise
54 fund or special revenue account. The local appropriating authority as defined in section 21C of

55 said chapter 59 and, in the case of a district, the prudential committee or commissioners, or as
56 otherwise defined in the General Laws, shall adopt a deficit amortization schedule in accordance
57 with the preceding sentence before setting the city's, town's or district's fiscal year 2021 tax rate.
58 The commissioner of revenue may issue guidelines or instructions for reporting the amortization
59 of deficits authorized by this section.

60 SECTION 7. Notwithstanding any general or special law to the contrary, as a result of the
61 outbreak of the 2019 novel coronavirus, also known as COVID-19, and the governor's March
62 10, 2020 declaration of a state of emergency, for fiscal year 2021, a city or town may expend
63 from each revolving fund established under section 53E1/2 of chapter 44 of the General Laws an
64 amount not to exceed the amount authorized to be expended in fiscal year 2020 until the city or
65 town adopts an annual budget for fiscal year 2021 at which time, the legislative body of the city
66 or town shall also vote on the total amount that may be expended from each revolving fund in
67 fiscal year 2021.

68 SECTION 8. Notwithstanding section 8 of chapter 61, section 14 of chapter 61A and
69 section 9 of chapter 61B of the General Laws, or any other general or special law, charter
70 provision, ordinance or by-law to the contrary, during and for a period of 90 days after the
71 termination of the governor's March 10, 2020 declaration of a state of emergency, all time
72 periods within which any municipality is required to act, respond, effectuate or exercise an
73 option to purchase shall be suspended.

74 SECTION 9. (a) Notwithstanding any general or special law to the contrary, as a result of
75 the outbreak of the 2019 novel coronavirus, known as COVID-19 and the declaration of a state
76 of emergency issued by the governor on March 10, 2020, for fiscal year 2020, the chief

77 executive officer of a city or town, as defined in clause Fifth B of section 7 of chapter 4 of the
78 General Laws, or a district, may extend:

79 (i) for the purposes of the first paragraph of section 57 of chapter 59 of the General Laws,
80 the date May 1 to a date not later than June 1, 2020;

81 (ii) for the purposes of the seventh and eighth paragraphs and the tenth and eleventh
82 paragraphs of said section 57C of said chapter 59, the date May 1 to a date not later than June 1,
83 2020 and for the purposes of the seventh paragraph of said section 57C, the date April 1 to a date
84 not later than June 1, 2020; and

85 (iii) for the purposes of the third paragraph of said section 59 of said chapter 59, the date
86 April 1 to a date not later than June 1, 2020.

87 (b) Notwithstanding said sections 57, 57C and 59 of said chapter 59 or any other general
88 or special law to the contrary, if municipal offices are closed as a result of the outbreak of the
89 2019 novel coronavirus, known as COVID-19 or the declaration of a state of emergency issued
90 by the governor on March 10, 2020 on the date that a tax payment, abatement or exemption
91 application is due, the due dates shall not be extended except pursuant to this section.

92 SECTION 10. Notwithstanding sections 57, 57A and 57C of chapter 59 of the General
93 Laws and section 2 of chapter 60A of the General Laws or any other general or special law to the
94 contrary, as a result of the outbreak of the 2019 novel coronavirus, known as COVID-19 and the
95 declaration of a state of emergency issued by the governor on March 10, 2020, the chief
96 executive officer of a city or town as defined in clause Fifth B of section 7 of chapter 4 of the
97 General Laws, or a district, may waive the payment of interest and other penalty in the event of
98 late payment of any excise, tax, betterment assessment or apportionment thereof, water rate or

99 annual sewer use or other charge added to a tax for any payments with a due date on or before or
100 after March 10, 2020 and made after its respective due date but before June 30, 2020.

101 SECTION 11. Notwithstanding the provisions of chapter 62C of the General Laws that
102 would otherwise be applicable, all returns and payments for the 2019 calendar year otherwise
103 due on April 15, 2020 under section 6 of said chapter 62C shall be due July 15, 2020.

104 SECTION 12. Notwithstanding any general or special law to the contrary, during the
105 state of emergency declared by the governor on March 10, 2020 as a result of the outbreak of the
106 2019 novel coronavirus, known as COVID-19, an establishment licensed to sell alcoholic
107 beverages or only wines and malt beverages on-premises may sell wine or malt beverages only
108 for off-premises consumption subject to the following conditions: (i) the wine or malt beverage
109 must not be sold to a person under 21 years of age; provided, that any delivery of wine or malt
110 beverages for off-premises consumption shall not be made without verification that the person
111 receiving the order has attained 21 years of age; (ii) the wine shall be sold in its original, sealed
112 container and the malt beverage shall be sold in a sealed container; (iii) the wine or malt
113 beverage shall be sold as part of the same transaction as the purchase of food; provided however,
114 that any order that includes wine or malt beverages shall be placed on or before 12:00 midnight;
115 and (iv) a customer is limited to 192 ounces of malt beverage and 1.5 liters of wine per
116 transaction.

117 SECTION 13. (a) Notwithstanding any general or special law to the contrary, subsections
118 (b) and (c) of section 91 of chapter 32 of the General Laws shall not apply in calendar year 2020
119 to the following 2 categories of persons for hours worked and earnings received during the state

120 of emergency issued by the governor on March 10, 2020 as a result of the outbreak of the 2019
121 novel coronavirus, known as COVID-19:

122 (i) any person who has been retired and who is receiving a pension or retirement
123 allowance, pursuant to said chapter 32 or any other general or special law, from the
124 commonwealth, a county, city, town, district or authority; or

125 (ii) any person whose employment in the service of the commonwealth, county, city,
126 town, district or authority has been terminated, pursuant to said chapter 32 or any other general
127 or special law, by reason of having attained an age specified in said general or special law or by
128 the rules and regulations of any department or agency of the commonwealth, county, city, town,
129 district or authority without being entitled to any pension or retirement allowance.

130 Accordingly, these 2 categories of persons may, during the state of emergency and
131 subject to all other laws, rules and regulations, governing the employment of persons in the
132 commonwealth, county, city, town, district or authority, be employed in the service of the
133 commonwealth, county, city, town, district or authority, including as a consultant or independent
134 contractor or as a person whose regular duties require that such person's time be devoted to the
135 service of the commonwealth, county, city, town, district or authority during regular business
136 hours.

137 (b) This section shall not apply to individuals retired under a general or special law on
138 disability.

139 SECTION 14. (a) As used in this section, the following words shall, unless the context
140 clearly requires otherwise, have the following meanings:

141 “Permit”, a permit, variance, special permit, license, amendment, extension or other
142 approval issued by a permit granting authority pursuant to a statute, ordinance, bylaw, rule or
143 regulation, whether ministerial or discretionary.

144 “Permit granting authority”, (i) a local, county or regional official, or (ii) a local, county
145 or regional multi-member body, that is authorized to issue a permit.

146 (b) Notwithstanding any general or special law, rule, regulation, charter, ordinance or by-
147 law to the contrary, during the state of emergency declared by the governor on March 10, 2020
148 as a result of the outbreak of the 2019 novel coronavirus, also known as COVID-19:

149 (1) an application for a permit shall be deemed duly filed and accepted as of the date of
150 the filing by the applicant, if filed with and certified as received by the city or town clerk if a
151 municipality, or with the secretary or other official established by law to receive such
152 applications if a county or regional entity. Notwithstanding the foregoing, a permit granting
153 authority may contest the completeness of an application at the time of filing, if the application is
154 ultimately denied by the permitting board on other grounds, or if the permit is ultimately
155 appealed by the applicant. An application for a permit may be filed electronically, either through
156 an electronic submission website established by the permit granting authority, or through
157 attachment of the requisite forms and supplemental materials to electronic mail sent to the
158 aforesaid clerk, secretary or official. Certification of receipt for purposes of this paragraph may
159 be provided electronically to the applicant, and shall be provided electronically if the permit
160 application is submitted electronically and electronic certification of receipt is requested by the
161 applicant;

162 (2) a requirement of a statute, ordinance, bylaw, rule or regulation that a hearing
163 commence within a specific period of time after the filing of an application or request for
164 approval of a permit is suspended as of March 10, 2020; provided, however, that the applicable
165 period shall resume 45 days after the termination of the state of emergency, or by a date
166 otherwise prescribed by law, whichever is later;

167 (3) a permit in effect or existence as of March 10, 2020, including any deadlines or
168 conditions of the permit, shall not lapse or otherwise expire and the expiration date of the permit,
169 or time period for meeting a deadline or for performance of a condition of the permit, shall toll
170 during the state of emergency;

171 (4) no permit shall be considered granted, approved or denied, constructively or
172 otherwise, due to a failure of the permit granting authority to act within the time required by a
173 statute, ordinance, bylaw, rule or regulation; provided, however, that the permit granting
174 authority acts within 45 days of the termination of the state of emergency or by a date otherwise
175 prescribed by law, whichever is later; provided, however, that the applicant and permit granting
176 authority may agree to alternative timing in writing;

177 (5) notwithstanding the time periods by which a permit is to be either heard or acted
178 upon, a permit granting authority may, by a declaration of its chair, which the chair is authorized
179 to make irrespective of whether a quorum is present to vote on such matter, schedule or
180 reschedule on 1 or more occasions the hearing or decision deadlines on a permit application
181 provided no such date or deadline is rescheduled for more than 45 days after the termination of
182 the state of emergency or after a date otherwise prescribed by law, whichever is later. The chair
183 shall provide written notice of any applicable rescheduled dates or deadlines to the applicant at

184 the applicant's address, and to the general public by posting electronically on the website of the
185 city or town clerk or the website of the county or regional entity;

186 (6) in the event a permit is required to be recorded with the registry of deeds or filed with
187 registry district of the land court, as the case may be, for the county or district in which the
188 property subject to the permit is located, within a certain period of time after its issuance in order
189 to remain in force and effect or as a condition to exercising the permit, (i) the period of time for
190 recording the permit shall be suspended during such time as the relevant registry of deeds or
191 registry district of the land court is either closed or subject to rules and procedures restricting
192 public in-person access; and (ii) the failure to record the permit shall not preclude the permit
193 holder from applying for, obtaining and commencing construction activities pursuant to other
194 required permits and approvals, including, without limitation, a building permit, which building
195 permit may be issued and shall be considered duly issued pursuant to section 6 of chapter 40A of
196 the General Laws; and

197 (7) a hearing on a pending application for a permit opened by a permit granting authority
198 prior to March 10, 2020, which has either not been concluded as of March 10, 2020 or has been
199 continued by the permit granting authority as of March 10, 2020, shall be automatically tolled
200 and continued to the first hearing date of the permit granting authority following the termination
201 of the state of emergency, or to a date otherwise prescribed by law, whichever is later; provided,
202 however, that the date is no later than 45 days from of the termination of the state of emergency
203 or the date otherwise prescribed by law, whichever is later.

204 (c) Nothing in this section shall affect the ability of a permit granting authority, subject to
205 applicable notice and hearing requirements, to revoke or modify a permit when that permit or the

206 law or regulation under which the permit was issued authorizes the modification or revocation
207 thereof; provided, however, that in no event shall the permit granting authority revoke or modify
208 the permit for failure of the permit holder as a result of the state of emergency to exercise or
209 otherwise commence work pursuant to the permit, or where such work commenced on or prior to
210 March 10, 2020, but has stopped as a result of the state of emergency or actions taken by an
211 agency or political subdivision of the commonwealth in reliance thereon. The limitations set
212 forth in this subsection shall apply as long as the state of emergency is in effect and for a period
213 of 60 days following the termination thereof; provided, however, that a permit holder shall be
214 entitled to a further extension of reasonable length to exercise or otherwise commence work
215 pursuant to said permit at the discretion of the permit granting authority for good cause shown;
216 provided, further, that the chair of any permit granting authority may grant such further extension
217 irrespective of whether a quorum is present to vote on the matter.

218 (d) Notwithstanding the requirements of section 20 of chapter 30A of the General Laws,
219 a permit granting authority, during the state of emergency, may conduct meetings and public
220 hearings remotely, consistent with the governor's order entitled "Order Suspending Certain
221 Provisions of the Open Meeting Law, G.L. c. 30A, § 20" issued March 12, 2020, as the order
222 may be amended, supplemented or replaced.

223 (e) Nothing in this section shall preclude or prohibit a permit granting authority from
224 issuing decisions on permit applications for which duly held public hearings or meetings have
225 been held, or preclude or prohibit any building commissioner, inspector of buildings, or other
226 permit granting official as the case may be, from issuing permits, including but not limited to
227 demolition or building permits.

228 (f) Notwithstanding any general or special law to the contrary and without limiting the
229 foregoing, this section shall apply to all local boards and commissions' conduct of public
230 meetings, public hearings or other actions taken in a quasi-judicial capacity.

231 SECTION 15. Nothing in this act shall be construed or implemented in such a way as to
232 modify a requirement of law necessary to retain federal delegation to, or assumption by, the
233 commonwealth of the authority to implement a federal law or program.

234 SECTION 16. Sections 2 and 3 shall take effect as of March 10, 2020.