

HOUSE No. 4617

Text of a still still further amendment, offered by Mr. Michlewitz of Boston, to the Senate still further amendment of the House Bill to address challenges faced by municipalities and state authorities resulting from COVID-19 (House, No. 4598). April 2, 2020.

The Commonwealth of Massachusetts

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

By striking out all after the enacting clause (inserted by still further amendment by the Senate) and inserting in place thereof the following:—

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:- 30 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:- Notwithstanding any general or special law, charter provision or by-law to the
10 contrary, during and for a period of 5 days after the termination of any weather-related, public
11 safety or public health emergency, the town moderator or person designated to perform the
12 duties of town moderator may, in consultation with local public safety or public health officials
13 and the board of selectmen, recess and continue a town meeting previously called pursuant to a
14 warrant issued pursuant to section 10 to a time, date and place certain; provided, however, that

15 any such recess and continuance period shall not exceed 30 days. The moderator or person
16 designated to perform the duties of town moderator may renew the declaration of recess and
17 continuance period for up to 30 days at a time but not more than 30 days following the date of
18 rescission of a state of emergency declared by the governor. If a town does not have a moderator,
19 the board of selectmen may recess and continue town meeting in accordance with this paragraph.

20 SECTION 3. Said section 10A of said chapter 39, as so appearing, is hereby further
21 amended by striking out subsection (c).

22 SECTION 4. Said section 10A of said chapter 39, as so appearing, is hereby further
23 amended by striking out subsection (d) and inserting in place thereof the following subsection:-

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

28 SECTION 5. The first paragraph of section 31 of chapter 44 of the General Laws, as so
29 appearing, is hereby amended by inserting after the second sentence the following 2 sentences:-
30 If the declared emergency prevents the adoption of an annual budget by a town or district by the
31 June 30 preceding the start of the fiscal year, the board of selectmen, town council or district
32 commissioners shall notify the director and the director may approve expenditures, from any
33 appropriate fund or account, of an amount sufficient for the operations of the town or district
34 during the month of July not less than 1/12 of the total budget approved by the town or district in
35 the most recent fiscal year pursuant to a plan approved by the board of selectmen, town council
36 or district commissioners and such authority shall continue for each successive month while the

37 emergency continues to prevent the adoption of a budget. The director may promulgate and
38 revise rules or regulations regarding the approval of emergency expenditures described in this
39 section and accounting with regard to such expenditures.

40 SECTION 6. Notwithstanding any general or special law to the contrary, if the adoption
41 of an annual budget in a city, town or district is delayed beyond June 30, 2020, as a result of the
42 governor's March 10, 2020 declaration of a state of emergency or the outbreak of the 2019 novel
43 coronavirus, also known as COVID-19, the director of accounts of the department of revenue
44 may authorize the appropriation from the available balance of the city's, town's or district's
45 undesignated fund balance or "free cash" certified by the director under section 23 of chapter 59
46 of the General Laws as of July 1, 2019, as a funding source for the city's, town's or district's
47 fiscal year 2021 expenditures, including, but not limited to, any such undesignated fund balance
48 in an enterprise fund or special revenue account. The director of accounts may promulgate and
49 revise rules or regulations regarding the implementation of this section.

50 SECTION 7. Notwithstanding section 31 of chapter 44 of the General Laws, section 23
51 of chapter 59 of the General Laws or any other general or special law to the contrary, a city,
52 town or district may amortize over fiscal years 2021 to 2023, inclusive, in equal installments or
53 more rapidly, the amount of its fiscal year 2020 deficit resulting from the outbreak of the 2019
54 novel coronavirus, also known as COVID-19, as described in the governor's March 10, 2020
55 declaration of a state of emergency, including, but not limited to, any such deficit in an enterprise
56 fund or special revenue account. The local appropriating authority as defined in section 21C of
57 said chapter 59 and, in the case of a district, the prudential committee or commissioners, or as
58 otherwise defined in the General Laws, shall adopt a deficit amortization schedule in accordance
59 with the preceding sentence before setting the city's, town's or district's fiscal year 2021 tax rate.

60 The commissioner of revenue may issue guidelines or instructions for reporting the amortization
61 of deficits authorized by this section.

62 SECTION 8. Notwithstanding any general or special law to the contrary, as a result of the
63 outbreak of the 2019 novel coronavirus, also known as COVID-19, and the governor's March
64 10, 2020 declaration of a state of emergency, for fiscal year 2021, a city or town may expend
65 from each revolving fund, established under section 53E1/2 of chapter 44 of the General Laws an
66 amount not to exceed the amount authorized to be expended in fiscal year 2020 until the city or
67 town adopts an annual budget for fiscal year 2021 at which time, the legislative body of the city
68 or town shall also vote on the total amount that may be expended from each revolving fund in
69 fiscal year 2021.

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

76 SECTION 10. (a) Notwithstanding any general or special law to the contrary, as a result
77 of the outbreak of the 2019 novel coronavirus, also known as COVID-19, and the governor's
78 March 10, 2020 declaration of a state of emergency, for fiscal year 2020, the chief executive
79 officer of a city or town, as defined in clause Fifth B of section 7 of chapter 4 of the General
80 Laws, or a district may extend:

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

83 (ii) for the purposes of the seventh and eighth paragraphs and the tenth and eleventh
84 paragraphs of section 57C of said chapter 59, the date May 1 to a date not later than June 1,
85 2020;

86 (iii) for the purposes of the seventh paragraph of said section 57C of said chapter 59, the
87 date April 1 to a date not later than June 1, 2020; and

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

90 (b) Notwithstanding said sections 57, 57C and 59 of said chapter 59 or any other general
91 or special law to the contrary, if municipal offices are closed as a result of the outbreak of the
92 2019 novel coronavirus, also known as COVID-19, or the governor's March 10, 2020
93 declaration of a state of emergency on the date that a tax payment, abatement or exemption
94 application is due, the due dates shall not be extended except pursuant to this section.

95 SECTION 11. Notwithstanding section 57, 57A and 57C of chapter 59 of the General
96 Laws, section 2 of chapter 60A of the General Laws or any other general or special law to the
97 contrary, as a result of the outbreak of the 2019 novel coronavirus, also known as COVID-19, or
98 the governor's March 10, 2020 declaration of a state of emergency, the chief executive officer of
99 a city or town, as defined in clause Fifth B of section 7 of chapter 4 of the General Laws, or the
100 prudential committee or commissioners of a district may waive the payment of interest and other
101 penalty in the event of late payment of any excise, tax, betterment assessment or apportionment
102 thereof, water rate or annual sewer use or other charge added to a tax for any payments with a

103 due date on or after March 10, 2020 and made after its respective due date but before June 30,
104 2020. Notwithstanding the forgoing, a city or town shall not terminate an essential service of a
105 resident, including, but not limited to, water, trash collection or electricity, for nonpayment of
106 taxes or fees with a due date on or after March 10, 2020, made after its respective due date but
107 before June 30, 2020, if the nonpayment resulted from a demonstrated inability to pay due to
108 circumstances related to the outbreak of COVID-19 or the governor's March 10, 2020
109 declaration of a state of emergency; provided that the inability to pay shall include a
110 demonstrated financial hardship of a resident, which may include, but not be limited to, loss of
111 employment, serious illness of someone within the home or death of someone within the home.

112 SECTION 12. Notwithstanding chapter 62C of the General Laws, all returns and
113 payments for the 2019 calendar year otherwise due on April 15, 2020, under section 6 of said
114 chapter 62C, shall be due on July 15, 2020.

115 SECTION 13. Notwithstanding any general or special law to the contrary, during the
116 governor's March 10, 2020 declaration of a state of emergency, an establishment licensed to sell
117 alcoholic beverages or only wines and malt beverages on-premises may sell wine or malt
118 beverages only for off-premises consumption subject to the following conditions: (i) the wine or
119 malt beverage shall not be sold to a person under 21 years of age; provided, however, that any
120 delivery of wine or malt beverages for off-premises consumption shall not be made without
121 verification that the person receiving the order has attained 21 years of age; (ii) the wine shall be
122 sold in its original, sealed container and the malt beverage shall be sold in a sealed container; (iii)
123 the wine or malt beverage shall be sold as part of the same transaction as the purchase of food;
124 provided, however, that any order that includes wine or malt beverages shall be placed not later
125 than the hour of which the establishment is licensed to sell alcohol or 12:00 midnight, whichever

126 time is earlier; and (iv) a customer shall be limited to 192 ounces of malt beverage and 1.5 liters
127 of wine per transaction.

128 SECTION 14. (a) Notwithstanding any general or special law to the contrary, subsections
129 (b) and (c) of section 91 of chapter 32 of the General Laws shall not apply in calendar year 2020
130 to the following 2 categories of persons for hours worked and earnings received during the
131 governor's March 10, 2020 state of emergency:

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

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

140 These 2 categories of persons may, during the state of emergency and subject to all other
141 laws, rules and regulations governing the employment of persons in the commonwealth or a
142 county, city, town, district or authority, be employed in the service of the commonwealth or a
143 county, city, town, district or authority, including as a consultant or independent contractor or as
144 a person whose regular duties require that such person's time be devoted to the service of the
145 commonwealth, county, city, town, district or authority during regular business hours.

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

148 SECTION 15. Notwithstanding section 7.08 of chapter 156D of the General Laws or any
149 other general or special law to the contrary, as a result of the outbreak of the 2019 novel
150 coronavirus, also known as COVID-19 and the declaration of a state of emergency issued on
151 March 10, 2020, for the duration of said state of emergency and 60 days thereafter, a public
152 corporation, as referenced in said section 7.08 of said chapter 156D and otherwise consistent
153 with the other provisions of said section, may conduct an annual or special meeting of the
154 shareholders solely by means of remote communication.

155 SECTION 16. Notwithstanding any general or special law or any bylaw of the
156 corporation to the contrary, for the duration of the governor's March 10, 2020 state of emergency
157 and 60 days thereafter and unless the articles of organization provide otherwise, the board of
158 directors of a corporation defined in section 2 of chapter 180 of the General Laws may: (i)
159 provide notice of a meeting of the board of directors: (A) only to those directors it is practicable
160 to reach; and (B) in any practicable manner; (ii) cancel a meeting of the members, as defined in
161 section 2 of said chapter 180, with notice of cancellation given in any practicable manner; (iii)
162 allow a director or officer to continue to serve during the governor's March 10, 2020 state of
163 emergency and until the director's or officer's successor is elected, appointed or designated;
164 provided that directors and officers whose term is extended pursuant to this section shall
165 continue to serve until the director's or officer's successor takes office, despite the expiration of
166 a director's or officer's term; (iv) allow a director to participate in a regular or special meeting
167 by, or conduct the meeting through the use of, any means of communication by which all
168 directors participating are able to simultaneously communicate with each other during the
169 meeting; (v) allow members at a meeting of the members to vote in person or by proxy; provided
170 that any member voting by proxy shall be considered present at the meeting for purposes of any

171 quorum requirement; (vi) appoint successors to any of the officers, directors, employees or
172 agents; (vii) relocate the principal office or designate alternative offices; and (viii) allow
173 members to participate in any meeting of members by remote participation, even if not
174 physically present at the meeting. Participation by remote communication at any meeting of the
175 members shall constitute presence at such meeting only if: (i) reasonable measures are
176 implemented to verify that each person deemed present and permitted to vote at the meeting by
177 means of remote communication is a member or proxyholder; (ii) reasonable measures are
178 implemented to provide such members and proxyholders a reasonable opportunity to participate
179 in the meeting and to vote on matters submitted to the members, including an opportunity to read
180 or hear to the proceedings of the meeting substantially concurrently with such proceedings, pose
181 questions and make comments, regardless of whether the members can simultaneously
182 communicate with each other during the meeting; and (iii) if any member or proxyholder votes
183 or takes other action at the meeting by means of remote communication, a record of such vote or
184 other action shall be maintained by the corporation.

185 Directors who participate in a meeting of the board of directors pursuant to this section
186 shall constitute a quorum. In a corporation with members, the corporation shall notify the
187 members, as soon as reasonably practicable, of any action taken by the board of directors
188 pursuant to this section.

189 SECTION 17. (a) As used in this section, the following words shall have the following
190 meanings unless the context clearly requires otherwise:

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

194 “Permit granting authority”, a local, district, county or regional official or a local, district,
195 county or regional multi-member body that is authorized to issue a permit.

196 (b) Notwithstanding any general or special law, rule, regulation, charter, ordinance or by-
197 law to the contrary, during the governor’s March 10, 2020 declaration of a state of emergency:

198 (i) an application for a permit shall be deemed duly filed and accepted as of the date of
199 the filing by the applicant if filed with and certified as received by the city or town clerk if a
200 municipality, or with the secretary or other official established by law to receive such
201 applications if a county or regional entity. Notwithstanding the foregoing, a permit granting
202 authority may contest the completeness of an application at the time of filing if the application is
203 ultimately denied by the permitting board on other grounds or if the permit is ultimately appealed
204 by the applicant. An application for a permit may be filed electronically, through an electronic
205 submission website established by the permit granting authority or through attachment of the
206 requisite forms and supplemental materials to electronic mail sent to the clerk, secretary or
207 official. Certification of receipt for purposes of this paragraph may be provided electronically to
208 the applicant and shall be provided electronically if the permit application is submitted
209 electronically and electronic certification of receipt is requested by the applicant;

210 (ii) a requirement of a statute, ordinance, bylaw, rule or regulation that a hearing
211 commence within a specific period of time after the filing of an application or request for
212 approval of a permit shall be suspended as of March 10, 2020; provided, however, that the

213 applicable period shall resume 45 days after the termination of the state of emergency, or by a
214 date otherwise prescribed by law, whichever is later;

215 (iii) a permit in effect or existence as of March 10, 2020, including any deadlines or
216 conditions of the permit, shall not lapse or otherwise expire and the expiration date of the permit,
217 or time period for meeting a deadline or for performance of a condition of the permit, shall toll
218 during the state of emergency;

219 (iv) no permit shall be considered granted, approved or denied, constructively or
220 otherwise, due to a failure of the permit granting authority to act within the time required by a
221 statute, ordinance, bylaw, rule or regulation; provided, however, that the permit granting
222 authority acts within 45 days of the termination of the state of emergency or by a date otherwise
223 prescribed by law, whichever is later; provided further, that the applicant and permit granting
224 authority may agree to alternative timing in writing;

225 (v) notwithstanding the time periods by which a permit is to be heard or acted upon, a
226 permit granting authority may, by a declaration of its chair, schedule or reschedule on 1 or more
227 occasions the hearing or decision deadlines on a permit application; provided, however, that the
228 chair may make such declaration whether or not a quorum is present to vote on such matter;
229 provided further, that no such date or deadline is rescheduled for more than 45 days after the
230 termination of the state of emergency or after a date otherwise prescribed by law, whichever is
231 later. The chair shall provide written notice of any applicable rescheduled dates or deadlines to
232 the applicant at the applicant's address and to the general public by posting electronically on the
233 website of the city or town clerk or the website of the county or regional entity;

234 (vi) if a permit is required to be recorded with the registry of deeds or filed with registry
235 district of the land court, as applicable, for the county or district in which the property subject to
236 the permit is located, within a certain period of time after its issuance in order to remain in force
237 and effect or as a condition to exercising the permit: (A) the period of time for recording the
238 permit shall be suspended during such time that the relevant registry of deeds or registry district
239 of the land court is closed or subject to rules and procedures restricting public in-person access;
240 and (B) the failure to record the permit shall not preclude the permit holder from applying for,
241 obtaining and commencing construction activities pursuant to other required permits and
242 approvals, including, but not limited to, a building permit; provided, however, that such a
243 building permit may be issued and, if issued, shall be considered duly issued pursuant to section
244 6 of chapter 40A of the General Laws; and

245 (vii) a hearing on a pending application for a permit opened by a permit granting
246 authority before March 10, 2020, which has not been concluded as of March 10, 2020 or has
247 been continued by the permit granting authority as of March 10, 2020, shall be automatically
248 tolled and continued to the first hearing date of the permit granting authority following the
249 termination of the state of emergency or to a date otherwise prescribed by law, whichever is
250 later; provided, however, that the date is not later than 45 days from of the termination of the
251 state of emergency or the date otherwise prescribed by law, whichever is later.

252 (c) Nothing in this section shall affect the ability of a permit granting authority, subject to
253 applicable notice and hearing requirements, to revoke or modify a permit if that permit or the law
254 or regulation under which the permit was issued authorizes the modification or revocation
255 thereof; provided, however, that the permit granting authority shall not revoke or modify the
256 permit where the permit holder fails as a result of the state of emergency to exercise or otherwise

257 commence work pursuant to the permit or where such work commenced on or before March 10,
258 2020 but has stopped as a result of the state of emergency or actions taken by an agency or
259 political subdivision of the commonwealth in reliance thereon. The limitations set forth in this
260 subsection shall apply as long as the state of emergency is in effect and for a period of 60 days
261 following the termination of the state of emergency; provided, however, that a permit holder
262 shall be entitled to a further extension of reasonable length to exercise or otherwise commence
263 work pursuant to the permit at the discretion of the permit granting authority for good cause
264 shown; provided further, that the chair of any permit granting authority may grant such further
265 extension whether or not a quorum is present to vote on the matter.

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

271 (e) Nothing in this section shall preclude or prohibit a permit granting authority from
272 issuing decisions on permit applications for which duly held public hearings or meetings have
273 been held or preclude or prohibit any building commissioner, inspector of buildings or other
274 permit granting official, as applicable, from issuing permits, including, but not limited to,
275 demolition or building permits.

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

279 SECTION 18. Nothing in this act shall be construed or implemented in such a way as to
280 modify a requirement of law necessary to retain federal delegation to, or assumption by, the
281 commonwealth of the authority to implement a federal law or program.

282 SECTION 19. Sections 2 to 4, inclusive, shall take effect as of March 10, 2020.