

# HOUSE . . . . . No. 4617

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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.

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## 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.