

Be it enacted, etc., as follows:

Notwithstanding any provision of law to the contrary, for the purpose of ascertaining the will of the voters of the town of Chelmsford, the following question shall be placed upon the official ballot to be used for the election of officers at the next annual town meeting to be held in said town:- “Shall the board of selectmen initiate action to secure full-time professional management for the town either through a charter petition drive or a special act of the legislature to be approved by town meeting prior to its submission?”

Approved October 7, 1976.

Chap. 397. AN ACT MAKING CLARIFYING CHANGES IN THE LAW REGULATING MEETINGS OF GOVERNMENTAL BODIES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make clarifying changes in certain provisions of the open meeting law, so called, which took effect on January first, nineteen hundred and seventy-six, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 11A of chapter 30A of the General Laws, as appearing in section 1 of chapter 303 of the acts of 1975, is hereby further amended by striking out the definition of “Governmental body” and inserting in place thereof the following definition:-

“Governmental body”, a state board, committee, special committee, subcommittee or commission, however created or constituted within the executive or legislative branch of the commonwealth or the governing board or body of any authority established by the general court to serve a public purpose in the commonwealth or any part thereof, but shall not include the general court or the committees or recess commissions thereof, or bodies of the judicial branch, or any meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it, nor shall it include the board of bank incorporation, the state tax commission and the General Insurance Guaranty Fund.

SECTION 2. The fourth paragraph of section 11B of said chapter 30A, as so appearing, is hereby amended by striking out clause (3) and inserting in place thereof the following clause:-

(3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, and to conduct collective bargaining sessions.

SECTION 3. Said section 11B of said chapter 30A, as so appearing, is hereby amended by striking out the eleventh, twelfth,

and thirteenth paragraphs and inserting in place thereof the following three paragraphs:-

Upon proof of failure by any governmental body or by any member or officer thereof to carry out any of the provisions of this section, any justice of the supreme judicial court or any justice of the superior court sitting in the county in which the governmental body customarily meets or in the absence of such sitting of court then any justice of the superior court sitting in Suffolk county shall issue an appropriate order requiring such governmental body or member or officer thereof to carry out such provisions at future meetings. Any such order may be sought by complaint of three or more registered voters, by the attorney general, or by the district attorney for the district in which the governmental body is located. The order of notice on the complaint shall be heard no later than ten days after the filing thereof or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders with respect to any of the matters referred to in this section may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of this section. In the hearing of such complaint the burden shall be on the respondent to show by a preponderance of the evidence that the actions complained of in such complaint were in accordance with and authorized by this section, by section twenty-three B of chapter thirty-nine or by section nine G of chapter thirty-four. All processes may be issued from the clerk's office in the county in which the action is brought and, except as aforesaid, shall be returnable as the court orders.

Such order may invalidate any action taken at any meeting at which any provisions of this section has been violated, provided that such complaint is filed within fourteen days of the date when such action is made public.

Any such order may also, when appropriate, require the records of any such meeting to be made public, unless it shall have been determined by such justice that the maintenance of secrecy with respect to such records is authorized by the provisions of this section. The remedy hereby created is not exclusive, but shall be in addition to every other available remedy.

SECTION 4. Section 9G of chapter 34 of the General Laws, as appearing in section 2 of said chapter 303, is hereby amended by striking out the tenth to the thirteenth paragraphs, inclusive, and inserting in place thereof the following four paragraphs:-

The district attorney of the county in which the violation allegedly occurred shall enforce the provisions of this section.

Upon proof of failure by any governmental body, member or officer thereof to carry out any of the provisions for public notice or meetings, for holding open meetings, or for maintaining

public records thereof, any justice of the supreme judicial court or the superior court sitting within and for the county in which such governmental body acts shall issue an appropriate order requiring such governmental body or member or officer thereof to carry out such provisions at future meetings. Such order may be sought by complaint of three or more registered voters, by the attorney general, or by the district attorney for the county in which the district is located. The order of notice on the complaint shall be returnable no later than ten days after the filing thereof and the complaint shall be heard and determined on the return day or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders with respect to any of the matters referred to in this section may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of this section. In the hearing of such complaint the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by section eleven B of chapter thirty A, by this section or by section twenty-three B of chapter thirty-nine. All processes may be issued from the clerk's office in the county in which the complaint is brought and, except as aforesaid, shall be returnable as the court orders.

Such order may invalidate any action taken at any meeting at which any provision of this section has been violated, provided that such complaint is filed within fourteen days of the date when such action is made public.

Any such order may also, when appropriate, require records of any such meeting to be made public unless it shall have been determined by such justice that the maintenance of secrecy with respect to such records is authorized by the provisions of this section. The remedy created hereby is not exclusive, but shall be in addition to every other available remedy.

SECTION 5. Section 23A of chapter 39 of the General Laws, as appearing in section 3 of said chapter 303, is hereby further amended by striking out the definition of "Governmental body" and inserting in place thereof the following definition:-

"Governmental body", every board, commission, committee or subcommittee of any district, city, region or town, however elected, appointed or otherwise constituted, and the governing board of a local housing, redevelopment or similar authority.

SECTION 6. Said chapter 39 is hereby further amended by striking out section 23B, as so appearing, and inserting in place thereof the following section:-

Section 23B. All meetings of a governmental body shall be open to the public and any person shall be permitted to attend any meeting except as otherwise provided by this section.

No quorum of a governmental body shall meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as provided by this section.

No executive session shall be held until the governmental body has first convened in an open session for which notice has been given, a majority of the members have voted to go into executive session and the vote of each member is recorded on a roll call vote and entered into the minutes, the presiding officer has cited the purpose for an executive session, and the presiding officer has stated before the executive session if the governmental body will reconvene after the executive session.

Nothing except the limitation contained in this section shall be construed to prevent the governmental body from holding an executive session after an open meeting has been convened and a recorded vote has been taken to hold an executive session. Executive sessions may be held only for the following purposes:

(1) To discuss the reputation and character, physical condition or mental health rather than the professional competence of an individual. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open.

(2) To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open.

(3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, and to conduct collective bargaining sessions.

(4) To discuss the deployment of security personnel or devices.

(5) To consider allegations of criminal misconduct.

(6) To consider the purchase, exchange, lease or value of real property, if such discussions may have a detrimental effect on the negotiating position of the governmental body and a person, firm or corporation.

(7) To comply with the provisions of any general or special law or federal grant-in-aid requirements.

This section shall not apply to any chance meeting, or a social meeting at which matters relating to official business are discussed so long as no final agreement is reached. No chance meeting or social meeting shall be used in circumvention of the spirit or requirements of this section to discuss or act upon a matter over which the governmental body has supervision, control, jurisdiction or advisory power.

Except in an emergency, a notice of every meeting of any governmental body shall be filed with the clerk of the city or town in which the body acts, and the notice or a copy thereof

shall, at least forty-eight hours, including Saturdays but not Sundays and legal holidays, prior to such meeting, be publicly posted in the office of such clerk or on the principal official bulletin board of such city or town. The secretary of a regional school district committee shall be considered to be its clerk, and notices of meetings of the committee shall be filed with its secretary and posted in his office or on the principal official bulletin board of the district. If the meeting shall be of a regional or district governmental body, the officer calling the meeting shall file the notice thereof with the clerk of each city and town within such region or district, and each such clerk shall post the notice in his office or on the principal official bulletin board of the city or town. The notice shall include the date, time, and place of such meeting. Such filing and posting shall be the responsibility of the officer calling such meeting.

A governmental body shall maintain accurate records of its meeting, setting forth the date, time, place, members present or absent and action taken at each meeting, including executive sessions. The records of each meeting shall become a public record and be available to the public; provided, however, that the records of any executive session may remain secret, so long as publication may defeat the lawful purposes of the executive session, but no longer. All votes taken in executive sessions shall be recorded and shall become a part of the record of said executive sessions. Upon the request of any member of a governmental body, any vote taken in its executive session shall be verified by a roll call.

A meeting of a governmental body may be recorded by any person in attendance by means of a tape recorder or any other means of sonic reproduction except when a meeting is held in executive session; provided, that in such recording there is no active interference with the conduct of the meeting.

Upon qualification for office following an appointment or election to a governmental body, as defined in this section, the member shall be furnished by the city or town clerk with a copy of this section. Each such member shall sign a written acknowledgement that he has been provided with such a copy.

The district attorney of the county in which the violation occurred shall enforce the provisions of this section.

Upon proof of failure by any governmental body or by any member or officer thereof to carry out any of the provisions for public notice or meetings, for holding open meetings, or for maintaining public records thereof, any justice of the supreme judicial court or the superior court sitting within and for the county in which such governmental body acts shall issue an appropriate order requiring such governmental body or member or officer thereof to carry out such provisions at future meetings. Such order may be sought by complaint of three or more reg-

istered voters, by the attorney general, or by the district attorney of the county in which the city or town is located. The order of notice on the complaint shall be returnable no later than ten days after the filing thereof and the complaint shall be heard and determined on the return day or on such day thereafter as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders with respect to any of the matters referred to in this section may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of this section. In the hearing of such complaints the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by section eleven B of chapter thirty A, by section nine G of chapter thirty-four or by this section. All processes may be issued from the clerk's office in the county in which the action is brought and, except as aforesaid, shall be returnable as the court orders.

Such orders may invalidate any action taken at any meeting at which any provision of this section has been violated, providing that such complaint is filed within fourteen days of the date when such action is made public.

Any such order may also, when appropriate, require the records of any such meeting to be made public unless it shall have been determined by such justice that the maintenance of secrecy with respect to such records is authorized by the provisions of this section. The remedy created hereby is not exclusive, but shall be in addition to every other available remedy.

SECTION 7. Chapter 66 of the General Laws is hereby amended by striking out section 17C, inserted by section 4 of said chapter 303, and inserting in place thereof the following section:-

Section 17C. Upon proof of failure of a governmental body as defined in section eleven A of chapter thirty A, section nine F of chapter thirty-four and section twenty-three A of chapter thirty-nine, or by any member or officer thereof to carry out any of the provisions prescribed by this chapter for maintaining public records, a justice of the supreme judicial or the superior court sitting within and for the county in which such governmental body acts or, in the case of a governmental body of the commonwealth, sitting within and for any county, shall issue an appropriate order requiring such governmental body or member or officer thereof to carry out the provisions of this chapter. Such order may be sought by complaint of three or more registered voters, by the attorney general, or by the district attorney for the county in which the governmental body acts. The order of notice on the complaint shall be returnable no later than ten days after the filing thereof and the complaint shall be heard and determined on the return day or on such day thereafter as the court

shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders with respect to any of the matters referred to in this section may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of this section. In the hearing of any such complaint the burden shall be on the respondent to show by a preponderance of the evidence that the actions complained of in such complaint were in accordance with and authorized by section eleven B of chapter thirtyA, by section nine G of chapter thirty-four or by section twenty-three B of chapter thirty-nine. All processes may be issued from the clerk's office in the county in which the action is brought and except as aforesaid, shall be returnable as the court orders.

Any such order may also, when appropriate, require the records of any such meeting of a governmental body to be made a public record unless it shall have been determined by such justice that the maintenance of secrecy with respect to such records is authorized by section eleven B of chapter thirty A, by section nine G of chapter thirty-four or by section twenty-three B of chapter thirty-nine. The remedy created hereby is not exclusive, but shall be in addition to every other available remedy.

SECTION 8. This act shall take effect as of January first, nineteen hundred and seventy-six.

Approved October 12, 1976.

Chap. 398. AN ACT CHANGING THE TIME FOR REPORTING NON-PAYMENT OF THE MOTOR VEHICLE EXCISE TO THE REGISTRAR OF MOTOR VEHICLES.

Be it enacted, etc., as follows:

SECTION 1. Section 2A of chapter 60A of the General Laws, as most recently amended by chapter 139 of the acts of 1973, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- If an excise assessed under this chapter remains unpaid for fourteen days after a demand therefor made not less than thirty days after such excise becomes due and payable, the local tax collector or the commissioner, as the case may be, may at any time and from time to time, in the calendar year in which the excise is first committed and billed or in the next calendar year, transmit to the registrar of motor vehicles, hereinafter in this section called the registrar, upon a form approved by the state tax commission, a notice of such nonpayment, specifying the name and address of the person to whom the excise is assessed, the amount of the excise due and such information as to the motor vehicle or trailer assessed as was transmitted by the registrar to the commissioner under sec-