

# SENATE . . . . No. 724

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[Senate, No. 724. — Moved (Innes) as a substitute for House Bill No. 2557, amended.]

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## The Commonwealth of Massachusetts

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In the Year One Thousand Nine Hundred and Fifty-One.

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### AN ACT GRANTING CERTAIN HOME-RULE POWERS TO CITIES AND TOWNS.

*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 4 of chapter 40 of the General  
2 Laws, as amended, is hereby further amended by  
3 striking out, in the second line as appearing in the  
4 Tercentenary Edition, the words “and for” and in-  
5 serting in place thereof the word:— including, —  
6 and by striking out, in the third line as appearing in  
7 the Tercentenary Edition, the words “by contract  
8 for a term of years” and inserting in place thereof the  
9 words:— for a period not exceeding five years.

1 SECTION 2. Said section 4 of chapter 40, as  
2 amended, is hereby further amended by adding at the  
3 end the following paragraph:—

4 A contract made by a town for the exercise of any  
5 of its corporate powers, including those specifically  
6 enumerated in this section, may be for any period of

7 time if at the time of the making of such contract an  
8 appropriation is available for the full amount thereof;  
9 but if, at such time, such an appropriation is not  
10 available, such contract shall not be for a period of  
11 more than two years from the making thereof unless  
12 a longer period is expressly authorized by this section  
13 or other provision of law; provided, however, that  
14 no contract for any term for the full amount of which  
15 an appropriation is not available at the time of the  
16 making thereof, shall be valid unless either (a) the  
17 contract is for the performance or delivery of work,  
18 services or supplies of a constantly recurring nature,  
19 and an appropriation is available for at least the first  
20 six months of such contract, and during the remainder  
21 of such contract the performance or delivery of such  
22 work, services or supplies is to be upon like or more  
23 favorable terms and conditions; or (b) the making  
24 of such contract is approved in the same manner in  
25 which appropriations to be raised by taxation are  
26 made. Anything in this section to the contrary  
27 notwithstanding, no contract made by a town under  
28 which it has no financial liability except in the event  
29 of breach shall be for a period of more than five years.  
30 The provisions of this paragraph shall apply notwith-  
31 standing any contrary provision of section thirty-one  
32 of chapter forty-four or of any similar general or  
33 special law.

1 SECTION 3. Section 5 of said chapter 40, as  
2 amended, is hereby further amended by inserting  
3 after the word "for", in the first line as appearing  
4 in the Tercentenary Edition, the words: — the exercise  
5 of any of its corporate powers, including.

1 SECTION 4. Said chapter 40, as amended, is hereby  
2 further amended by inserting after section 15 the  
3 following: —

4 *Section 15A.* Whenever a board or officer having  
5 charge of land constituting the whole or any part of  
6 an estate held by a city or town within its limits for a  
7 specific purpose shall determine that such land is no  
8 longer needed for such purpose, whether such land  
9 was acquired before or after the effective date of this  
10 section and whether acquired by eminent domain,  
11 purchase, gift, devise or otherwise, such board or  
12 officer shall forthwith give notice of such determination  
13 to the city council of the city or the board of selectmen  
14 of the town. At any time after the receipt of such  
15 notice, the city council of the city by a two-thirds  
16 vote of all its members, in the case of a city having a  
17 city manager, with the approval of said city manager,  
18 and in the case of other cities, with the approval of  
19 the mayor, or the town by a two-thirds vote in regular  
20 or special town meeting, may transfer the care,  
21 custody, management and control of such land to the  
22 same or another board or officer of the city or town  
23 for another specific municipal purpose, any provision  
24 of general or special law to the contrary notwith-  
25 standing; provided, that no such transfer shall be  
26 valid if it is in violation of any term or condition of  
27 the title of the city or town to such land; and pro-  
28 vided, further, that any land held for public park,  
29 public playground or recreation center purposes and  
30 transferred under this section to another specific  
31 purpose, shall, without further authority than that  
32 contained in this section, revert to public park, public  
33 playground or recreation center purposes, as the case

34 may be, whenever it shall cease to be used for such  
35 other purpose.

1 SECTION 5. Said chapter 40, as amended, is hereby  
2 further amended by inserting after section 21 the  
3 following:—

4 *Section 21A.* A town by by-law and a city by  
5 ordinance, unless repugnant to the charter of such  
6 city, may establish the hours, days and weeks of  
7 work and the hours, days and weeks of leave without  
8 loss of pay, including, without limiting the generality  
9 of the foregoing, holiday leave, vacation leave and  
10 sick leave, for any or all employees of such town or  
11 city other than those appointed by the school com-  
12 mittee; provided, that the number of working hours,  
13 days, or weeks so established shall not exceed, and  
14 the number of hours, days or weeks of leave without  
15 loss of pay shall not be less than, the number pre-  
16 scribed by any general or special law applicable to  
17 such town or city on the first day of January, nineteen  
18 hundred and fifty-two.

1 SECTION 6. Section 33B of chapter 44 of the  
2 General Laws is hereby amended by adding after  
3 the last sentence the following:— On recommenda-  
4 tion of the appropriation, advisory or finance com-  
5 mittee, if any, otherwise of the board of selectmen, a  
6 town may, by majority vote at any meeting duly held,  
7 transfer any amount previously appropriated to any  
8 other use authorized by law. No approval other than  
9 that expressly provided herein shall be required for  
10 any transfer under the provisions of this section.

1 SECTION 7. The first paragraph of section 23 of  
2 chapter 59 of the General Laws, as amended by chap-

3 ter 576 of the acts of 1948, is hereby further amended  
4 by striking out the second, third, fourth and fifth  
5 sentences and inserting in place thereof the following:  
6 — The assessors shall deduct from the amount re-  
7 quired to be assessed (a) the amount of all estimated  
8 receipts of their respective towns lawfully applicable  
9 to the payment of the expenditures of the year, ex-  
10 cluding sums to be received from the commonwealth  
11 or county for highway purposes and excluding esti-  
12 mated receipts from loans and taxes, but including  
13 estimated receipts from the excise levied under chap-  
14 ter sixty A and receipts estimated by the commis-  
15 sioner under section twenty-five A of chapter fifty-  
16 eight; (b) the amount of all appropriations voted  
17 from available funds for the purpose of deduction;  
18 and (c) the amount of all other appropriations voted  
19 from available funds. Deductions made by the  
20 assessors under any provision of this section shall  
21 not be subject to the approval of the commissioner;  
22 provided, however, that deductions made under  
23 clause (a) on account of estimated receipts other than  
24 those estimated by the commissioner shall not exceed  
25 the aggregate amount of actual receipts received  
26 during the preceding financial year from the same  
27 sources, except with the written approval of the  
28 commissioner; and provided, further, that deductions  
29 made under clauses (b) and (c) shall not exceed the  
30 sums certified to the assessors and the commissioner  
31 by the director of the division of accounts in the  
32 department of corporations and taxation, after such  
33 examination of the accounts of the town as said direc-  
34 tor may deem proper, as the amounts of available  
35 funds on hand on the preceding January first. Said  
36 director shall promulgate and from time to time  
37 revise rules and regulations for determining the avail-

38 able funds of a town in accordance with established  
39 accounting practices of said division of accounts.

1 SECTION 8. This act shall take effect on January  
2 first, nineteen hundred and fifty-two.



