The Commonwealth of Massachusetts

THIRTEENTH REPORT
OF THE
SPECIAL COMMISSION ON IMPLEMENTATION
OF THE
MUNICIPAL HOME RULE
TO THE
STATE CONSTITUTION
(Created by Resolves of 1965, c. 131)
(Revived and Extended by Resolves of 1966, c. 63)
(Revived and Extended by Resolves of 1968, c. 1)
(Most Recently Revived and Extended by Resolves of 1968, c. 89)

June 28, 1968.
To the Honorable Senate and House of Representatives:

GENTLEMEN: — In conformity with Chapter 131 of the Resolves of 1965 which created it, and Chapter 63 of the Resolves of 1966 which continued its study mandate, and most recently revived and continued by the Resolves of 1968, the Special Commission on Implementation of the Municipal Home Rule Amendment to the State Constitution submits herewith its Thirteenth Report.

The Commission recommends that the accompanying draft proposal be adopted.

Respectfully submitted,

Sen. James A. Kelly, Jr., Chairman
Fourth Worcester District

Rep. Stanley J. Bocko, Vice-Chairman
Nineteenth Middlesex District

Sen. John J. Moakley
Fourth Suffolk District

Sen. William D. Weeks
Norfolk and Plymouth District

Rep. David L. Flynn
Seventh Plymouth District

Rep. Mary B. Newman
Second Middlesex District

Sixth Norfolk District

Rep. Winston Healy
First Franklin District

Mr. Clarke H. Wertheim
Selectman, Needham

Mr. William F. Chouinard
Norwood

Mr. Francis C. Florini
North Adams

Mr. Francis J. McGrath
City Manager of Worcester

Mr. Robert J. M. O'Hare
Stoughton
At the present time local action by duly elected charter commissions is limited to certain provisions of the General Laws which regulate the powers of cities and towns. These statutory limitations, while valid prior to the adoption of the Home Rule Amendment in 1966, now severely restrict the powers of municipalities to adopt, amend, or revise their charters in accordance with the provisions of the newly enacted Home Rule Procedures Act, Chapter 43B of the General Laws.

The legislation attached to this interim report is offered at this time to assist existing charter commissions and should be regarded as a temporary measure pending the complete revision of those chapters of the General Laws which deal with municipal powers. This draft is designed to make possible the effective implementation of the powers granted to municipalities so that charter commissions will be allowed the latitude necessary to provide a modern efficient system for the management of the internal affairs of their individual communities. The proposed legislation indicates to charter commissions what general provisions must be included in any charter while at the same time affording these commissions the opportunity to innovate and to accomplish what they view as the major reforms necessary for effective municipal administration.

Charter commissions must be empowered to innovate, to improve, and to meet boldly and imaginatively the swiftly-moving challenges of the day. We believe that this legislation will reaffirm once again the freedom of action which the Home Rule Amendment intended.
The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Eight.

AN ACT ESTABLISHING STANDARDS AND REQUIREMENTS FOR CITY AND TOWN HOME RULE CHARTERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1. The General Laws are hereby amended by inserting after Chapter 43B the following new chapter: —

CHAPTER 43C

STANDARDS FOR HOME RULE CHARTERS

Section 1. The words "home rule charter" as used in this chapter shall mean a charter adopted, or thereafter revised or amended, under the powers conferred by sections two, three and four of Article II of the Articles of Amendment to the Constitution of the Commonwealth.

Section 2. Every city home rule charter shall:

1. Provide a method for dividing the city into election areas and for revising such division periodically, if any members of the legislative body or the school committee are to be elected, or selected, other than at large. All the areas into which a city is divided shall contain as nearly equal numbers of inhabitants as possible, and every such area shall consist of compact and contiguous territory bounded as far as possible by the center lines of known streets and ways or by other well defined limits.

2. Provide for an elected legislative body and specify the number of members thereof, their term of office, which shall not exceed four years, the method of their election, the grounds for their removal and the method for filing vacancies.
3. Specify what official of the city will be the chief administrative and executive officer, the method of his selection, his term of office, which shall not exceed four years except that it may be at the pleasure of the selecting authority if such officer is not elected by popular vote, the grounds for his removal, and his powers and duties. Notwithstanding the foregoing, the charter may allocate the chief executive and the chief administrative functions among two or more officials specified as above, or the charter may provide that the chief executive and administrative functions of the city will be performed by one or more members of the legislative body.

4. Provide for a school committee, which will exercise the powers conferred on school committees by the General Court and any additional powers duly conferred upon it, and specify the number of members thereof, the method of their selection, their term of office, which shall not exceed four years, the grounds for their removal and the method for filling vacancies.

5. Provide for biennial city elections.

6. Provide for such city offices, other than those mentioned above, as may be deemed necessary or desirable, specify whether they shall be elective or appointive and also specify the extent to which the legislative body of the city may provide for the organization of, and the allocation of powers and duties within, the administrative and executive branch of the city government.

7. Set forth initiative and referendum procedures, except that no provision thereof shall require a total number of signatures greater than twenty per cent of the number of registered voters of the city in order to bring an initiative measure or a referendum measure to an election.

Section 3. Every town home rule charter which provides for a representative town meeting form of government shall:

1. Provide a method for dividing the town into areas for the election of town meeting members and for revising
such division periodically. All the areas into which a
town is divided shall contain as nearly equal numbers
of inhabitants as possible, and every such area shall
consist of compact and contiguous territory bounded as
far as possible by the center lines of known streets and
ways or by other well defined limits.

2. Provide for the election of town meeting members, which
may include election at large, specify their term of
office, which shall not exceed four years, established the
method for filling vacancies and designate what officers,
if any, whether local or state and elective or appointive,
shall be town meeting members ex officio; except that
the total number of town meeting members shall not be
less than twenty-five, and at least two thirds of the total
number of town meeting members shall be apportioned
among and elected from the election areas of the town.

3. Provide for the election of a moderator, by the voters
of the town or by the representative town meeting, for
a term of not more than four years and for the election
of not less than three selectmen for a term of not more
than four years.

4. Provide for a school committee, which will exercise the
powers conferred on school committees by the General
Court and any additional powers which may be duly
conferred upon it, and specify the number of members
thereof, the method of their selection, their term of
office, which shall not exceed four years, the grounds
for their removal and the method for filling vacancies.

5. Provide for annual or biennial town elections and for
annual or more frequent regular town meetings with the
powers of an annual town meeting, and specify a method
for individually notifying town meeting members of the
time and place of special town meetings.

6. Provide for such town offices, other than those mentioned
above, as may be deemed necessary or desirable, specify
whether they shall be elective or appointive and also
specify the extent to which the town may, by by-law,
organize its government and allocate functions among its officers or delegate such power to its officers.

7. Set forth referendum procedures, except that no provision thereof shall require a total number of signatures greater than twenty per cent of the number of registered voters of the town in order to bring a referendum measure to an election.

Section 4. Every town home rule charter, other than a charter providing for a representative town meeting form of government, shall:

1. Provide for the election of a moderator for a term of not more than four years and for the election of not less than three selectmen for a term of not more than four years.

2. Provide for a school committee, which will exercise the powers conferred on school committees by the General Court and any additional powers which may be duly conferred upon it, and specify the number of members thereof, the method of their selection, their term of office, which shall not exceed four years, the grounds for their removal and the method for filling vacancies.

3. Provide for annual or biennial town elections and for annual or more frequent regular town meetings with the powers of an annual town meeting.

4. Provide for such town offices, other than those mentioned above, as may be deemed necessary or desirable, specify whether they shall be elective or appointive and also specify the extent to which the town may, by by-law, organize its government and allocate functions among its officers or delegate such power to its officers.

Section 5. All city and town home rule charters shall:

1. Indicate with respect to each board, committee or other body established thereby whether the members shall serve their term of office concurrently, or provide for the division of the members into two, three or four groups so that all the members in each group will serve
their term of office concurrently but the commencement
of the term of office of the members of each group will
be staggered on an annual or biennial basis. Whenever
the members of a municipal body serve for staggered
terms and some or all of such members are selected
other than at large, the number of such members in
each group from each election area of the city or town
shall be as nearly equal as possible. No board, com-
mittee or other body, except a representative town meet-
ing, may be established with an even number of members.

2. Specify which special laws which could be amended or
repealed through use of the power conferred by section
nine of Article II of the Articles of Amendment to the
Constitution will remain in effect, and, for any such law
which is amended through the use of that power, the
charter shall indicate the extent of such amendment.
Any such special law which is not so mentioned in the
charter shall be deemed to be repealed as of the effective
date of the charter, except insofar as such special law
confers corporate powers or duties on the city or town,
defines its boundaries or confers powers or duties on its
officers. The foregoing sentence shall not prevent the
express repeal of any such law in whole or in part.

3. Include such provisions as may be necessary to permit
an orderly transition to the new form of government.

4. Specify the date on which the charter will take effect,
except that provision may be made for temporary partial
effectiveness consistent with an orderly transition of
government.

Section 6. The listing of required charter provisions in
section two through five of this chapter shall not be con-
strued to prevent the inclusion of additional provisions in such
charters.

Section 7. The provisions of this chapter and the provisions
of any home rule charter, insofar as those provisions define
the form of government, distribute the municipal powers with-
in that form and prescribe the methods of exercising those
powers, which are consistent with the provisions of sections two through six of this chapter, shall, to the extent that they may be inconsistent with the provisions of any general or special laws enacted by the General Court, prevail over such other laws and shall not be deemed to be inconsistent with such laws. Notwithstanding the foregoing sentence, no provision of a home rule charter shall be inconsistent with general laws which provide for the warning of town meetings or which relate to open meetings, conflicts of interest, civil service, collective bargaining, the powers and duties of school committees, and the organization, powers and duties of zoning boards of appeals, planning boards and housing and redevelopment authorities.

Section 8. Nothing in this chapter shall be construed as a grant of any of the powers enumerated in section seven of Article II of the Articles of Amendment to the Constitution.

Section 9. This chapter shall be liberally construed in order to effectuate its purpose which is to facilitate the adoption of home rule charters.
The Commonwealth of Massachusetts

No. 2186

This bill, in accordance with my request, has been read a second time and ordered to a Committee on the Whole House, the majority report of which is attached to this bill. The amendment to the bill, which was offered by the Committee on the Whole House, with the minority report of the Committee of the Whole House, has been adopted by the House. On the second reading, I do not think that it is necessary to say much in this history of the bill.

Respectfully submitted,

Jasper S. Wood