

**HOUSE . . . . . No. 6639**

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***The Commonwealth of Massachusetts***

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HOUSE OF REPRESENTATIVES, October 4, 1977.

The committee on Bills in the Third Reading, to whom was referred the Bill to allow the appointment of a tree warden by by-law (House, No. 6582), report recommending that the same be amended by the substitution of the accompanying bill (House, No. 6639).

For the committee,

JOHN E. MURPHY, Jr.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Seven.

### AN ACT PROVIDING FOR THE APPOINTMENT OF A TREE WARDEN IN 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. Chapter 41 of the General Laws is hereby  
2 amended by striking out section 1, as most recently amended by  
3 chapter 1134 of the acts of 1973, and inserting in place thereof the  
4 following section: —

5 *Section 1.* Every town at its annual meeting shall in every year  
6 when the term of office of any incumbent expires, and except when  
7 other provision is made by law, choose by ballot from its registered  
8 voters the following town officers for the following terms of office:

9 A town clerk for the term of one or more years.

10 A town treasurer for the term of one or three years.

11 One or more collectors of taxes for the term of one or three  
12 years, unless the town votes otherwise or votes to authorize its  
13 treasurer to act as collector.

14 Three or five selectmen for the term of one or three years, subject  
15 to the provisions of section twenty-one.

16 One, three or five assessors for the term of three years.

17 One or three auditors for the term of one or three years, except  
18 where such office is abolished as provided in section fifty-five.

19 One or more highway surveyors for the term of one or three  
20 years; or

21 A road commissioner for the term of one year; or

22 Three road commissioners for terms of three years, as the town  
23 may vote.

24 A sewer commissioner for the term of one year; or

25 Three sewer commissioners for the terms of three years if the  
26 town has provided for such officers, unless the town by vote  
27 authorizes its road commissioners to act as sewer commissioners.

28 A tree warden for the term of one or three years unless the town  
29 by vote or by-law provides that he shall be appointed.

30 One or more constables for a term of three years, unless the town  
31 by vote provides that they shall be appointed.

32 Three, five, six, seven or nine members of the school committee  
33 for terms of three years.

34 Three or more assistant assessors, if the town so votes, for the  
35 term of three years.

36 Three members of the board of health for the term of three years  
37 if the town provides for such board, otherwise the selectmen shall  
38 act as a board of health.

39 All other town officers shall be appointed by the selectmen  
40 unless other provision is made by law or by vote of the town.

41 Women shall be eligible to all town offices, notwithstanding any  
42 special law to the contrary.

43 In any town or district in which the election date of the officers,  
44 authorized under this section, is changed, the officers currently  
45 serving shall continue to hold their offices until the appointment or  
46 election and qualification of their successors.

47 In any case where three or more members of a board are to be  
48 elected for terms of more than one year, as nearly one third as may  
49 be shall be elected annually.

50 The provisions of this section or any of the following sections of  
51 this chapter which authorize or require the fixing of the terms of  
52 office of members of any board, commission or body in such a  
53 manner that all such terms would not expire at the same time shall  
54 not apply with respect to such board, commission or body after the  
55 town has voted under section two of chapter fifty-four A to elect  
56 the members thereof by the proportional representation method of  
57 election.

1 SECTION 2. Said chapter 41 is hereby further amended by  
2 striking out section 21, as most recently amended by chapter 157 of  
3 the acts of 1977, and inserting in place thereof the following  
4 section: —

5 *Section 21.* By vote of a town meeting called for the purpose in  
6 any town at least sixty days before an annual meeting, or upon  
7 request by petition of ten per cent of the qualified voters of any  
8 town filed with the selectmen thereof at least sixty days before an  
9 annual town meeting, asking that the selectmen act as a water and  
10 sewer board, water commissioners, water and municipal light

11 commissioners, municipal light board, sewer commissioners, park  
 12 commissioners, board of public works, board of health, assessors,  
 13 or commission of public safety, or perform the duties of such  
 14 boards or officers or any of them or that cemetery commissioners,  
 15 assessors, a superintendent of streets, a chief of police and fire  
 16 departments or board of health be thereafter appointed by the  
 17 selectmen, the selectmen of such town shall include in the warrant  
 18 for such annual meeting for submission to the voters such question  
 19 or questions in the following form, to be placed on the official  
 20 ballot in towns using such ballot: —

21 Shall the town vote to have its selectmen act as \_\_\_\_\_ ?

YES	<input type="checkbox"/>
NO	<input type="checkbox"/>

22 Shall the town vote to have its selectmen appoint \_\_\_\_\_ ?

YES	<input type="checkbox"/>
NO	<input type="checkbox"/>

23 If a town, in which the selectmen are elected for terms of one  
 24 year, shall vote in accordance with this section that its selectmen  
 25 shall act as or perform the duties of any of the aforesaid boards or  
 26 officers, it shall, at the next annual meeting, elect one selectman for  
 27 one year, one for two years and one for three years, or, if five are  
 28 elected, one for one year, two for two years and two for three years,  
 29 and thereafter in either event shall elect them for terms of three  
 30 years. Upon the election and qualification of the selectmen at such  
 31 next annual meeting, and upon the appointment and qualification  
 32 by oath of the officers herein authorized to perform the duties of  
 33 any existing town board or officer, the term of office of such  
 34 existing board or officer shall thereupon terminate, and all the  
 35 duties, powers and obligations of said boards and officers shall be  
 36 transferred to and imposed upon their successors.

1 SECTION 3. Said chapter 41 is hereby further amended by  
 2 striking out section 106, as appearing in the Tercentenary Edition,  
 3 and inserting in place thereof the following section: —

4 *Section 106.* If the town provides by vote or by-law that the tree  
 5 warden shall be appointed, such appointment shall be made by the  
 6 selectmen.