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H.42

Introduced by Representative Marcotte of Coventry

Referred to Committee on

Date:

Subject: Elections; local elections; municipal clerk or treasurer; appointment

Statement of purpose of bill as introduced: This bill proposes to:

(1) allow a municipality to vote to authorize its legislative body to
appoint its municipal clerk or treasurer; and

(2) provide that the municipal offices of treasurer and of collector of
delinquent taxes are incompatible.

~~An act relating to appointing municipal clerks and treasurers and to
incompatible municipal offices~~ *An act relating to appointing municipal
clerks and treasurers and to municipal audit penalties*

It is hereby enacted by the General Assembly of the State of Vermont:

~~*** Appointing Municipal Clerks and Treasurers ***~~

Sec. 1. 17 V.S.A. § 2646 is amended to read:

§ 2646. TOWN OFFICERS; QUALIFICATION; ELECTION

At the annual meeting, a town shall choose from among its registered voters
the following town officers, who shall serve until the next annual meeting and
until successors are chosen, unless otherwise provided by law:

1 ~~(2) A town clerk for a year, unless the town has voted to authorize the~~
2 ~~selectboard to appoint the town clerk as provided in section 2651e of this~~
3 ~~chapter. The term of office for a town clerk shall be for one year, unless a~~
4 ~~town votes that a town the clerk shall be elected for a term of three years.~~
5 ~~When a town votes for a three-year term for the office of town clerk, that~~
6 ~~three-year term shall remain in effect until the town rescinds it by the majority~~
7 ~~vote of the legal voters present and voting at an annual meeting, duly warned~~
8 ~~for that purpose.~~

9 (3) A town treasurer for a year, unless the town has voted to authorize the
10 selectboard to appoint the treasurer as provided in section 2651f of this
11 chapter. The term of office of a town treasurer shall be for one year, unless a
12 town votes that a town treasurer shall be elected for a term of three years.
13 When a town votes for a three-year term for the office of town treasurer, that
14 three-year term shall remain in effect until the town rescinds it by the majority
15 vote of the legal voters present and voting at an annual meeting, duly warned
16 for that purpose.

17 * * *

18 Sec. 2. 17 V.S.A. § 2651e is added to read:

19 § 2651e. MUNICIPAL CLERK; APPOINTMENT; REMOVAL

20 (a) A municipality may vote at an annual meeting to authorize the
21 legislative body to appoint the municipal clerk. A municipal clerk so

1 ~~appointed may be removed by the legislative body for just cause after notice~~
2 ~~and hearing.~~

3 (b) A vote to authorize the legislative body to appoint the municipal clerk
4 shall remain in effect until rescinded by the majority vote of the legal voters
5 present and voting at an annual or special meeting, duly warned for that
6 purpose.

7 (c) The term of office of a municipal clerk in office on the date a
8 municipality votes to allow the legislative body to appoint a municipal clerk
9 shall expire 45 calendar days after the vote or on the date upon which the
10 legislative body appoints a municipal clerk under this section, whichever
11 occurs first, unless a petition for reconsideration or rescission is filed in
12 accordance with section 2661 of this title.

13 (d) The authority to authorize the legislative body to appoint the municipal
14 clerk as provided in this section shall extend to all municipalities except those
15 that have a charter that specifically provides for the election or appointment of
16 the office of municipal clerk.

17 Sec. 3. 17 V.S.A. § 2651f is added to read:

18 § 2651f. MUNICIPAL TREASURER; APPOINTMENT; REMOVAL

19 (a) A municipality may vote at an annual meeting to authorize the
20 legislative body to appoint the municipal treasurer. A treasurer so appointed
21 may be removed by the legislative body for just cause after notice and hearing.

1 ~~(b) A vote to authorize the legislative body to appoint the treasurer shall~~
2 ~~remain in effect until rescinded by the majority vote of the legal voters present~~
3 ~~and voting at an annual or special meeting, duly warned for that purpose.~~

4 ~~(c) The term of office of a treasurer in office on the date a municipality~~
5 ~~votes to allow the legislative body to appoint a treasurer shall expire~~
6 ~~45 calendar days after the vote or on the date upon which the legislative body~~
7 ~~appoints a treasurer under this section, whichever occurs first, unless a petition~~
8 ~~for reconsideration or rescission is filed in accordance with section 2661 of~~
9 ~~this title.~~

10 ~~(d) The authority to authorize the legislative body to appoint the treasurer~~
11 ~~as provided in this section shall extend to all municipalities except those that~~
12 ~~have a charter that specifically provides for the election or appointment of the~~
13 ~~office of municipal treasurer.~~

14 * * * Incompatible Municipal Offices * * *

15 Sec. 4. 17 V.S.A. § 2647 is amended to read:

16 § 2647. INCOMPATIBLE OFFICES

17 (a)(1) An auditor shall not be town clerk, town treasurer, selectboard
18 member, first constable, collector of current or delinquent taxes, trustee of
19 public funds, town manager, road commissioner, water commissioner, sewage
20 system commissioner, sewage disposal commissioner, cemetery commissioner,
21 ~~or town district school director, nor shall a spouse of or any person assisting~~

1 ~~any of these officers in the discharge of official duties be eligible to hold office~~
2 as auditor.

3 (2)(A) A selectboard member or school director shall not be first
4 constable, collector of taxes, town treasurer, auditor, or town agent.

5 (B) A selectboard member shall not be lister or assessor.

6 (3) A town treasurer shall not be collector of delinquent taxes.

7 (4) A cemetery commissioner shall not be town treasurer.

8 (4)(5) A town manager shall not hold any elective office in the town or
9 town school district.

10 (5)(6) Election officers at local elections shall be disqualified as
11 provided in section 2456 of this title.

12 (b) Notwithstanding subsection (a) of this section, if a school district
13 prepares and reports its budget independently from the budget of the town and
14 the school district is audited by an independent public accountant, a person
15 shall be eligible to hold office as auditor even if that person's spouse holds
16 office as a school director.

17 Sec. 5. TRANSITIONAL PROVISIONS; CURRENT TOWN

18 TREASURER/ COLLECTOR OF DELINQUENT TAXES

19 (a) Appointed town treasurers and collectors of delinquent taxes. If a
20 person simultaneously holds the offices of town treasurer and of collector of
21 delinquent taxes in a municipality and at least one of those offices is an

1 ~~appointed position, the municipal legislative body shall have 60 days from the~~
2 ~~effective date of Sec. 4 of this act to appoint a different person to hold one of~~
3 ~~those appointed offices.~~

4 (b) Elected town treasurers and collectors of delinquent taxes. If a person
5 simultaneously holds the offices of town treasurer and of collector of
6 delinquent taxes in a municipality and both of those are elected positions, he or
7 she may serve the remainder of the term for each office, but upon the
8 expiration of one of those terms, the provisions of Sec. 4 of this act shall
9 apply.

10 * * * Effective Date * * *

11 Sec. 6. EFFECTIVE DATE

12 ~~This act shall take effect on passage.~~

** * * Appointing Municipal Clerks and Treasurers * * **

Sec. 1. 17 V.S.A. § 2646 is amended to read:

§ 2646. TOWN OFFICERS; QUALIFICATION; ELECTION

*At the annual meeting, a town shall choose from among its registered voters
the following town officers, who shall serve until the next annual meeting and
until successors are chosen, unless otherwise provided by law:*

** * **

*(2) A town clerk for a, unless the town has voted to authorize the
selectboard to appoint the town clerk as provided in section 2651e of this*

chapter. The term of office for a town clerk shall be for one year, unless a town votes that ~~a town~~ the clerk shall be elected for a term of three years. When a town votes for a three-year term for the office of town clerk, that three-year term shall remain in effect until the town rescinds it by the majority vote of the legal voters present and voting at an annual meeting, duly warned for that purpose.

(3) A town treasurer ~~for a~~, unless the town has voted to authorize the selectboard to appoint the treasurer as provided in section 2651f of this chapter. The term of office of a town treasurer shall be for one year, unless a town votes that a town treasurer shall be elected for a term of three years. When a town votes for a three-year term for the office of town treasurer, that three-year term shall remain in effect until the town rescinds it by the majority vote of the legal voters present and voting at an annual meeting, duly warned for that purpose.

* * *

Sec. 2. 17 V.S.A. § 2651e is added to read:

§ 2651e. MUNICIPAL CLERK; APPOINTMENT; REMOVAL

(a) A municipality may vote at an annual meeting to authorize the legislative body to appoint the municipal clerk. A municipal clerk so appointed may be removed by the legislative body for just cause after notice and hearing.

(b) A vote to authorize the legislative body to appoint the municipal clerk shall remain in effect until rescinded by the majority vote of the legal voters present and voting at an annual or special meeting, duly warned for that purpose.

(c) The term of office of a municipal clerk in office on the date a municipality votes to allow the legislative body to appoint a municipal clerk shall expire 45 calendar days after the vote or on the date upon which the legislative body appoints a municipal clerk under this section, whichever occurs first, unless a petition for reconsideration or rescission is filed in accordance with section 2661 of this title.

(d) The authority to authorize the legislative body to appoint the municipal clerk as provided in this section shall extend to all municipalities except those that have a charter that specifically provides for the election or appointment of the office of municipal clerk.

Sec. 3. 17 V.S.A. § 2651f is added to read:

§ 2651f. MUNICIPAL TREASURER; APPOINTMENT; REMOVAL

(a) A municipality may vote at an annual meeting to authorize the legislative body to appoint the municipal treasurer. A treasurer so appointed may be removed by the legislative body for just cause after notice and hearing.

(b) A vote to authorize the legislative body to appoint the treasurer shall remain in effect until rescinded by the majority vote of the legal voters present

and voting at an annual or special meeting, duly warned for that purpose.

(c) The term of office of a treasurer in office on the date a municipality votes to allow the legislative body to appoint a treasurer shall expire 45 calendar days after the vote or on the date upon which the legislative body appoints a treasurer under this section, whichever occurs first, unless a petition for reconsideration or rescission is filed in accordance with section 2661 of this title.

(d) The authority to authorize the legislative body to appoint the treasurer as provided in this section shall extend to all municipalities except those that have a charter that specifically provides for the election or appointment of the office of municipal treasurer.

** * * Municipal Audit Penalties * * **

~~Sec. 4. 24 V.S.A. § 1686 is amended to read:~~

~~§ 1686. PENALTY~~

~~(a) At any time in their discretion, town auditors may, and if requested by the selectboard, shall, examine and adjust the accounts of any town officer authorized by law to receive or disburse money belonging to the town.~~

~~(b) If the town has voted to eliminate the office of auditor, the public accountant employed by the selectboard shall perform the duties of the town auditors under subsection (a) of this section upon request of the selectboard.~~

~~(c) Any town officer who willfully refuses or neglects to submit his or her~~

~~books, accounts, vouchers, or tax bills to the auditors or the public accountant upon request, or to furnish all necessary information in relation thereto, shall:~~

~~(1) be personally liable for a civil penalty in the amount of \$100.00 per day until he or she submits or furnishes the requested materials or information;~~

~~(2) be ineligible to reelection for the year ensuing; and~~

~~(3) be subject to the penalties otherwise prescribed by law.~~

~~(d) As used in this section, the term "town officer" shall not include an officer subject to the provisions of 16 V.S.A. § 323.~~

Sec. 4. 24 V.S.A. § 1686 is amended to read:

§ 1686. PENALTY

(a) At any time in their discretion, town auditors may, and if requested by the selectboard, shall, examine and adjust the accounts of any town officer authorized by law to receive or disburse money belonging to the town.

(b) If the town has voted to eliminate the office of auditor, the public accountant employed by the selectboard shall perform the duties of the town auditors under subsection (a) of this section upon request of the selectboard.

(c)(1) ~~Any~~ If, after at least five business days following his or her receipt by certified mail of a written request by the auditors or public accountant that is approved and signed by the legislative body, a town officer who willfully refuses or neglects to submit his or her books, accounts, vouchers, or tax bills to the auditors or the public accountant upon request, or to furnish all

necessary information in relation thereto, that town officer shall be ineligible to reelection for the year ensuing and be subject to the penalties otherwise prescribed by law.

(2) A town officer who violates subdivision (1) of this subsection (c) shall be personally liable to the town for a civil penalty in the amount of \$100.00 per day until he or she submits or furnishes the requested materials or information. A town may bring an action in the Civil Division of the Superior Court to enforce this subdivision.

(d) As used in this section, the term "town officer" shall not include an officer subject to the provisions of 16 V.S.A. § 323.

** * * Effective Date * * **

Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.