

HOUSE No. 3907

Substituted by the House, on motion of Mr. Walsh of Peabody, for a bill with the same title (House, No. 2100, changed) [Local Approval Received]. June 8, 2023.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act creating the offices of select board and town manager in the town of Sandisfield.

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. (a) Notwithstanding any general or special law to the contrary, there shall
2 be in the town of Sandisfield a select board consisting of 3 members elected for terms of 3 years
3 each, so arranged that 1 term of office shall expire each year. Vacancies in the office of select
4 board shall be filled by a special or regular election in accordance with the provisions of the
5 General Laws. Except as specifically provided by this act, the select board shall have all of the
6 executive powers given to boards of selectmen by the General Laws.

7 (b) The select board shall have, but not be limited to, the following executive powers:

8 (1) serve as the chief policy making body of the town;

9 (2) authority to enter into intergovernmental or public or private agreements consistent
10 with law on such terms as it deems beneficial to the residents of the town;

11 (3) formulate and promulgate policy directives and guidelines to be followed by all town
12 agencies serving under it, and in conjunction with other elected town officers and multiple

13 member bodies to develop and promulgate policy guidelines designed to bring the operation of
14 all town agencies into harmony; provided, however, that nothing in this section shall be
15 construed to authorize any member of the select board or a majority of such members, to become
16 involved in the day-to-day administration of any town agency. The select board shall act only
17 through the adoption of broad policy guidelines, which are to be implemented by officers and
18 employees serving under it;

19 (4) enforce the by-laws, rules and regulations for the government of the town and keep an
20 up-to-date record of all its official acts;

21 (5) appoint the town manager and town counsel and approve the hire of the town audit
22 firm, which shall be chosen by the town manager;

23 (6) serve as the licensing board of the town and have the power to issue licenses, to make
24 all necessary rules and regulations regarding the issuance of such licenses and to attach such
25 conditions and restrictions thereto as it deems to be in the public interest. The select board shall
26 enforce the laws relating to all businesses for which it issues such licenses. The select board
27 under this provision may delegate or reorganize any local licensing authority or process
28 notwithstanding any general laws relating to local governance to the contrary;

29 (7) provide timely audits as required by law. The audits shall be made by a certified
30 public accountant, or firm of such accountants, who have no personal interests, direct or indirect,
31 in the fiscal affairs of the town government of the town of Sandisfield or any of its officers; and

32 (8) develop, in consultation with the town manager, a personnel system to include, but
33 not be limited to, classifications and pay schedules, benefit programs, personnel and hiring
34 policies and practices and regulations for town employees.

35 SECTION 2. (a) Notwithstanding the provisions of section 23A of chapter 41 of the
36 General Laws or any other general or special law to the contrary, there shall be in the town of
37 Sandisfield a town manager appointed by the select board who shall serve at the pleasure of the
38 board. The town manager shall be especially fitted by education, training and experience in
39 public or business administration to perform the duties of the office. The select board may enter
40 into a contract with the town manager for salary, fringe benefits and other conditions of
41 employment including, but not limited to, severance pay, relocation expenses, reimbursement for
42 expenses incurred in the performances of duties or office, liability insurance and leave. The town
43 manager shall receive such compensation as the select board shall determine within the amount
44 appropriated therefor by the town.

45 (b) Any vacancy in the office of town manager shall be filled by the select board with all
46 due haste. Until an appointment is made to fill the vacancy of town manager, the select board
47 shall appoint a suitable person including, but not limited to, an employee of the town to perform
48 the duties of the office, which shall be known as the temporary town manager. In the event of the
49 temporary absence or disability of the town manager lasting more than 5 consecutive business
50 days, the select board may designate a qualified person to serve as acting town manager during
51 such temporary absence or disability.

52 (c) The town manager shall have the following duties and responsibilities:

53 (1) serve as the chief administrative officer of the town, and shall act as the agent for the
54 select board and shall be responsible to the select board for the proper operation of town affairs
55 for which the town manager is given responsibility under this act;

56 (2) under the authority of the select board, supervise, direct and be responsible for the
57 efficient administration of all officers appointed by the town manager and their respective
58 departments and of all other functions for which the town manager is given responsibility,
59 authority or control by act, by-law, town meeting vote or vote of the select board; and

60 (3) delegate, authorize or direct any subordinate or employee of the town to exercise any
61 power, duty or responsibility that the office of town manager is authorized to exercise under this
62 act. All actions that are performed under such delegation shall be deemed to be the actions of the
63 town manager.

64 (d) The town manager may act with regard to appointment and removal as follows:

65 (1) appoint and remove all non-elected department heads, in compliance with clause (2),
66 and approve the appointment and removal of all other town employees;

67 (2) consult with the appropriate elected or appointed board, commission, committee or
68 official and the select board prior to making department head appointments or removals. Prior to
69 finalizing a department head appointment, the town manager shall provide notice to the select
70 board of the anticipated appointment and the terms and conditions of employment for the
71 appointment. The select board shall approve or disapprove the appointment and the terms and
72 conditions of employment within 14 days of notice to the select board. A failure of the select
73 board to act in this 14 day period shall be considered approval;

74 (3) adjust the terms and conditions of employment of department heads or the termination
75 or removal of department heads subject to the same notice and approval requirements set forth in
76 clause (2); and

77 (4) be responsible for posting on the town bulletin board and website notices of job
78 opportunities.

79 (5) Appointments under this subsection shall be based on merit and fitness.

80 (e) The town manager shall have personnel management responsibilities as follows:

81 (1) administer personnel policies and any related matters for all municipal employees by
82 adopting appropriate practices, rules or regulations and to administer all collective bargaining
83 agreements entered into by the town; and

84 (2) negotiate, subject to the approval of the select board, all contracts with town
85 employees over wages and other terms and conditions of employment. The town manager may,
86 subject to the approval of the select board, employ special counsel to assist in the performance of
87 these duties.

88 (f) The town manager shall have financial management responsibilities as follows:

89 (1) prepare and present an annual operating budget for the town and present a capital
90 improvement plan for the next 5 fiscal years;

91 (2) serve as the chief procurement officer for the town and award and execute contracts in
92 accordance with, and subject to, the provisions of chapter 30B of the General Laws, and to
93 appoint such assistant procurement officers as provided in said chapter 30B;

94 (3) inspect and submit warrants for payment to the select board;

95 (4) approve the award of all contracts for all town departments and committees;

96 (5) keep the select board and the finance committee fully informed as to the financial
97 condition of the town and to make recommendations to the select board and to other elected and
98 appointed officials as the town manager deems necessary or expedient; and

99 (6) ensure that complete and full records of the financial and administrative activity of the
100 town are maintained and render reports to the select board as may be required but not less than
101 annually.

102 (g) The town manager shall have the following administrative responsibilities:

103 (1) attend all regular and special meetings of the select board, unless excused by the
104 select board;

105 (2) attend all sessions of the town meeting and answer all questions addressed to the town
106 manager that are related to the warrant articles and to matters under the general supervision of
107 the town manager;

108 (3) administer, either directly or through a person or persons supervised by the town
109 manager in accordance with this act, provisions of general or special laws, bylaws and other
110 votes of the town meeting;

111 (4) investigate or inquire into the affairs of any town department or office under the
112 supervision of the town manager;

113 (5) coordinate activities of all town departments, officers, boards or commissions;

114 (6) keep the select board fully informed as to the needs of the town requiring action by
115 the town or as the town manager deems necessary or expedient;

116 (7) develop and maintain a full and complete inventory of all town-owned real and
117 personal property; and

118 (8) perform such other duties as necessary or as may be assigned by this act, town
119 meeting vote or vote of the select board.

120 SECTION 3. This act shall take effect upon its passage.