

SENATE No. 1987

The Commonwealth of Massachusetts

PRESENTED BY:

Brian A. Joyce

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the town administrator in the town of Milton.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Brian A. Joyce</i>	<i>Norfolk, Bristol and Plymouth</i>	
<i>Walter F. Timilty</i>	<i>7th Norfolk</i>	
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>	<i>10/20/2015</i>

SENATE No. 1987

By Mr. Joyce, a petition (accompanied by bill, Senate, No. 1987) of Brian A. Joyce and Walter F. Timilty (by vote of the town) for legislation relative to the town administrator in the town of Milton. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to the town administrator in the town of Milton.

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. Notwithstanding any provision of any general or special law to the
2 contrary, the Board of Selectmen shall appoint a town administrator (the “Town Administrator”)
3 to serve for a definite term of not more than three (3) years and shall fix the compensation for
4 such person, annually, within the amount appropriated by Town Meeting. The Town
5 Administrator shall be appointed solely on the basis of demonstrated executive and
6 administrative qualifications. The Town Administrator shall be a person qualified by education,
7 training and previous experience to perform the duties set forth herein. The Town Administrator
8 shall not have served as a member of the Milton Board of Selectmen for at least twelve (12)
9 months prior to public posting of the position. Town Meeting may, from time to time, establish,
10 by by-law, such additional qualifications as may be deemed necessary and appropriate. The
11 Town Administrator shall devote full time to the office and shall not hold any other public office,
12 elective or appointive, and shall not be actively engaged in any other business or occupation
13 during such service, in each case, unless the Board of Selectmen approves such action in advance

14 and in writing. The Board of Selectmen shall provide for an annual review of the job
15 performance of the Town Administrator that shall be a public record.

16 SECTION 2. The Town Administrator shall be the chief administrative officer of the
17 Town, directly responsible to the Board of Selectmen for the administration of all Town affairs
18 for which she/he is given responsibility.

19 Notwithstanding any provision of any general or special law to the contrary, the powers
20 and duties of the Town Administrator shall include, but not be limited to, the following:

21 (a) to supervise, direct and be responsible for the efficient administration of the
22 Town's day-to-day operations for which the Town Administrator is given authority,
23 responsibility or control, whether by this act, by-law, vote of Town Meeting, vote of the Board of
24 Selectmen or otherwise;

25 (b) subject to the civil service laws and any collective bargaining agreements as may
26 be applicable, to appoint, supervise and direct all department heads (except for the Consolidated
27 Facilities Director) and Town employees, in each case who are under the jurisdiction of the
28 Board of Selectmen. With respect to department heads only (except for the Consolidated
29 Facilities Director), such appointment shall become effective on the fifteenth (15th) day
30 following the day on which notice of the appointment is filed with the Board of Selectmen
31 unless, within said fifteen (15) day period, the Board of Selectmen, by majority vote, has voted
32 to reject such appointment or has sooner voted to affirm such appointment. Notwithstanding the
33 "at will" nature of employment, the Town Administrator shall have authority to enter into
34 employment contracts for periods not to exceed the maximum period of time allowed under State
35 law with the Fire Chief, the Police Chief, the Deputy Police Chief and the Town Accountant that

36 provide for other terms and conditions of employment, including removal. The Town
37 Administrator shall provide for an annual review of such department heads and employees with
38 respect to day-to-day and annual performance;

39 (c) to suspend or remove any person appointed by the Town Administrator; provided,
40 however, with respect to any such removal that if such person is a department head, the Town
41 Administrator shall first inform the Board of Selectmen with respect to such removal provided,
42 however, that further conditions applicable to removal or suspension may be addressed by the
43 terms of any contract between the Town Administrator and such department head;

44 (d) to be entrusted with the administration of the town personnel system, in
45 conjunction with the Personnel Board, including, but not limited to, personnel policies and
46 practices, rules and regulations, including provisions for an annual employee performance
47 review, personnel by-laws and collective bargaining agreements entered into by the town. The
48 Town Administrator shall also prepare and keep current a plan establishing the personnel staffing
49 requirements for each town department or entity, except the School Department;

50 (e) to fix the compensation of all appointed officers and employees within the limits
51 established by appropriations of the Town Meeting;

52 (f) to attend all regular and special meetings of the Board of Selectmen unless she/he
53 is unavailable for reasonable cause. The Town Administrator shall have a voice, but not a vote,
54 at meetings of the Board of Selectmen;

55 (g) to keep the Board of Selectmen fully advised concerning the status of all matters
56 that have been referred to the Town Administrator by the Board of Selectmen;

57 (h) to assure that full and complete records of the financial and administrative
58 activities of the town are kept and to render, as often as may be required by the Board of
59 Selectmen, a full report of all town financial and administrative operations during the period
60 reported on, which report shall be made available to the public;

61 (i) to keep the Board of Selectmen fully advised as to the needs of the town and to
62 recommend to the Board of Selectmen and other elected town officers and agencies for adoption
63 such measures requiring action by them or by Town Meeting as the Town Administrator may
64 deem necessary or desirable;

65 (j) to have full jurisdiction over the rental and use of all town facilities and real
66 property except real property that is under the control of the School Committee, the Board of
67 Library Trustees, the Board of Park Commissioners, the Board of Cemetery Trustees, the Milton
68 Housing Authority or the Conservation Commission; provided, however, that the Town
69 Administrator, together with the School Superintendent, shall supervise and oversee the Director
70 of Consolidated Facilities, who shall be responsible for the maintenance and repair of all town
71 buildings and facilities;

72 (k) to coordinate intra-governmental and inter-governmental affairs;

73 (l) to act as the administrative spokesperson for the Town;

74 (m) to formulate long-range and annual financial plans, including detailed projections
75 of revenues and expenditures, and to prepare and present to the Board of Selectmen and the
76 Warrant Committee an annual operating budget for the town and to prepare and present to the
77 Capital Improvement Planning Committee and the Board of Selectmen a proposed capital budget
78 for the town for the five (5) fiscal years next ensuing;

79 (n) to make recommendations to the Board of Selectmen with respect to departmental
80 and non-departmental expenditures, the Capital Improvement Plan submitted by the Capital
81 Improvement Planning Committee, the financial impact of Town Meeting warrant articles, and
82 strategies and proposals for collective bargaining;

83 (o) to negotiate all contracts relating to the responsibilities of the Town Administrator
84 outlined herein, including contracts with town employees (except employees of the School
85 Department) involving wages, hours and other terms and conditions of employment; provided,
86 however, that all collective bargaining contracts shall be subject to ratification and execution by
87 the Board of Selectmen;

88 (p) to appoint the chief procurement officer for the Town of Milton for purposes of
89 M.G.L. c. 30B;

90 (q) to approve payment and expense warrants pursuant to M.G.L. c. 41, § 56;

91 (r) to submit to the Board of Selectmen and to Town Meeting, if necessary, plans to
92 reorganize, consolidate or abolish departments, commissions, boards or offices under her/his
93 direction and supervision, or to establish new departments, commissions, boards and offices, or
94 both, subject to enactment of home rule legislation if otherwise legally required;

95 (s) to see that all of the provisions of the General Laws, the By-laws, votes of the
96 Town Meeting and votes of the Board of Selectmen that require enforcement by the Town
97 Administrator or officers subject to her/his direction and supervision are faithfully executed,
98 performed or otherwise carried out;

99 (t) to act upon all applications for temporary (duration of not more than forty-five
100 (45) days) signs;

101 (u) to act upon all applications for utility grants of location and to conduct public
102 hearings in connection therewith, in accordance with the statutory procedure established for a
103 Board of Selectmen;

104 (v) to act upon all applications to use the Town's streets and ways for charitable or
105 other walks or runs, any approval thereof being contingent upon approval by the Police Chief;
106 and

107 (w) to perform such other duties and responsibilities as may be delegated to the Town
108 Administrator by the Board of Selectmen.

109 The Town Administrator may delegate duties to any subordinate officer or employee to
110 aid the Town Administrator in the performance of his or her duties and responsibilities.

111 SECTION 3. The Town Administrator shall be subject to the authority and direction of
112 the Board of Selectmen. She/he shall render reports to the Board of Selectmen on a regular
113 basis, including in such reports a summary of current activities, a list of both current and long
114 range issues and objectives and programs in response thereto, and suggestions concerning the
115 goals and objectives of the Town and the community.

116 SECTION 4. The Board of Selectmen may, by the affirmative vote of a majority of its
117 members, terminate, remove or suspend the Town Administrator from office; provided, however,
118 that further conditions applicable to termination, removal or suspension may be addressed by the
119 terms of any contract between the Board of Selectmen and the Town Administrator.

120 SECTION 5. In the event of a vacancy in the position of Town Administrator, the Board
121 of Selectmen shall appoint a qualified interim Town Administrator to serve until such time as the
122 next Town Administrator is appointed but not for a period longer than twelve (12) months. The
123 Board of Selectmen may, in its discretion, waive any one or more of the requirements or
124 provisions set forth in Section 1 hereof with respect to the appointment of any interim Town
125 Administrator.

126 In the event that the Town Administrator is unable to perform the duties of the Town
127 Administrator for a period of fourteen(14) consecutive days or more, the Board of Selectmen
128 may appoint in writing a qualified town officer or employee to serve as Acting Town
129 Administrator. The Acting Town Administrator shall exercise the powers and perform the duties
130 of the Town Administrator until such time as the Board of Selectmen revokes in writing such
131 appointment as Acting Town Administrator.

132 SECTION 6. This act shall take effect upon its passage.