

HOUSE No. 2100

The Commonwealth of Massachusetts

PRESENTED BY:

Smitty Pignatelli and Paul W. Mark

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Smitty Pignatelli</i>	<i>3rd Berkshire</i>	<i>1/12/2023</i>
<i>Paul W. Mark</i>	<i>Berkshire, Hampden, Franklin and Hampshire</i>	<i>1/17/2023</i>

HOUSE No. 2100

By Representative Pignatelli of Lenox and Senator Mark, a joint petition (accompanied by bill, House, No. 2100) of Smitty Pignatelli and Paul W. Mark (by vote of the town) that the town of Sandisfield be authorized to create the offices of select board and town manager in said town. Municipalities and Regional Government. [Local Approval Received.]

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

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

8 A. Serve as the chief policy making body of the town;

9 B. 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 C. Be responsible for the formulation and promulgation of policy directives and
12 guidelines to be followed by all town agencies serving under it, and in conjunction with other
13 elected town officers and multiple member bodies to develop and promulgate policy guidelines
14 designed to bring the operation of all town agencies into harmony; provided, however, that
15 nothing in this section shall be construed to authorize any member of the select board or a
16 majority of such members, to become involved in the day-to-day administration of any town
17 agency. It is the intention of this provision that the select board shall act only through the
18 adoption of broad policy guidelines, which are to be implemented by officers and employees
19 serving under it;

20 D. Cause the by-laws, rules, and regulations for the government of the town to be
21 enforced and shall cause an up-to-date record of all its official acts to be kept;

22 E. Appoint the town manager and town counsel, and approve the hire of the town audit
23 firm, which shall be chosen by the town manager;

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

30 G. Be responsible for providing timely audits as required by law. The audits shall be
31 made by a certified public accountant, or firm of such accountants, who have no personal

32 interests, direct or indirect, in the fiscal affairs of the town government of the town of Sandisfield
33 or any of its officers; and

34 H. In consultation with the town manager, develop a personal system to include, but not
35 be limited to, classifications and pay schedules, benefit programs, personnel and hiring policies
36 and practices, and regulations for town employees.

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

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

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

53 A. Be the chief administrative officer of the Town, shall act as the agent for the select
54 board and shall be responsible to the select board for the proper operation of Town affairs for
55 which the town manager is given responsibility under this bylaw;

56 B. 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;

60 C. The town manager shall have the power to delegate, authorize or direct any
61 subordinate or employee of the Town to exercise any power, duty or responsibility which the
62 office of town manager is authorized to exercise under this bylaw. All actions that are performed
63 under such delegation shall be deemed to be the actions of the town manager.

64 D. The town manager shall be authorized to act with regard to hiring and firing as
65 follows::

66 1) Appoint and remove all non-elected department heads, in compliance with section
67 (D)(2) paragraph, and approve the appointment and removal of all other town employees;

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

75 3) Adjust the terms and conditions of employment of department heads or the termination
76 or removal of department heads subject to the same notice and approval requirements set forth in
77 section (D)(2);

78 4) Appointments under this section shall be based on merit and fitness alone; and

79 5) Be responsible for posting on the town bulletin board and website notices of job
80 opportunities.

81 E. The town manager shall have personnel management responsibilities as follows:

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

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

89 F. The town manager shall have financial management responsibilities as follows:

90 1) Prepare and present an annual operating budget for the Town and present a capital
91 improvement plan for the five (5) fiscal years next ensuing;

92 2) Be the chief procurement officer for the Town and award and execute contracts in
93 accordance with and subject to the provisions of Chapter 30B ofMGL, and to appoint such
94 assistant procurement officers as provided in Chapter 30B ofMGL;

- 95 3) Inspect and submit warrants for payment to the select board;
- 96 4) Approve the award of all contracts for all Town departments and committees;
- 97 5) Keep the select board and the finance committee fully informed as to the financial
- 98 condition of the Town and to make recommendations to the select board and to other elected and
- 99 appointed officials as the town manager deems necessary or expedient; and
- 100 6) Ensure that complete and full records of the financial and administrative activity of the
- 101 Town are maintained and render reports to the select board as may be required, but not less than
- 102 annually.

103 G. The town manager shall have the following administrative responsibilities :

- 104 1) Attend all regular and special meetings of the select board, unless excused;
- 105 2) Attend all sessions of the Town meeting and answer all questions addressed to the
- 106 town manager which are related to the warrant articles and to matters under the general
- 107 supervision of the town manager;
- 108 3) Administer either directly or through a person or persons supervised by the town
- 109 manager, in accordance with this bylaw, 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 of the
- 114 Town;

115 6) Keep the select board fully informed as to the needs of the Town requiring action by
116 the Town or as the town manager deems necessary or expedient;

117 7) Develop and maintain a full and complete inventory of all Town-owned real and
118 personal property; and

119 8) Perform such other duties as necessary or as may be assigned by this by-law, Town
120 meeting vote, act or vote of the select board.

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