SENATE . . . . . No. 2186

By Mr. Hedlund, a petition (accompanied by bill, Senate, No. 2186) of [PETITIONERS LIST] [BACKING TEXT]. House Steering, Policy and Scheduling.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act amending the charter of the town of Norwell.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The charter of the town of Norwell, on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out article 3 and inserting in place thereof the following article:-

ARTICLE 3: ELECTED OFFICIALS

The following offices shall be filled by the voters at regular annual election held on the first Saturday following the annual town meeting or at such other time as shall be determined by vote of the town. All elected officials and all boards and committees established or continued under this section shall have all the powers and duties under the constitution and laws of the commonwealth, the town by-laws and town charter.

Section 3 -1. Composition

There shall be a board of selectmen consisting of 5 members elected for terms of 3 years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year.

Section 3 -2. Powers and Duties

(a) The executive powers of the town shall be vested in the board of selectmen, which shall serve as the chief policy-making board of the town.

(b) The board of selectmen shall have the powers and duties given to boards of selectmen under the constitution of the commonwealth and the General Laws, except those powers and duties assigned by this charter to the town administrator, and shall have such additional powers and duties as may be authorized by this charter, by town by-laws or by vote of town meeting. The board of selectmen shall be authorized to enter into intergovernmental and other agreements on such terms it deems beneficial to the citizens of Norwell, subject to the General Laws, town charter, town by-laws or by vote of town meeting.

(c) The board of selectmen shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by all town departments serving under it and to develop and promulgate policy guidelines, in conjunction with other elected town officials and multiple member bodies, designed to bring the operation of all town agencies into harmony; provided however, nothing in this section shall be construed to authorize any member of the board of selectmen, nor a majority of such members, to become involved in the day-to-day administration of any town agency. It is the intention of this provision that the board of selectmen shall act only through the adoption of broad policy guidelines and long-term plans or programs, which are to be implemented by officials and employees serving under it.

(d) The board of selectmen shall communicate periodically with all town agencies, departments, committees and boards, including meeting with representatives of volunteer committees and boards, and shall consider the concerns and plans of all such agencies, departments, committees and boards when formulating policy and long-term plans or programs.

(e) The board of selectmen shall cause the by-laws and rules and regulations for the government of the town to be enforced and shall cause an up-to-date record of all its official acts to be kept.

(f) The board of selectmen shall appoint the town administrator, a town counsel and a town auditor by a majority vote of the board.

(g) The board of selectmen shall appoint such other offices, boards, committees and commissions, by a majority vote of the board, as may be provided by the General Laws or by vote of the town. In the event of a vacancy in any of said offices, boards, committees and commissions, the board of selectmen shall act to fill said vacancy within 90 days from when the affected board notifies the board of selectmen of any vacancy. This subsection shall not apply to the appointment or approval of any paid full or part-time employeesprovided for under Section 5-2(a)(2) of this charter.

(h) The board of selectmen shall be the licensing board of the town and shall have the power to issue licenses, under the General Laws, to make all necessary rules and regulations regarding the issuance of such licenses and to attach conditions and restrictions to licenses as the board of selectmen deems to be in the public interest and to enforce the laws relating to all businesses for which it issues licenses.

(i) The board of selectmen shall be responsible for ensuring that timely audits are conducted as required by law. The audits shall be performed by a certified public accountant, or firm of such accountants, who have no personal interests, direct or indirect, in the fiscal affairs of the town government or any of its officials.

Section 3-3. Moderator

A moderator elected for a 1-year term. The moderator shall not hold any other elected or appointed town government position during the period served as moderator, unless otherwise provided under this charter.

Section 3-4. Town Clerk

A town clerk elected for a 3-year term.

Section 3-5. Water Commissioners

A board of water commissioners consisting of 3 members elected for 3 year overlapping terms.

Section 3-6. Assessors

A board of assessors consisting of 3 members elected for 3 year overlapping terms.

Section 3-7. Board of Health

A board of health consisting of 3 members elected for 3 year overlapping terms.

Section 3-8. Planning Board

A planning board consisting of 5 members elected for 3-year overlapping terms.

Section 3-9. Trustees of the Norwell Public Library

A board of trustees of the Norwell public library consisting of 6 members elected for 3-year overlapping terms.

Section 3-10. Regional Vocational School District Committee

One member of a regional vocational school district committee appointed for a 3-year term.

Section 3-11. School Committee

A school committee consisting of 5 members elected for 3-year overlapping terms.

Section 3-12. Housing Authority

A housing authority consisting of 5 members, 4 elected for 3-year overlapping terms and 1 appointed under the General Laws.

SECTION 2. Article 4 of said charter is hereby amended by striking out section 4-1 and inserting in place thereof the following section:-

Section 4-1. Appointed Officials, Boards, Committees and Commission

The board of selectmen shall appoint the following by majority vote of its membership:

(a) A board of appeals consisting of 3 members, appointed for 3-year overlapping terms and not more than 5 associate members.

90 (b) A capital budget committee consisting of 7 members appointed for 3-year overlapping
91 terms. One member shall be appointed from the planning board and 1 member shall be
92 appointed from the advisory board.

93 (c) A town counsel for an indefinite term.

94 (d) A chief of the police department for an indefinite term.

95 (e) A chief of the fire department for an indefinite term. The chief shall have all of the
96 powers and duties that a chief of the fire department may have under sections 42 to 44, inclusive,
97 of chapter 48 of the General Laws, which may from time to time be amended, which are
98 substantially as follows: the chief shall have charge of extinguishing fires in the town and the
99 protection of life and property in case of fire. The chief shall purchase, subject to the approval of
100 the selectmen, and keep in repair all property and apparatus used for and by the fire department.
101 The chief shall have all the powers and duties conferred by statute on fire engineers, and shall
102 appoint a deputy chief and such other officers and firemen as the chief may think necessary, and
103 may remove the same at any time for cause and after a hearing. The chief shall have full
104 authority in the administration of the department and shall make all rules and regulations for its
105 operation. Subject to the approval of the selectmen, the chief shall fix the compensation for the
106 members of the department and the expenditure of money shall be subject to such further
107 limitations as the town may prescribe. The chief shall act as forest warden and shall have the
108 authority to appoint deputy wardens and fix the compensation of the deputy wardens, subject to
109 the approval of the selectmen.

110 (f) A conservation commission consisting of 7 members appointed for 3-year overlapping
111 terms. Such commission shall be responsible for the promotion and development of the natural

112 resources and for the protection of watershed resources of the town. The commission shall
113 conduct research into its local land area and shall seek to coordinate the activities of other bodies
114 organized for similar purposes. It may receive gifts of property, both real and personal, in the
115 name of the town, subject to the approval of the selectmen. It may acquire by purchase or
116 otherwise, any interest in land or water rights consistent with this charter or in the General Laws,
117 and shall manage and control the same.

118 (g) Such other offices, boards, committees and commissions as may be provided by the
119 laws of the commonwealth or by vote of the town.

120 SECTION 3. Said article 4 of said charter is hereby further amended by striking out
121 section 4-3 and inserting in place thereof the following 2 sections:-

122 Section 4 -3. Advisory Board

123 (a) Composition: There shall be an advisory board consisting of 9 members with 3
124 members appointed each year for a term of 3 years each. Members shall hold no other elected or
125 appointed office in town government while on the advisory board, unless otherwise provided by
126 this charter, town by-laws or by vote of town meeting and shall serve without pay. Members of
127 the board shall choose from among its membership a chair, a vice-chair and a clerk.

128 (b) Nomination Process for Advisory Board: Members of the advisory board shall be
129 appointed by a majority vote of a nominating committee consisting of 3 members, each duly
130 authorized to represent their respective board or office: (i) the town moderator, who shall serve
131 as chair; (ii) 1 member of the board of selectmen; and (iii) 1 member of the advisory board,
132 except that no member of the advisory board shall serve on a nominating committee if that
133 member seeks re-appointment to the advisory board and the re-appointment would be the subject

134 of that nominating committee. The nominating committee shall consider only the education,
135 skills and experience of individual candidates as they relate to the function of the advisory board.

136 (c) Responsibilities of the Advisory Board: The advisory board shall investigate and
137 consider all articles in the warrant to be brought before the town and shall report and advise on
138 such articles at town meeting. The Advisory Board shall consider short and long-range financial
139 impacts including both revenue and expenses to ensure financial stability.

140 Section 4-4. Term of Office of Appointed Officials

141 Unless otherwise provided by this charter or by vote of the town subsequent to the
142 approval of this charter, no appointed official shall serve for an indefinite term or for a fixed term
143 in excess of 3 years. No officials appointed for a fixed term shall be limited in the number of
144 such terms that may be served.

145 SECTION 4. Said charter is hereby further amended by striking out article 5 and
146 inserting in place thereof the following article:-

147 ARTICLE 5: TOWN ADMINISTRATOR

148 Section 5 – 1. Appointment, Qualifications and Term of Service

149 (a) Appointment: The board of selectmen shall appoint a town administrator for a term
150 not to exceed 3 years, as the board may determine, and the town administrator may be appointed
151 for successive terms of office.

152 (b) Qualifications: The town administrator shall be a person of demonstrated ability with
153 administrative experience in public management or business administration and who is qualified
154 by reason of education, skills and experience. The board of selectmen may establish additional

155 qualifications for the office of town administrator. To the extent permitted by law, the terms of
156 the town administrator's employment may be the subject of a written agreement between the
157 parties setting forth the length of service, compensation and other terms that are customarily
158 included in an employment contract.

159 (c) General Terms: The town administrator shall devote full time to the duties of said
160 office and shall not engage in any other business or occupation during the term of employment
161 by the town without the written approval of the board of selectmen. The town administrator
162 shall hold no elective office in the town during the term as town administrator, but the board of
163 selectmen may appoint the town administrator to any appointed office or position consistent with
164 the responsibilities of the town administrator. Before beginning the duties as town administrator,
165 the newly appointed town administrator shall be sworn to the faithful and impartial performance
166 thereof by the town clerk. The town administrator shall not have served in an elected office for
167 the town of Norwell for at least 24 months prior to being appointed.

168 (d) Compensation: The board of selectmen shall set the compensation of the town
169 administrator, not to exceed the amount appropriated by the town meeting.

170 (e) Performance Evaluation: The board of selectmen shall conduct an annual
171 performance review of the town administrator. Annual performance reviews shall be based on
172 the town administrator's accomplishments pursuant to the powers and duties specified under
173 Section 5 -2 of this charter, and the successful completion of any additional goals set by the
174 board of selectmen the preceding year.

175 Section 5 -2. Powers and Duties of the Town Administrator

176 The town administrator shall be the chief administrative officer of the town. The town
177 administrator shall be responsible to the board of selectmen for the effective management of all
178 town affairs placed in the town administrator's charge by this charter, the board of selectmen or
179 vote of the town meeting. The town administrator shall implement town policies and coordinate
180 operational and strategic planning for the town. The town administrator shall facilitate
181 communication between all town departments and officials and communication between all town
182 departments and officials and the public. The duties of the town administrator shall include, but
183 not be limited to, the following:

184 (a) Appointment Authority:

185 (1) The town administrator shall appoint and may remove a treasurer-collector and
186 accountant. The town administrator shall consult with the board of selectmen prior to making
187 any appointment or removal under this subsection. Unless otherwise provided under law,
188 appointments or removals shall become effective 20 days after the notice of an appointment or
189 removal is filed with the board of selectmen, unless the board of selectmen rejects the
190 appointment or removal by a majority vote within 20 days or approves the appointment or
191 removal by a majority vote of the board before the 20 days are over.

192 (2) The town administrator shall appoint and may remove all other department heads that
193 serve with any appointed board, commission or committee, other employees for whom no other
194 method is provided under this charter, and shall approve the appointment and removal of all
195 other employees, except employees of the school department, fire department and officers of the
196 police department, under the General Laws or this charter. The town administrator shall consult
197 with and obtain the approval of the appropriate appointed board, commission or committee prior

198 to making any appointment or removal under this subsection. Unless otherwise provided under
199 law, said appointments or removals shall become effective 20 days after the notice of an
200 appointment or removal is filed with the board of selectmen, unless the board of selectmen
201 rejects the appointment or removal by a majority vote within 20 days or approves the
202 appointment or removal by a majority vote of board members present and voting before the 20
203 days are over. This paragraph shall not apply to any department heads that serve with
204 elected boards, commissions or committees.

205 (3) The town administrator shall appoint and may remove all department heads that serve
206 with an elected board, commission or committee, except employees of the school department,
207 provided that the town administrator shall consult with and obtain the approval of the elected
208 bodies prior to making an appointment or removal under this paragraph, unless otherwise
209 provided by the General Laws or this charter.

210 (4) Department heads shall, subject to the approval of the town administrator, appoint and
211 may remove assistant department heads, subordinates and employees, except employees of the
212 school department, the fire department and officers of the police department. The department
213 head seeking to make an appointment or removal shall consult with the appropriate elected or
214 appointed board, commission, committee or official prior to making the appointment or removal,
215 unless otherwise provided by the General Laws or this charter.

216 (5) The town administrator, in consultation with department heads and the affected
217 boards, may transfer personnel between departments as needed. Such transfer is presumed to be
218 temporary and requires the approval of the affected boards. This paragraph shall not apply to
219 personnel of the school department.

220 (6) All appointments under this section shall be based on education, skills and experience
221 alone.

222 (7) Copies of notices of board and commission vacancies, job vacancies and
223 opportunities and requests for volunteers shall be conspicuously posted in town hall and on the
224 town's official website. The town administrator may also advertise such vacancies and
225 opportunities in local newspapers or other media at a cost not to exceed the amount appropriated
226 by the town meeting.

227 (b) Administrative Responsibilities:

228 (1) The town administrator shall supervise the general activities and direct the operations
229 of all town departments, unless otherwise provided by the General Laws, this charter or town by-
230 laws. This paragraph shall not apply to the activities and operations of the school department
231 and to the statutory responsibilities and functions of the school committee.

232 (2) The town administrator shall supervise and be responsible for all town employees
233 unless otherwise provided by the General Laws, this charter or town by-laws. This paragraph
234 shall not apply to employees of the school department and to the statutory responsibilities and
235 functions of the school committee.

236 (3) The town administrator shall reorganize, consolidate and establish departments under
237 the town administrator's supervision and the jurisdiction of the board of selectmen, subject to the
238 General Laws, this charter, town by-laws or by vote of town meeting. Prior to taking acting
239 under this subsection, the town administrator shall notify and obtain the approval of the board of
240 selectmen. The board of selectmen shall hold a public hearing and shall have 30 days following
241 the public hearing to approve any proposal under this subsection. With the approval of the board

242 of selectmen and advisory board, the town administrator may transfer all or part of an
243 unexpended appropriation of a reorganized or consolidated department, board or office to any
244 other town department, board or office.

245 (4) The town administrator shall administer, either directly or through an appointed
246 person, all general and special laws applicable to the town, the town by-laws, votes of the town
247 within the scope of the town administrator's duty and all policy rules and regulations made by
248 the board of selectmen, provided, however, that any delegation shall be considered an act of the
249 town administrator.

250 (5) The town administrator shall establish control and data systems appropriate for
251 monitoring expenditures by town boards and departments to enable the town administrator to
252 make periodic reports to the board of selectmen and the advisory board on the status of the
253 town's finances.

254 (6) The town administrator shall develop and administer a personnel management system,
255 including, but not limited to, the creation of job descriptions, a reporting structure, determination
256 of rates of pay, the development and implementation of an ongoing training program, evaluation
257 process, personnel management and hiring policies, practices and regulations relating to town
258 employment.

259 (7) The town administrator shall manage and maintain all town buildings, properties and
260 facilities, excluding those of the school department, under the town administrator's authority
261 under this charter, town by-laws or by vote of town meeting. The town administrator may
262 maintain and repair other buildings, properties and facilities if and to the extent departments,
263 agencies, boards, committees and commissions request and authorize such maintenance and

264 repair activities, unless otherwise prohibited by the General Laws, this charter, town by-laws or
265 by vote of town meeting. The town administrator shall keep and annually update a full and
266 complete inventory of all town property, both real and personal.

267 (8) The town administrator shall attend and participate in all regular and special meetings
268 of the board of selectmen and town meetings, unless excused by the board of selectmen.

269 (9) The town administrator shall ensure that there are complete records taken and
270 maintained of board of selectmen meetings and compile reports of the meetings as requested by
271 the board of selectmen.

272 (10) The town administrator shall act as the liaison to and represent the board of
273 selectmen before state, federal and regional authorities.

274 (11) Subject to policy established by the board of selectmen, the town administrator shall
275 approve all warrants and vouchers, including payroll warrants for payment of town funds
276 submitted by the town accountant. Any warrants generated by the town administrator shall be
277 signed by the board of selectmen.

278 (12) In consultation with the board of selectmen, the town administrator shall identify and
279 submit applications for state and federal grants for which the town is eligible. The town
280 administrator shall approve all grant applications submitted by other boards, commissions and
281 departments of the town on behalf of the town or as a member of a proposed or active regional
282 agreement, consortium or similar partnership.

283 (13) The town administrator shall perform any other duties consistent with the office of
284 town administrator and as may be required by town by-law, vote of the town or by vote of the
285 board of selectmen.

286 (c) Financial Management and Reporting: Budget Preparation:

287 (1) The town administrator shall prepare and submit to the board of selectmen and
288 the advisory board, at a public meeting not less than 90 days prior to the annual town meeting, a
289 proposed written budget for town government, excluding the school committee, for the ensuing
290 fiscal year.

291 (2) The town administrator shall detail in the proposed budget all estimated
292 revenues from all sources and all expenditures, including debt service, in each case for the
293 previous, current and ensuing years.

294 (3) The town administrator shall include in the proposed budget free cash,
295 stabilization funds and other funds available for appropriation for the ensuing fiscal year,
296 including estimated balances in special accounts.

297 (4) The town administrator shall provide additional financial reports as
298 established by town by-law and vote of town meeting.

299 (5) All departments, boards, officials and committees of the town, including the
300 school committee, shall, within the timeframe reasonably requested by the town administrator,
301 furnish in writing all relevant information in their possession and submit to the town
302 administrator, the board of selectmen and the advisory board a reasonable estimate of the
303 appropriations required and any other funds expected to be available. The town administrator

304 shall cooperate and share information with all departments, boards, officials and committees of
305 the town, including the school committee, in preparation of the budget.

306 (6) The town administrator shall assist the board of selectmen to develop a long-
307 range financial plan for the town, including preparation of a multi-year forecast of expected
308 revenues and expenditures.

309 (d) Labor Relations:

310 (1) The town administrator shall negotiate collective bargaining contracts on
311 behalf of the board of selectmen, which shall be subject to approval, ratification and execution
312 by the board of selectmen. The board of selectmen, at its discretion, may authorize use of special
313 counsel to assist the town administrator in the negotiations.

314 (2) The town administrator shall administer and ensure adherence to collective
315 bargaining agreements.

316 (e) Procurement: The town administrator shall act as the chief procurement officer under
317 chapter 30B of the General Laws, responsible for the purchasing of all supplies, materials and
318 equipment for the town, including the bidding and awarding of all contracts, except for the
319 school department.

320 Section 5 – 3. Vacancy in the Position of Town Administrator

321 (a) Permanent Vacancy: The board of selectmen shall fill any permanent vacancy in the
322 office of the town administrator as soon as feasible under section 5-1 of this charter. Pending
323 the appointment of a town administrator, the board of selectmen shall, within a reasonable period

324 of time, appoint some other capable person to temporarily perform the duties of the town
325 administrator until a permanent replacement is appointed.

326 (b) Temporary Absence or Disability:

327 (1) The board of selectmen shall designate a capable officer of the town to
328 perform the duties of town administrator during a temporary absence or disability. If the person
329 designated is unable to serve, the board of selectmen may designate some other capable person to
330 perform the duties of town administrator.

331 (2) The powers and duties of the acting town administrator shall be limited to
332 matters that shall not be delayed and shall include authority to make temporary, emergency
333 appointments or designations to town office or employment, but not to make permanent
334 appointments or designations unless authorized by the board of selectmen.

335 Section 5 – 4. Removal and Suspension Proceedings

336 The board of selectmen may remove or suspend the town administrator from office after
337 first applying the following procedures, unless otherwise provided under an employment contract
338 or the General Laws:

339 (a) Notice: By the affirmative vote of at least 3 of its members, the board of selectmen
340 may adopt a preliminary resolution of removal setting forth in reasonable detail the reasons for
341 the proposed removal. The preliminary resolution may suspend the town administrator for a
342 period not to exceed 45 days. A copy of the resolution shall be delivered to the town
343 administrator immediately following adoption and a copy shall be filed with the town clerk.

344 (b) Public Hearing: Within 5 days after the delivery of the preliminary resolution of
345 removal, the town administrator may request a public hearing on the reasons cited for removal by
346 filing a written request with the board of selectmen. The board shall convene the hearing not less
347 than 20 but not more than 30 days after a request is filed. The board of selectmen shall give the
348 town administrator not less than 5 days written notice of the date, time and location of the
349 hearing. The town administrator may waive, in writing, such time limits. The town
350 administrator may file a written statement with the board of selectmen responding to the reasons
351 cited for the proposed removal; provided that the administrator files the statement with the board
352 of selectmen not less than 48 hours prior to the time set for the hearing. The town administrator
353 may be represented at the hearing by counsel. The town administrator shall be entitled to,
354 personally or through counsel, present evidence, call witnesses and question witnesses.

355 (c) Removal or Suspension: The board of selectmen may, by an affirmative vote of at
356 least 3 of its members, adopt a final resolution of removal or suspension that shall be effective
357 upon adoption:

358 (1) If the town administrator does not request a public hearing, then upon the
359 expiration of 10 days from the date of delivery to the town administrator of the preliminary
360 resolution of removal or suspension, the selectmen may remove or suspend the town
361 administrator.

362 (2) If the town administrator does request a public hearing, then 5 days from the
363 completion of the public hearing or 45 days from the date of the adoption of the preliminary
364 resolution, whichever occurs later, the board of selectmen may remove or suspend the town
365 administrator. Failure to adopt a final resolution of removal or suspension within the time

366 limitations provided in this section shall nullify the preliminary resolution of removal or
367 suspension. This section vests all authority and fixes all responsibility for such removal or
368 suspension in the board of selectmen. The action of the board of selectmen in removing or
369 suspending the town administrator shall be final. The town administrator shall continue to
370 receive the town administrator's salary until a final resolution of removal or suspension has
371 become effective.

372 SECTION 5. Said charter is hereby further amended by adding the following article:-

373 ARTICLE 6: GENERAL PROVISIONS

374 Section 6 -1. Severability

375 If any provision of the charter is held to be unconstitutional or invalid, the remaining
376 provisions of the charter shall not be affected. If the application of the charter or any of its
377 provisions to any person or circumstance is held to be invalid, the application of this charter and
378 its provisions to other persons and circumstances shall not be affected.

379 Section 6 -2. Continuation of Existing Government

380 (a) Continuation of existing laws, bylaws: The town's charter, all special acts, by-laws,
381 rules and regulations which are in force on the effective date of this charter that are consistent
382 with this charter shall continue to be in full force until amended or repealed. Elected and
383 appointed officials, boards, commissions and committees shall have all of the powers, duties and
384 responsibilities, which are in force on the effective date of this charter that are consistent with
385 this charter, which are given to the respective boards, officials and agencies by law, this charter,
386 town by-law or by vote of town meeting.

387 (b) Continuation of personnel: Any office or position in the administrative service of the
388 town or incumbents in such offices, shall continue to function until a change in those offices,
389 positions or incumbents is effected under this charter.

390 SECTION 6. At the annual election, following the acceptance of this charter amendment
391 by the voters of the town of Norwell, 2 additional selectmen shall be elected, 1 shall be elected
392 for a 3-year term and 1 shall be elected for a of 2-year term. Upon the expiration of the initial
393 terms, each term of each selectman thereafter elected shall be a 3-year term.

394 SECTION 7. This charter amendment shall be submitted for acceptance to the voters of
395 the town of Norwell at an annual town election held following its approval in the form of the
396 following question which shall be placed on the official ballot to be used at the election: Shall an
397 act entitled "AN ACT AMENDING THE CHARTER OF THE TOWN OF NORWELL" be
398 accepted? A summary prepared by the town counsel noting in summary form the major changes
399 proposed in the charter by this act shall appear on the ballot.

400 SECTION 8. Section 7 of this act shall take effect upon its passage.