HOUSE DOCKET, NO. 4621 FILED ON: 12/11/2012

HOUSE . . . . . No. 4548

The Commonwealth of Massachusetts

PRESENTED BY:

John W. Scibak and Stanley C. Rosenberg

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 Establishing a Selectboard-Town Administrator Form of Government for the Town of South Hadley.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
John W. Scibak	*2nd Hampshire*	
Stanley C. Rosenberg	*Hampshire, Franklin and Worcester*	*12/12/2012*

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By Mr. Scibak of South Hadley and Senator Rosenberg, a joint petition (accompanied by bill, House, No. 4548) of John W. Scibak and Stanley C. Rosenberg (by vote of the town) for legislation to establish a selectboard-town administrator form of government in the town of South Hadley. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act Establishing a Selectboard-Town Administrator Form of Government for the Town of South Hadley.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establishing a Selectboard-Town Administrator form of government for the Town of South Hadley, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. SELECTBOARD

(A) Composition

There shall be a Selectboard consisting of five (5) members elected for terms of three (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.

(B) Vacancy in Office

Vacancies on the Selectboard shall be filled by a special election in accordance with the provisions of the General Laws.

(C) Executive Powers

The executive powers of the Town shall be vested in the Selectboard, which shall serve as the chief policymaking body of the Town.

(1) The Selectboard shall have all of the executive powers given to boards of selectmen by the General Laws, except for those granted herein to the Town Administrator.

(2) The Selectboard shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by all Town agencies serving under it, and in conjunction with other elected Town officers and multiple member bodies to develop and promulgate policy guidelines designed to bring the operation of all Town agencies into harmony; provided, however, that nothing in this section shall be construed to authorize any member of the Selectboard, or 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 Selectboard shall act only through the adoption of broad policy guidelines, which are to be implemented by officers and employees serving under it.

(3) The Selectboard shall cause the bylaws, 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.

(4) The Selectboard shall appoint and may remove the Town Administrator as provided in Sections 2 and 5, respectively, and Town Counsel, and shall approve the appointment of department heads as provided in Section 3(B)(1).

(5) The Selectboard shall appoint the Board of Appeals, Registrars of Voters, Conservation Commission, Recreation Commission, Historical Commission, trustees of special

funds, and members of all appointed multiple member bodies for whom no other method of selection is provided by this Act or by bylaw, except persons serving under other elected Town officers and members appointed by state officers.

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

(7) The Selectboard shall be responsible for providing timely audits as required by law. The audits shall be made by a certified public accountant, or firm of such accountants, who have no personal interests, direct or indirect, in the fiscal affairs of the government of the Town of South Hadley or any of its officers. The Board shall approve the selection of the Town audit firm, which shall be recommended by the Town Administrator.

SECTION 2. TOWN ADMINISTRATOR - APPOINTMENT, QUALIFICATIONS, RESTRICTIONS, AND TERMS OF EMPLOYMENT

(A) Appointment

There shall be established in the Town of South Hadley the office of Town Administrator, who shall be appointed by the Selectboard for a term not to exceed three (3) years, as the Board may determine, and who may be appointed for successive terms of office. Whenever a vacancy shall occur in the office of Town Administrator, the Selectboard shall appoint a Town Administrator Screening Committee to identify and recommend qualified candidates for the position. The Selectboard shall provide the Committee with a written charge

and statement of qualifications and duties of the position that have been approved by the Board. The Committee shall design and undertake a recruitment process, and shall present candidates to the Selectboard. The Selectboard shall, within 45 days following the date of receipt of the list of candidates, choose one candidate from the list to fill the position of Town Administrator or reject such candidates and direct that the Committee resume the search.

(B) Qualifications

The Town Administrator shall be a person of demonstrated ability and who is qualified by reason of education, skills, and experience in public management or business administration. The Selectboard may establish additional qualifications for the office of Town Administrator.

(C) Restrictions

The Town Administrator shall devote full-time to the duties of the office and shall not engage in any other business or occupation during such employment by the Town, unless such action is approved in advance, in writing, by the Selectboard. The Town Administrator shall hold no elective office in the Town while serving as Town Administrator, but the Selectboard may appoint the Town Administrator to any non-elective office or position consistent with the responsibilities of the Town Administrator. Before entering upon his or her duties, the Town Administrator shall be sworn to the faithful and impartial performance thereof by the Town Clerk.

(D) Terms of Employment

(1) Employment Contract

To the extent permitted by law, the terms of the Town Administrator's employment may be the subject of a written agreement between the parties.

(2) Compensation

The Selectboard shall set the compensation of the Town Administrator.

(3) Annual Review

The Selectboard shall provide for an annual review of the job performance of the Town Administrator, which shall, at least in summary form, be a public record.

SECTION 3. TOWN ADMINISTRATOR - POWERS AND DUTIES

(A) Chief Administrative Officer

The Town Administrator shall be the chief administrative and financial officer of the Town and shall be responsible to the Selectboard for the effective management of all Town affairs placed in his or her charge by this Act, the Selectboard, or vote of the Town Meeting. The Town Administrator shall be responsible for the implementation of Town policies established by the Selectboard and shall supervise, manage, and coordinate the day-to-day activities of all Town departments and employees under the jurisdiction of the Selectboard, and coordinate all activities of these Town departments with the activities of other departments under the jurisdiction of other elected Town boards and commissions. The Town Administrator may delegate, authorize, or direct any subordinate or employee of the Town to exercise any power, duty, or responsibility which the office of Town Administrator is authorized to exercise; provided, however, that all acts which are performed under such delegation shall be deemed to be the acts of the Town

Administrator. The functions and duties of the Town Administrator shall include, but shall not be limited to, the functions and duties as herein described.

(B) Powers of Appointment

(1) Subject to the approval of the Selectboard, the Town Administrator shall appoint and may remove the Police Chief, Superintendent of Public Works, and Town Accountant.

(2) Except as provided in this Act, the Town Administrator shall appoint and may remove all other department heads, including those that serve with an appointed board, commission, or committee, and other employees for whom no other method is provided under this Act, and shall approve the appointment and removal of all other employees, pursuant to the General Laws or this Act. The Town Administrator shall consult with the appropriate appointed board, commission, or committee prior to making any appointment or removal under this subsection. This subsection shall not apply to any department heads or employees that serve with elected boards, commissions, or committees.

(3) Department heads shall appoint and may remove, subject to the approval of the Town Administrator, assistant department heads, subordinates, and employees; provided, however, that the Town Administrator may undertake removal proceedings if he or she determines that such an action is necessary to assure effective operations and management of any department. The department head seeking to make said appointments shall consult with the appropriate appointed board, commission, committee, or official prior to making said appointments or removals, unless otherwise provided under the General Laws or this Act. This subsection shall not apply to any assistant department heads, subordinates, and employees that serve with elected boards, commissions, or committees.

(4) The Town Administrator may, in consultation with department heads and any affected board, as applicable, transfer personnel between departments as needed. Such transfer is presumed to be temporary, and requires the approval of the affected board. This subsection shall not apply to personnel of the school department.

(5) All personnel appointments of the Town Administrator shall be based on education, skills, and experience alone.

(6) Copies of notices of board and commission vacancies, job vacancies, and opportunities and requests for volunteers shall be conspicuously posted in town hall and on the Town's official website.

(C) Administrative Duties

The Town Administrator shall:

(1) be responsible for the day-to-day supervision of all Town departments and direction of the operations of the Town; provided, however, that this section shall not apply to employees of the school department and to the statutory responsibilities and functions of the School Committee;

(2) supervise, direct, and be responsible for the efficient administration of all officers appointed by the Town Administrator and the Selectboard, and their representative departments, and of all functions for which the Town Administrator is given responsibility, authority or control by this Act, bylaw, Town Meeting vote, or vote of the Selectboard;

(3) reorganize, consolidate, or establish any department or position under the Town Administrator's direction or supervision, at the Town Administrator's discretion and with the

Selectboard's approval. With the approval of both the Selectboard and Appropriations Committee, the Town Administrator may transfer all or part of any unexpended appropriation of a reorganized or consolidated department, board, or office to any other Town department, board or office;

(4) administer, either directly or through a person appointed by the Town Administrator, all provisions of general and special laws applicable to the Town, including federal and Massachusetts emergency management agencies' requirements, bylaws, votes of the Town within the scope of the Town Administrator's duty, and all policy rules and regulations made by the Selectboard; provided, however, that all acts that are performed under such delegation shall be deemed to be the acts of the Town Administrator;

(5) establish control and data systems appropriate to monitoring expenditures by Town boards and departments to enable the Town Administrator to make periodic reports to the Selectboard and the Town's Appropriations Committee on the status of the Town's finances;

(6) develop and administer, either directly or through a person appointed by the Town Administrator, a personnel system, including, but not limited to, determination of compensation, the development and implementation of ongoing training programs, personnel and hiring policies, practices and regulation, and evaluation process, for Town employees;

(7) manage and be responsible for all Town buildings, properties and facilities, except those under the control of the School Committee, Library Trustees, and Conservation Commission; provided, however, that the Town Administrator may maintain and repair School Committee, Library Trustees, and Conservation Commission buildings, properties, and facilities

to the extent the School Committee, Library Trustees, or Conservation Commission may request and authorize same;

(8) attend and participate in all regular and special Selectboard meetings and Town Meetings, unless excused therefrom by the Selectboard;

(9) cause full and complete records of meetings of the Selectboard to be taken and maintained, and compile reports of the meetings as requested by the Selectboard;

(10) act as the liaison to, and represent the Selectboard before, state, federal, and regional authorities;

(11) be responsible for approving all grant requests and applications submitted on behalf of the Town; and

(12) perform any other duties consistent with the office of the Town Administrator as may be required by bylaw or vote of the Town, or by vote of the Selectboard.

(D) Financial Powers and Duties

(1) Budget

(a) At a time fixed by bylaw, the Selectboard, after consultation with the Town Administrator and the Appropriations Committee, shall issue a policy statement relating to the budget for the next fiscal year. The statement shall establish the parameters of expected budget growth, if any, for the Town, with appropriate guidance provided to various Town agencies, officers, and committees for use in the preparation of operating budgets for the ensuing fiscal year.

(b) The Town Administrator shall prepare and submit to the Selectboard and Appropriations Committee at a public meeting prior to the annual Town Meeting a written proposed balanced budget for Town government, including the school department, for the ensuing fiscal year. To assist the Town Administrator in preparing the proposed annual budget of revenues and expenditures, all boards, officers, and committees of the Town, including the School Committee, shall, within the timeframe requested by the Town Administrator, furnish all relevant information in their possession and submit to the Town Administrator, in writing and in such form as the Town Administrator shall establish, a detailed estimate of the appropriations required and available funds.

(c) The proposed budget shall detail all estimated revenues from all sources, and all expenditures, including debt service for the previous, current, and upcoming years.

(d) It shall include proposed expenditures for both current operations and capital expenditures during the next fiscal year, together with estimated revenues and free cash available at the close of the current fiscal year, including estimated balances in special accounts.

(2) Collective Bargaining

(a) The Town Administrator shall negotiate collective bargaining contracts on behalf of the Selectboard, which contracts shall be subject to approval, ratification, and execution by the Board. The Selectboard may authorize at its discretion use of additional counsel to assist the Town Administrator in the negotiations.

(b) The Town Administrator shall administer and enforce collective bargaining agreements, personnel rules and regulations, and bylaws adopted by the Town.

(3) Procurement

(a) The Town Administrator shall be responsible for procurement under the provisions of Chapter 30B of the General Laws, and shall be responsible for the purchasing of all supplies, materials, and equipment for the Town, including the bidding and awarding of all contracts, subject to policies established by the Selectboard, except for the school department.

(b) The Town Administrator may delegate such purchasing power as provided in Chapter 30B of the General Laws.

(4) Signing of Warrants

(a) Warrants for payments of Town funds prepared by the Town Accountant in accordance with the provisions of the General Laws shall be submitted to the Town Administrator for approval. Subject to policies established by the Selectboard, the approval of any such warrant by the Town Administrator shall be sufficient authority to authorize payment by the Town. Any warrants generated by the office of the Town Administrator shall be signed by the Selectboard. The Selectboard shall approve all warrants in the event of the absence of the Town Administrator or a vacancy in the office of Town Administrator.

SECTION 4. TOWN ADMINISTRATOR - VACANCY

(A) Permanent Vacancy

The Selectboard shall fill any permanent vacancy in the office of the Town Administrator as soon as feasible in accordance with section 2(A) of this Act. Pending the appointment of a Town Administrator or filling of a vacancy, the Selectboard shall, within a reasonable period of

time, not to exceed 14 days, appoint some other qualified person to temporarily perform the duties of the Town Administrator until a permanent replacement is appointed.

(B) Temporary Absence or Disability

(1) The Town Administrator may designate by letter filed with the Town Clerk and Selectboard a qualified officer of the Town to perform the duties of Town Administrator during a temporary absence or disability.

(2) If the absence or disability exceeds 30 days, any designation by the Town Administrator shall be subject to approval by the Selectboard. If the Town Administrator fails to make such a designation, or if the person so designated is unable to serve, the Selectboard may designate some other qualified person to perform the duties of Town Administrator.

(3) The powers and duties of the acting Town Administrator, under section (B) of this Act shall be limited to matters not permitting of delay and shall include authority to make temporary, emergency appointments or designations to Town office or employment, but not to make permanent appointments or designations, unless authorized by the Selectboard.

SECTION 5. TOWN ADMINISTRATOR – REMOVAL, SUSPENSION

(A) Removal, Suspension

The Selectboard may terminate and remove or suspend the Town Administrator by a majority vote of the Selectboard. Prior to any termination or removal, or a suspension exceeding 5 days, notice shall be given and reasons for the proposed action shall be provided in writing to the Town Administrator, and an opportunity shall be provided for the Town Administrator to meet with the Selectboard and respond to the Board's notice. After such meeting, if any, the

Selectboard may act by majority vote of the entire Selectboard to terminate, remove, or suspend the Town Administrator.

SECTION 6. CONTINUATION OF EXISTING GOVERNMENT

(A) Continuation of Existing Laws

All laws, bylaws, rules, and regulations of or pertaining to the Town of South Hadley which are in force on the effective date of this Act and which are not inconsistent with the provisions of this Act, shall continue in full force and effect until amended or repealed. Elected and appointed officers, boards, commissions, and committees shall have all of the powers, duties, and responsibilities which are in force on the effective date of this Act that are not inconsistent with this Act, which are given to the respective officers, boards, commissions, and committees by law, this Act, Town bylaw, or by vote of Town Meeting. If any provision of this Act conflicts with any provision of any law, bylaw, rule, or regulation of the Town of South Hadley, this Act shall govern.

(B) Continuation of Personnel

Any office or position in the administrative service of the Town of South Hadley and incumbents in such offices, on the effective date of this Act, shall continue to function as the office, position or incumbent did previously until a change in such office, position, or incumbent is effected in accordance with the provisions of this Act.

SECTION 7. REPEAL AND AMENDMENT OF EXISTING ACTS

(A) Chapter 34 of the Acts of 1992 is hereby repealed.

(B) Chapter 558 of the Acts of 1986 is hereby amended by striking the first and fifth paragraphs of Section 3 of said Act.

SECTION 8. TIME OF TAKING EFFECT

This Act shall take effect upon its passage.