

# HOUSE . . . . . No. 3533

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## The Commonwealth of Massachusetts

PRESENTED BY:

*Kimberly N. Ferguson*

*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 form of government in the town of Paxton.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	
<i>Stephen M. Brewer</i>	<i>Worcester, Hampden, Hampshire and Middlesex</i>	<i>6/20/2013</i>

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By Mrs. Ferguson of Holden, a petition (accompanied by bill, House, No. 3533) of Kimberly N. Ferguson and Stephen M. Brewer (by vote of the town) that the town of Paxton be authorized to establish an open town meeting, board of selectmen, town administrator form of government. Municipalities and Regional Government. [Local Approval Received.]

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen  
\_\_\_\_\_

An Act relative to the form of government in the town of Paxton.

*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. The inhabitants of the Town of Paxton, within its territorial limits as now or  
2 may hereafter be established by law, shall continue to be a body politic and corporate, known as  
3 the Town of Paxton.

4           Section 2. This act shall be cited and shall be known as the Paxton Governmental Act.

5           Section 3. The legislative powers of the town shall continue to be exercised by a town  
6 meeting open to all voters of the town.

7           Section 4. There shall be a board of selectmen consisting of three members elected by the  
8 voters by ballot at a general election for three year terms, so arranged that the term of office of  
9 one member shall expire each year. The executive powers of the town shall be vested in the  
10 board of selectmen. The board of selectmen shall have all of the powers and duties given to  
11 boards of selectmen under the constitution and laws of the commonwealth and such additional  
12 powers and duties as may be authorized by this act, by by-law or by other town meeting vote.  
13 The board of selectmen shall cause the laws and orders for the government of the town to be  
14 enforced and shall cause a record of its official acts to be maintained. The board of selectmen  
15 shall be the chief policy making board of the town and shall act by the issuance of policy  
16 statements and guidelines to be followed and implemented by all town agencies serving under  
17 the board.

18           The board of selectmen shall be the licensing authority of the town and shall have the  
19 power to issue licenses, to make 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, and to enforce the laws relating to all businesses for which it issues licenses.

To aid the board of selectmen in the conduct of its official business duties, the board of selectmen shall appoint a town administrator who shall serve at the pleasure of the board.

The board of selectmen shall also appoint a board of registrars, town counsel, town auditor, dog officer, building commissioner and fence viewer. The board of selectmen shall also appoint members to the capital improvement committee, Paxton housing partnership, zoning board of appeals, historical commission, historic district commission, open space committee, council on aging, conservation commission, master plan implementation committee and such other boards, committees and commissions as may be duly constituted from time to time.

Section 5. The town moderator, an officer elected by ballot with a three year term, shall make appointments to the finance committee and any other such appointments as authorized by town meeting vote and town by-laws.

Section 6. The town administrator shall be especially fitted by education, training and experience in public or business administration to perform the duties of the office. Any vacancy in the position of town administrator shall be filled as soon as possible by the board of selectmen. Pending the appointment of a town administrator or the filling of any vacancy, the board of selectmen shall appoint a suitable person to perform the duties of the office. In the event of temporary absence or disability of the town administrator, the board of selectmen may designate a qualified person to serve as acting town administrator and to perform the duties of the town administrator during such temporary absence or disability. The town administrator shall receive such compensation for services as the board of selectmen shall determine, but such compensation shall fall within the Town's wage scale and not exceed the amount appropriated therefore by the town.

Section 7. The town administrator shall be the chief administrative officer of the town, shall act as the agent for the board of selectmen and shall be responsible to the board of selectmen for the proper operation of town affairs for which the town administrator is given responsibility under this act. The town administrator, under the policy direction of the board of selectmen, shall supervise, direct and be responsible for the efficient administration of all officers appointed by the town administrator and their respective departments and of all functions for which the town administrator is given responsibility, authority or control by this act, by bylaw, by town meeting vote or by vote of the board of selectmen. The town administrator shall have the power to 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 under this act. All actions that are performed under such delegation shall be deemed to be the actions of the town administrator.

56           Section 8. Except as otherwise provided by this act, the town administrator shall appoint,  
57 subject to the approval by majority vote of the board of selectmen, the collector/treasurer, town  
58 clerk, town accountant, town services coordinator, administrative assistant to the town  
59 administrator and board of selectmen and all department heads and officers, subordinates and  
60 employees, except employees of the school district/department, the Fire Department, and those  
61 who are elected or are under the supervision of elected officials, boards or commissions of the  
62 town. Appointments of department heads made by the town administrator shall become effective  
63 on the fifteenth day following the day notice of proposed appointment is filed with the board of  
64 selectmen unless the board of selectmen shall, within said period, by a vote of a majority of the  
65 board reject such appointment, or has sooner voted to affirm it. Copies of notices of proposed  
66 appointments as filed with the board of selectmen shall simultaneously be posted.

67           Section 9. Except as otherwise provided by this act, the town administrator may remove  
68 for cause all department heads and officers, subordinates and employees except employees of the  
69 school district/department and those who are elected or are under the supervision of elected  
70 officials, boards or commissions. Removals for cause by the town administrator shall be subject  
71 to due process requirements of federal, state or town laws and regulations or enforceable contract  
72 provisions. The town administrator shall follow the procedure outlined in the town personnel  
73 policy, as it may be revised or amended from time to time, Removals of department heads by the  
74 town administrator shall become effective on the thirtieth day following the day notice of  
75 proposed removal is filed with the board of selectmen unless the board shall within said period  
76 by majority vote reject such removal, or has sooner voted to affirm it.

77           Section 10. Annually, for the ensuing year, the board of selectmen in conjunction with  
78 the town administrator shall define goals and performance objectives which both parties  
79 determine necessary for the proper operation and welfare of the town and for the attainment of  
80 the policy objectives of the board. The board of selectmen and town administrator shall further  
81 establish a relative priority among those various goals and objectives. Said goals and objectives  
82 shall be reduced to writing. The board of selectmen shall review and evaluate the performance of  
83 the town administrator on a formal basis once annually under the terms and conditions of this  
84 act. Said review and evaluation shall include, but not be limited to: the town administrator's  
85 progress and performance on the annual goals and objectives as are prepared pursuant to this  
86 section; budgetary and financial administration; personnel administration; supervision and  
87 leadership; staff development; public relations; employee and labor relations; policy execution;  
88 and interaction with the board of selectmen as well as the governmental officials, departments,  
89 boards and committees. The board of selectmen shall provide the town administrator with a  
90 written evaluation report after each formal review and evaluation and shall provide the town  
91 administrator with an opportunity to discuss his review and evaluation with the board of  
92 selectmen in a workshop session and submit written comments in relation thereto.

93           Section 11. The town administrator shall:

94 (a) insure that complete and full records of the financial and administrative activity of the  
95 town are maintained and to render reports to the board of selectmen as may be required;

96 (b) review warrants for payments of town funds prepared by the town accountant and  
97 approved by the board of selectmen;

98 (c) serve as chairman of the “financial management team”, which shall be  
99 comprised of the town administrator, the town accountant, the treasurer/collector assessor  
100 and the finance committee chair. The financial management team shall meet on a regular basis  
101 (e.g., monthly) to review financial information, and provide guidance to assist policy makers in  
102 their decision making process. The town administrator, as chairman of the financial team, shall  
103 keep the board of selectmen fully informed as to the financial condition of the town (as  
104 determined by the financial management team), and shall make recommendations to the board of  
105 selectmen and to other elected and appointed officials that the financial team deems necessary or  
106 expedient in regard to such matters;

107 (d) prepare annually a financial forecast of the town’s revenue, expenditures, capital,  
108 infrastructural needs and the general financial condition of the town with a updated projection for  
109 the next five years;

110 (e) be responsible for the efficient use, maintenance and repair of all town facilities,  
111 being aware that any major changes in assets should be reported to the capital committee.  
112 Included in this the oversight of all insurance policies for the properties under the authority of the  
113 board of selectmen, except for those facilities under the jurisdiction of the school district/board;

114 (f) attend all regular and special meetings of the board of selectmen, unless excused.  
115 The town administrator shall attend all sessions of the town meeting and answer all questions  
116 addressed to him that are related to the warrant articles and to matters under his general  
117 supervision;

118 (g) administer and maintain, either directly or through a person or persons supervised  
119 by the town administrator, provisions of general or special laws, bylaws and other votes of the  
120 town meeting, and make recommendation for changes as he/she may deem necessary;

121 (h) coordinate activities of all town departments, officers, boards and commissions  
122 under the jurisdiction of the board of selectmen, and facilitate interdepartmental communication  
123 among all town departments, officers, boards and commissions.

124 (i) administer personnel policies, practices, rules and regulations, any compensation  
125 plan including benefits and insurance programs, and any related matters for all municipal  
126 employees including all provisions of the personnel bylaws and all collective bargaining  
127 agreements subject to his/her jurisdiction;

(j) be responsible, with the board of selectmen and any department managers as he/she may deem fit, for the negotiation of all contracts with town employees over wages and other terms and conditions of employment (except employees of the school district/department); such contracts shall be subject to the approval of the board of selectmen. The town administrator shall resolve union grievances according to provisions of the union contracts with the town (except for school district/department contracts). The town administrator may, subject to the approval of the board of selectmen, employ special counsel to assist in the performance of these duties;

(k) award, subject to the approval of the board of selectmen, all town contracts, excepting those contracts involving the school district/department. The town administrator shall serve as and perform the duties of the contract compliance officer of the town;

(l) serve as and perform all the duties of the chief procurement officer of the town;

(m) serve as liaison with regional, state and federal governmental organizations, local business and community leaders and the general public;

(n) serve as grants person for the town; to seek out, be responsible for the preparation of applications and administer any grants that shall be awarded to the town;

(o) appoint and supervise the department heads and other non-elected officials and personnel of the town that are under the jurisdiction of the town administrator or board of selectmen. The town administrator shall evaluate the performance of all department heads annually. He/she shall follow the procedure outlined in the town personnel policy, as it may be revised or amended from time to time, to assist department heads in annually evaluating the performance of the employees under their supervision;

(p) receive correspondence and answer routine daily inquiries. He/she shall set priorities among issues that demand the board of selectmen's attention. The town administrator shall organize the agenda for the board of selectmen's meetings, once it has been approved by the chair and perform research on issues when necessary. He shall prepare board of selectmen members for meetings with

briefing memos, including a list of pertinent issues with supporting data, information on any current events and principle departmental activities;

(q) assemble town meeting articles and town warrants in concert with the town counsel. He/she shall present such articles on the town warrant to the appropriate town boards or committees for review and recommendation;

(r) compile the town report;

161 (s) review and make recommendations on the status of all license applications under the  
162 jurisdiction of the board of selectmen, and to make site inspections as necessary; and

163 (t) perform such duties as necessary, or as may be assigned by this act, by-law, town  
164 meeting vote, or vote by the board of selectmen.

165 Section 12. The registered voters of the town of Paxton shall elect town officials in  
166 accordance with any applicable laws, by-laws, votes of the town or interlocal agreement.

167 Section 13. All laws, by-laws, votes, rules and regulations, whether enacted by authority  
168 of the town or any other authority, which are in force in the Town of Paxton on the effective date  
169 of this act, or any portion or portions thereof, not inconsistent with the provisions of this act shall  
170 continue to be in full force and effect until otherwise provided by other laws, by-laws, votes,  
171 rules and regulations, respectively. Nothing contained herein shall impair contractual rights  
172 established prior to the adoption of this act, or any amendment thereto.

173 Section 14. This act shall take effect upon its passage.

174 Approved \_\_\_\_\_.