

# HOUSE . . . . . No. 1123

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Nine  
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An Act establishing a town manager form of government for the Town of Hanover..

*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. CONTINUATION OF EXISTING GOVERNMENT

2           CONTINUATION OF EXISTING LAWS, BY-LAWS, PERSONNEL, ETC.

3           All special acts, by-laws, rules and regulations which are in force on the effective date of  
4 this Act that are not inconsistent with the provisions of this Act shall continue in full force until  
5 amended or repealed and elected and appointed officers, boards, commissions, and committees  
6 shall have all of the powers, duties and responsibilities, which are in force on the effective date  
7 of this Act that are not inconsistent with this Act, which are given to the respective boards,  
8 officers and agencies by law, this Act, town by-law or by vote of town meeting.

9           If any provision of this Act conflicts with any provisions of any special act, by-law, rule  
10 or regulation of the town, the provisions of this Act shall govern.

11          CONTINUATION OF PERSONNEL

12          Any office or position in the administrative service of the town and incumbents in such  
13 offices, on the effective date of this Act shall continue to function as they did previously until a

change in those offices, positions or incumbents is effected in accordance with the provisions of this Act.

## SECTION 2. BOARD OF SELECTMEN

### COMPOSITION

There shall be a board of selectmen consisting of five (5) members elected for terms of three 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 in the office of selectmen shall be filled by a special election in accordance with the provisions of Massachusetts General Laws.

### C. EXECUTIVE POWERS

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

The board of selectmen shall have all of the executive powers it is possible for a board of selectmen to have and to exercise and shall be authorized to enter into intergovernmental and/or public/private agreements on such terms it deems beneficial to the citizens of Hanover.

The board of selectmen 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, 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, which are to be implemented by officers and employees serving under it.

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.

The board of selectmen shall appoint the town manager, town counsel, and approve the hire of the town audit firm.

The board of selectmen 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 board of selectmen shall enforce the laws relating to all businesses for which it issues such licenses. The board of selectmen under this Act may delegate or reorganize any local licensing authority or process notwithstanding any general laws relating to local governance to the contrary.

The board of selectmen shall be responsible to provide for 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 town government or any of its officers.

### SECTION 3. TOWN MANAGER

56 APPOINTMENTS, QUALIFICATIONS, TERMS OF OFFICE AND EMPLOYMENT

57 APPOINTMENT

58 After the establishment of the five (5) member board of selectmen, there shall be  
59 established in the town of Hanover the office of town manager, who shall be appointed by the  
60 board of selectmen for a term not to exceed three (3) years, as the board may determine, and may  
61 be appointed for successive terms of office.

62 QUALIFICATIONS

63 The town manager shall be a person of demonstrated ability with administrative  
64 experience in public management or business administration and who is qualified by reason of  
65 education and experience.

66 TERMS OF OFFICE

67 The town manager shall devote full time to the duties of said office and shall not engage  
68 in any other business or occupation during the term of his or her employment by the town. The  
69 town manager shall hold no elective office in the town during his or her tenure as town manager,  
70 but the board of selectmen may appoint the town manager to any non-elective office or position  
71 consistent with the responsibilities of the town manager. Before entering upon his or her duties,  
72 the town manager shall be sworn to the faithful and impartial performance thereof by the town  
73 clerk. The town manager shall not have served in an elected office for the town of Hanover for  
74 at least twenty-four months prior to his or her appointment.

75 TERMS OF EMPLOYMENT

76 ADDITIONAL QUALIFICATIONS

77           The board of selectmen may from time to time establish additional qualifications for the  
78 office of town manager. To the extent permitted by law, the terms of the town manager's  
79 employment may be the subject of a written agreement between the parties setting forth the  
80 length of service, compensation, annual review, vacation, sick leave, benefits, and such other  
81 matters, excluding tenure, as are customarily included in an employment contract.

## 82           COMPENSATION

83           The board of selectmen shall set the compensation of the town manager, not to exceed the  
84 amount appropriated by the town meeting.

## 85           SECTION 4. TOWN MANAGER - POWERS AND DUTIES.

86           The town manager shall be the chief executive officer of the town. The town manager  
87 shall be responsible to the board of selectmen for the effective management of all town affairs  
88 placed in the town manager's charge by this Act, the board of selectmen, or vote of the town  
89 meeting. The town manager shall be responsible for the implementation of town policies  
90 established by the board of selectmen. The functions and duties of the town manager shall  
91 include, but not be limited to, the following:

## 92           POWERS OF APPOINTMENT

93           As provided for in this Act, appoint and remove all non-elected department heads,  
94 approve the appointment and removal of all other employees except employees of the school  
95 department. The town manager shall consult with the appropriate elected or appointed board,  
96 commission, committee, or official prior to making such department head appointments or  
97 removals. Appointments to such department head positions shall become effective on the

102 twentieth day following the day notice of appointment or removal is filed with the board of  
103 selectmen, unless the board of selectmen shall within that twenty (20) day period, by at least a  
104 majority vote of the current elected members, vote to reject said appointment or removal, or  
105 sooner, by at least a majority vote of the current elected members, vote to affirm said  
106 appointment or removal.

107 Department heads shall, subject to the consent and approval, of the town manager,  
108 appoint or remove assistant department heads, officers, subordinates and employees, including  
109 employees serving under elected and appointed boards, commissions, committees and officials  
110 for whom no other method of selection is provided in this Act, except employees of the school  
111 department; provided however, that the department head shall consult with the appropriate  
112 elected or appointed board, commission, committee or official prior to making such  
113 appointments or removals. The town manager may transfer personnel between departments as  
114 needed.

115 All appointments shall be based on merit and fitness alone.

116 Copies of notices of job opportunities and/or appointments shall be posted on the town  
117 bulletin board.

#### 118 ADMINISTRATIVE DUTIES

Day-to-day supervision of all town departments and direction of the operations of the  
town. This section shall not apply to employees of the school department and to the statutory  
responsibilities and functions of the school committee.

119 Supervise, direct and be responsible for the efficient administration of all officers  
120 appointed by the town manager and their representative departments, and of all functions for  
121 which the town manager is given responsibility, authority or control by this Act, by by-law, by  
122 town meeting vote, or by vote or the board of selectmen.

123 Reorganize, consolidate or establish any department or position under the town manager's  
124 direction or supervision, at his or her discretion and with the board of selectmen's approval.  
125 With the approval of both the board of selectmen and advisory committee, the town manager  
126 may transfer all or part of any unexpended appropriation of a reorganized or consolidated  
127 department, board or office to any other town department, board or office.

128 Administer, either directly or through a person appointed by him, all provisions of  
129 general and special laws applicable to the town including Federal and Massachusetts Emergency  
130 Management Agencies' requirements, and by-laws and votes of the town within the scope of his  
131 or her duty, and all policy rules and regulations made by the board of selectmen.

132 Establish control and data systems appropriate to monitoring expenditures by town  
133 boards and departments to enable the town manager to make periodic reports to the board of  
134 selectmen and the advisory committee on the status of the town's finances.

135 Develop and administer a personnel system, including, but not limited to, determination  
136 of rates of pay, the development and implementation of an ongoing training program, evaluation  
137 process, personnel and hiring policies, practices, and regulations for town employees.

138 Manage and be responsible for all town buildings, properties and facilities, except those  
139 under the control of the school committee, parks and recreation department and conservation  
140 commission. The town manager may maintain and repair school committee, parks and

141 recreation department, open space committee and conservation commission buildings, properties  
142 and facilities if and to the extent the school committee, parks and recreation department, and  
143 conservation commission may request and authorize.

144 Attend and participate in all regular and special board of selectmen meetings and town  
145 meetings, unless excused therefrom by the board of selectmen.

146 Cause full and complete records of meetings of the board of selectmen to be taken and  
147 maintained, and compile reports of the meetings as requested by the board of selectmen.

148 Act as the liaison with and represent the board of selectmen before state, federal and  
149 regional authorities.

150 Subject to policy established by the board of selectmen, approve all warrants or vouchers,  
151 including payroll warrants, for payment of town funds submitted by the town accountant. Any  
152 warrants generated by the town manager shall be signed by the board of selectmen.

153 Approve all grants submitted on behalf of the town.

154 Perform any other duties consistent with his or her office as may be required by by-law or  
155 vote of the town or by vote of the board of selectmen.

## 156 FINANCIAL POWERS AND DUTIES

### 157 BUDGET

158 Prepare and submit at a public meeting to the board of selectmen and advisory committee  
159 not later than ninety (90) days prior to the annual town meeting a written proposed balanced  
160 budget for town government, including the school department, for the ensuing fiscal year.



161           The proposed budget shall detail all estimated revenues from all sources, and all  
162 expenditures, including debt service for the previous, current and ensuing years.

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

166           The town may, by bylaw, establish additional financial reports to be provided by the town  
167 manager.

168           To assist said town manager in preparing the proposed annual budget of revenues and  
169 expenditures, all boards, officers, and committees of the town, including the school committee  
170 shall, within the timeframe requested by the town manager, furnish all relevant information in  
171 their possession and submit to the town manager, in writing and in such form as the town  
172 manager shall establish, a detailed estimate of the appropriations required and available funds.

#### 173           COLLECTIVE BARGAINING

174           Negotiate collective bargaining contracts on behalf of the board of selectmen, which  
175 contracts shall be subject to approval, ratification and execution by the board. The board of  
176 selectmen may authorize use of additional counsel, as requested by the town manager to assist  
177 the town manager in the negotiations at its discretion.

178           Administer and enforce collective bargaining agreements, and personnel rules and  
179 regulations, and by-laws adopted by the town.

#### 180           PROCUREMENT

Act as the chief procurement officer under the provisions of Chapter 30B of the General Laws, responsible for the purchasing of all supplies, materials, and equipment for the town, including the bidding and awarding of all contracts, except for the school department.

## SECTION 5. TOWN MANAGER - VACANCY.

### PERMANENT VACANCY

The board of selectmen shall fill any permanent vacancy in the office of the town manager as soon as feasible in accordance with Section 3 of this Act. Pending the appointment of a town manager or filling of a vacancy, the board of selectmen shall, within a reasonable period of time, not to exceed fourteen (14) days, appoint some other capable person to temporarily perform the duties of the town manager until a permanent replacement is appointed.

### TEMPORARY ABSENCE OR DISABILITY

The town manager may designate by letter filed with the town clerk and board of selectmen a capable officer of the town to perform the duties of town manager during a temporary absence or disability.

If the absence or disability exceeds thirty (30) days, any designation by the town manager shall be subject to approval by the board of selectmen. If the town manager fails to make such a designation, or if the person so designated is unable to serve, the board of selectmen may designate some other capable person to perform the duties of town manager.

**Powers and Duties** - The powers and duties of the acting town manager, under (a) and (b) above, 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 board of selectmen.

#### SECTION 6. TOWN MANAGER – REMOVAL; SUSPENSION.

The board of selectmen may terminate and remove or suspend the town manager by the majority vote of the entire board of selectmen. Prior to any such termination, removal, or suspension exceeding five (5) days, notice shall be given and reasons for the proposed action shall be provided in writing to the town manager, and an opportunity shall be provided for the town manager to meet with the board of selectmen and respond to those reasons. After such meeting, if any, the board of selectmen may act by majority vote of the entire board of selectmen to terminate, remove or suspend the town manager.

#### SECTION 7. DEPARTMENT OF PUBLIC WORKS.

A. There shall remain an elected board of public works, hereinafter called the board, consisting of three (3) members serving three year staggered terms.

B. The superintendent of public works and town manager shall consult with the board of public works for the purpose of receiving advice and assistance in the development of policy guidelines for the operation of the department of public works, and the board of public works shall perform such other advisory functions related to the department of public works as the town manager or superintendent may request.

C. The authority of the special act, Chapter 39 of the Acts of 1930 creating the water commissioners is hereby assumed by the town manager, except that changes in water rates must be approved by the board of selectmen. The vote of the town at the 1972 town election adopting

222 the provisions of sections 69C to 69F, inclusive of chapter 41 of the General Laws is hereby  
223 rescinded.

224 SECTION 8. TRANSITION PROVISIONS.

225 A. ADDITION TO BOARD OF SELECTMEN

226 At an annual election following the effective date of this Act, two (2) additional  
227 selectmen shall be elected one (1) to a term expiring at the town election in the third year  
228 following the election at which this Act was approved and one (1) to a term expiring at the town  
229 election in the second year following the election at which this Act was approved. Thereafter, as  
230 the terms of selectmen expire, successor shall be elected for terms of three (3) years.

231 B. TOWN ADMINISTRATOR

232 The position of town administrator shall be abolished upon the assumption of office by  
233 the town manager. Should the position become vacant prior to the town manager assuming the  
234 duties of the office, the board of selectmen may appoint an acting town administrator to serve  
235 until the assumption of the duties of office by the town manager.

236 SECTION 9. EFFECTIVE DATE.

237 This Act shall take effect upon its passage.

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