

HOUSE No. 1894

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act ESTABLISHING A TOWN ADMINISTRATOR AND A MUNICIPAL FINANCE DEPARTMENT IN THE TOWN OF DOUGLAS ..

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 - TOWN ADMINISTRATOR

2 SECTION 1-1: APPOINTMENT; QUALIFICATION; TERM

3 The executive powers of the Town of Douglas shall be vested in the board of selectmen
4 who shall serve as the chief executive officer and policymaking board of the town. Said board of
5 selectmen shall continue to have and to exercise all the powers and duties vested in boards of
6 selectmen under the General Laws or by vote of the town, except as otherwise provided herein.

7 The board of selectmen shall appoint a town administrator to serve for a term to be
8 determined by contract, and shall fix the compensation for such person, annually, within the
9 amount appropriated by the town. The board of selectmen may establish an employment
10 contract with the town administrator for salary, fringe benefits and other conditions of
11 employment, including but not limited to, severance pay, relocation expenses, reimbursement for
12 expenses incurred in the performance of his duties or office, liability insurance, conditions of
13 discipline, termination, dismissal, and reappointment, performance standards and leave. The

14 town administrator shall be appointed on the basis of educational, executive, and administrative
15 qualifications and experience. The educational qualifications shall consist of a master's degree,
16 preferably in public or business administration, granted by an accredited degree-granting college
17 or university. The professional experience shall include at least three (3) years of prior full-time
18 compensated executive service in public or business administration. Alternatively, five (5) years
19 or more of such professional experience and a bachelor's degree in an appropriate discipline shall
20 qualify any applicant. Seven (7) years or more of prior full-time compensated service in public
21 or business administration shall also qualify any applicant. The board of selectmen may, by a
22 four-fifths (4/5ths) vote, waive the education or experience requirements listed above. A town
23 administrator need not be a resident of town or of the Commonwealth at the time of appointment,
24 nor at any time during the period of such service. The town administrator shall not have served
25 in an elective office in the town government for at least twelve months prior to appointment.
26 The town may from time to time establish, by by-law, such additional qualifications as seem
27 necessary and appropriate.

28 The town administrator shall devote full time to the office and shall not hold any other
29 public office, elected or appointed, nor engage in any business or occupation during such service,
30 unless such action is approved in advance by the board of selectmen. The board of selectmen
31 shall provide for an annual review of the job performance of the town administrator.

32 SECTION 1-2: POWERS AND DUTIES

33 The town administrator shall be the chief administrative officer of the town, directly
34 responsible to the board of selectmen for the administration of all town affairs for which the

35 office of town administrator is given responsibility by this special act. The powers and duties of
36 the town administrator shall include, but are not intended to be limited to the following:

37 (a) To supervise, direct and be responsible for the efficient administration of all functions
38 and activities for which the office of town administrator is given authority, responsibility or
39 control by this special act, by by-law, by town meeting vote, by vote of the board of selectmen,
40 or otherwise.

41 (b) To appoint, and in appropriate circumstances, to remove, subject to the provisions of
42 any collective bargaining agreements as may be applicable, all department heads, officers, and
43 employees for whom no other method of selection is provided by this act, including, but not
44 limited to, the chief of police, fire chief, highway superintendent, director of municipal finance,
45 town accountant, town treasurer, town collector, building commissioner, town engineer, senior
46 director, and facilities maintenance director, except employees of the water and sewer
47 department, the library department, and the school department. The town administrator shall,
48 after consultation with the board of assessors, appoint the principal assessor. Appointments of
49 department heads and officers shall become effective on the twenty-first (21st) day following the
50 day on which notice of the appointment is filed with the board of selectmen, unless the board of
51 selectmen shall, within that period by a majority of all of its members, vote to reject such action,
52 or has sooner voted to affirm it. Copies of the notices of all such proposed appointments shall be
53 posted on the town bulletin board when submitted to the board of selectmen. Except as
54 otherwise provided herein, all offices under the supervision of the town administrator as set forth
55 in this section shall have the powers and duties set forth in the General Laws, the town bylaws
56 and this act.

57 Notwithstanding the provisions of this section, the board of selectmen shall be the
58 appointing authority for town counsel, town auditor, appointed multiple member bodies created
59 by statute, bylaw or town meeting, except as may otherwise be provided by applicable provisions
60 of said statute, bylaw or town meeting vote, and for other individuals who are to serve as
61 representatives of the town to the governing or advisory bodies of area, regional or district
62 authorities.

63 (c) To be entrusted with the administration of the town personnel system; to administer
64 the personnel policies and procedures and rules and regulations; and to administer the personnel
65 by-law and collective bargaining agreements entered into by the town.

66 (d) To attend all regular and special meetings of the board of selectmen, including
67 executive sessions, unless excused in advance by the chairman of said board, and shall have a
68 voice, but no vote, in all of its proceedings. However, the board of selectmen shall in no way be
69 prohibited from conducting a meeting because of the lack of attendance of the town
70 administrator.

71 (e) To assure that full and complete records of the financial and administrative activities
72 of the town are kept and to render as often as may be required by the board of selectmen, but not
73 less than quarterly, a full report of all town administrative operations during the period reported
74 on, which report shall be made available to the public.

75 (f) To keep the board of selectmen fully advised as to the needs of the town and
76 recommend to the board of selectmen and to other elected town officers and agencies for
77 adoption such measures requiring action by them or by the town meeting as the town
78 administrator may deem necessary or expedient. The town administrator shall keep the board of

79 selectmen informed in regards to issues affecting the administration and governance of the town,
80 in a timely manner.

81 (g) The town administrator shall be responsible for the maintenance repair, and use, of all
82 town land and buildings which fall under the jurisdiction of the board of selectmen. Other
83 municipal boards may request that the town administrator be responsible for the maintenance and
84 repair of the land and buildings under their respective jurisdictions.

85 (h) To prepare and present to the board of selectmen and finance committee an annual
86 operating budget for the town; and to work in conjunction with the capital improvement
87 committee, created by by-law, to prepare a proposed capital improvement plan for the five (5)
88 fiscal years next ensuing.

89 (i) To negotiate, on behalf of the board of selectmen, all personnel contracts and
90 collective bargaining agreements involving any subject within the jurisdiction of the office of the
91 town administrator or board of selectmen, including contracts with town employees involving
92 wages, hours and other terms and conditions of employment. All such contracts and agreements
93 shall be subject to the approval of the board of selectmen.

94 (j) To be the chief procurement officer for the town, in accordance with the provisions of
95 Chapter 30B of the Massachusetts General Laws, and to appoint such assistant procurement
96 officers as provided in Chapter 30B of the Massachusetts General Laws.

97 (k) To see that the provisions of the general laws, this act, town by-laws, votes of the
98 town meeting and of the board of selectmen which require enforcement by the town
99 administrator are faithfully executed, performed or otherwise carried out.

100 (l) To prosecute, defend and compromise, subject to the approval of the board of
101 selectmen, all litigation to which the town is a party.

102 (m) To inquire and make investigation, at any time, into the conduct and operation of
103 office or performance of duties of any officer or employee, department, board, commission or
104 other town agency.

105 (n) To attend all sessions of all town meetings, unless excused in advance by the
106 chairman of the board of selectmen, and answer questions raised by voters which relate to
107 warrant articles and to matters over which the town administrator exercises any supervision.

108 (o) To coordinate the activities of all town agencies serving under the office of the town
109 administrator and the office of the board of selectmen with those under the control of other
110 officers and multiple member bodies elected directly by the voters. For this purpose, the town
111 administrator shall have authority to require the persons so elected, or their representatives, to
112 meet with the town administrator, at reasonable times, for the purpose of effecting coordination
113 and cooperation among all agencies of the town. The town administrator shall have the right to
114 attend and speak at any public meeting of any multiple member body.

115 (p) To seek out and work to obtain resources from federal, state and other governmental
116 jurisdictions that further town purposes.

117 (q) To approve all payroll and expense warrants for payment of town funds. Such
118 approval shall be sufficient authority to authorize payment of the same by the town treasurer. In
119 the event of the absence of the town administrator, the board of selectmen shall approve such
120 warrants. If a vacancy exists in the office of town administrator, the board of selectmen shall

121 approve all such warrants, or, may delegate such responsibility to a temporary town
122 administrator appointed pursuant to section 1-4(b) of this act.

123 (r) To perform any other duties as are required to be performed by the town administrator
124 by by-laws, administrative code, votes of the town meeting, or votes of the board of selectmen,
125 or otherwise.

126 SECTION 1-3: DELEGATION OF AUTHORITY

127 The town administrator may authorize any subordinate officer or employee to exercise
128 any power or perform any function or duty which is assigned to the office of the town
129 administrator, provided, however, that all acts performed under any such delegation shall at all
130 times be deemed to be the acts of the town administrator.

131 SECTION 1-4: ACTING TOWN ADMINISTRATOR

132 (a) Temporary Absence - With the approval of the board of selectmen, the town
133 administrator may designate a qualified town administrative officer or employee to exercise the
134 powers and perform the duties of the town administrator during an absence of the town
135 administrator of not more than twenty (20) days, including Saturdays, Sundays and holidays.
136 Such delegation shall be made by letter filed with the town clerk, the municipal finance director,
137 and the board of selectmen.

138 (b) Vacancy - Any vacancy in the office of town administrator shall be filled as soon as
139 possible by the board of selectmen. However, pending such regular appointment the board of
140 selectmen shall appoint a qualified town administrative officer or employee to perform the duties
141 of the office on an acting basis. Such temporary appointment may not exceed six (6) months but

142 one renewal may be voted by the board of selectmen not to exceed a second six (6) months.
143 Compensation for such person shall be set by the board of selectmen.

144 (c) Powers and Duties - The powers and duties of the temporary or acting town
145 administrator, under subsection (a), above, shall be limited to matters not admitting of delay and
146 shall include authority to make temporary, emergency appointments or designations to town
147 office or employment but not to make permanent appointments or designations.

148 SECTION 1-5: REMOVAL AND SUSPENSION

149 The board of selectmen may, by a vote of four out of five members, terminate and
150 remove the town administrator. The board must provide a preliminary statement of removal to
151 the town administrator setting forth the reasons for removal, which notice may provide for
152 suspension of the town administrator for a period of not more than 45 days. Within five days
153 after receipt of said notice, the town administrator may request a public hearing by filing with the
154 board of selectmen a written request for the same, and may be represented by counsel at said
155 hearing. If no request for a hearing is received upon the expiration of the above-referenced five
156 days, the preliminary resolution of removal shall immediately become a final resolution of
157 removal without further action by the board of selectmen.

158 If a hearing is requested, no later than ten days following the close of the public hearing,
159 the board of selectmen shall adopt, by a vote of four out of five members a final resolution of
160 removal, which may be made effective immediately. Failure to adopt a final resolution prior to
161 the expiration of the ten days following the close of the public hearing shall nullify the
162 preliminary resolution of removal, and the town administrator shall forthwith resume the duties
163 of the office.

164 The board of selectmen may, by a vote of two-thirds of those members present and
165 voting, suspend the town administrator.

166 SECTION 1-6 IMPLEMENTATION

167 The executive administrator holding office as of the effective date of this act shall have
168 the powers and duties of the town administrator as set forth herein, and shall continue to serve
169 for the remainder of any applicable contract term. The obligations of the executive administrator
170 and the town under such contract, including any option to renew, shall not be affected by passage
171 of this act. Upon expiration of the term of the contract or sooner resignation, the town
172 administrator shall be appointed by the board of selectmen in accordance with the provisions of
173 this act; provided, however, that this act shall not be deemed to prohibit the appointment of the
174 executive administrator holding office as of the effective date of this act as the town
175 administrator.

176 SECTION 2 - MUNICIPAL FINANCE DEPARTMENT

177 SECTION 2-1: ESTABLISHMENT AND SCOPE

178 There shall be a department of municipal finance, under the direction of a director of
179 municipal finance, which shall be responsible for the performance of all fiscal and financial
180 activities of the town, including those duties and responsibilities related to municipal finance
181 activities which prior to the effective date of this act were performed by or under the authority of
182 the town accountant, the town treasurer, and the town collector. Although the board of assessors
183 shall be part of the department of municipal finance, the board of assessors shall continue to
184 exercise all of the duties and responsibilities of a board of assessors under the general laws,
185 except as otherwise provided in Sections 1-2(b) and 2-3 of this act. The department shall have

186 such additional powers, duties and responsibilities with respect to municipal finance-related
187 functions and activities as the town may from time to time provide by by-law.

188 SECTION 2-2: DIRECTOR OF MUNICIPAL FINANCE

189 The department of municipal finance shall be under the direct control and supervision of
190 a director of municipal finance who shall be appointed by and be responsible to the town
191 administrator. The director of municipal finance shall be a person especially fitted by education,
192 experience and training to perform the duties of the office. The educational qualifications shall
193 consist of a master's degree, preferably in accounting or business administration, granted by an
194 accredited degree-granting college or university. The professional experience shall include at
195 least three (3) years of prior full-time compensated service in accounting or business
196 administration. Alternatively, five (5) years or more of such professional experience and a
197 bachelor's degree in an appropriate discipline shall qualify an applicant. Seven (7) years or more
198 of prior full-time compensated experience in accounting or business administration shall also
199 qualify any applicant. The board of selectmen may, by a four-fifths (4/5ths) vote, waive the
200 education or experience requirements listed above. The salary, fringe benefits and other
201 conditions of employment of the director of municipal finance, including but not limited to,
202 severance pay, relocation expenses, reimbursement for expenses incurred in the performance of
203 his duties or office, liability insurance, conditions of discipline, termination, dismissal, and
204 reappointment, performance standards and leave may be established by contract.

205 SECTION 2-3: DUTIES AND RESPONSIBILITIES

206 The director shall be responsible for the supervision and coordination of all activities of
207 the department in accordance with the General Laws, town by-laws, administrative codes and

208 rules and regulations. The director of municipal finance may serve as the town accountant and
209 shall be responsible for coordinating the fiscal management procedures of the offices of the town
210 treasurer, town collector, board of assessors, and town accountant, and shall be the administrator
211 of budgeting, including financial reporting, accountability and control, as well as an advisor on
212 financial and programmatic implications of current and future policies to all town departments,
213 the town administrator, and the board of selectmen. The finance director shall be responsible for
214 coordinating all financial tasks required by the General Laws, and, to the extent that the same
215 exists and is issued timely, shall accomplish such tasks in accordance with the dates specified in
216 the Massachusetts Department of Revenue Municipal Calendar, as it may be amended from time
217 to time.

218 SECTION 3 - Transition

219 Section 3-1. Implementation

220 Upon the effective date of this act, the positions of elected town treasurer and town
221 collector shall be abolished and the terms of the elected incumbents shall be terminated. The
222 appointed town accountant holding office as of the effective date of this act shall thereupon
223 become the director of municipal finance. The appointed assistant assessor holding office as of
224 the effective date of this act shall thereupon become the principal assessor. The elected
225 incumbents holding the offices of town treasurer and town collector as of the effective date of
226 this act shall thereupon become the first appointed town treasurer and town collector,
227 respectively, subject to removal in accordance with Section 1-2b of this act. They shall, subject
228 to appropriation, maintain the same salary and benefits as they received in their elected
229 capacities, and

230 shall be eligible to receive salary increases in the same manner as all other non-union
231 personnel. They shall be employees of the department of municipal finance under the direction
232 and supervision of the director of municipal finance. Thereafter, appointments to the positions of
233 town treasurer and town collector will be made by the town administrator pursuant to Section 1-
234 2(b), in consultation with the director of finance.

235 Section 3-2. Contracts, Transfer of Records and Property

236 No contracts or liabilities in force on the effective date of this act shall be affected by
237 abolition of the elected offices and consolidation of financial functions of the town as provided
238 for herein, and the newly created appointed offices and municipal finance department shall in all
239 respects be the lawful successor of offices and departments so abolished or consolidated.

240 All records, property and equipment whatsoever of any office, department, or part
241 thereof, the powers and duties of which are assigned in whole or in part to another office or
242 department are assigned to such office or department.

243 Section 4. This act shall be submitted to the voters of the town of Douglas for acceptance
244 at an annual or special town election in the form of the following question:

245 “Shall an act passed by the General Court in the year 2009 entitled ‘An Act Establishing
246 a Town Administrator and a Municipal Finance Department in the Town of Douglas,’ be
247 accepted?”

248 The Town shall include below the ballot question a fair and concise summary thereof
249 prepared by Town Counsel and approved by the Board of Selectmen. If a majority of votes cast

250 in answer to this question is in the affirmative, Sections 1 through 3 of this act shall take effect
251 sixty (60) days following acceptance by the voters.

252 Section 5. Section 4 of this act shall take effect upon its passage.