

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:
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Stanley C. Rosenberg</i>	<i>Hampshire and Franklin</i>

HOUSE No. 4548

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:

1 SECTION 1. SELECTBOARD

2 (A) Composition

3 There shall be a Selectboard consisting of five (5) members elected for terms of three (3)
4 years each, so arranged that the term of office of as nearly an equal number of members as is
5 possible shall expire each year.

6 (B) Vacancy in Office

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

9 (C) Executive Powers

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

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

14 (2) The Selectboard shall be responsible for the formulation and promulgation of policy
15 directives and guidelines to be followed by all Town agencies serving under it, and in
16 conjunction with other elected Town officers and multiple member bodies to develop and
17 promulgate policy guidelines designed to bring the operation of all Town agencies into harmony;
18 provided, however, that nothing in this section shall be construed to authorize any member of the
19 Selectboard, or a majority of such members, to become involved in the day-to-day administration
20 of any Town agency. It is the intention of this provision that the Selectboard shall act only
21 through the adoption of broad policy guidelines, which are to be implemented by officers and
22 employees serving under it.

23 (3) The Selectboard shall cause the bylaws, rules, and regulations for the government of
24 the Town to be enforced and shall cause an up-to-date record of all its official acts to be kept.

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

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

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

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

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

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

45 (A) Appointment

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

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

57 (B) Qualifications

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

61 (C) Restrictions

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

70 (D) Terms of Employment

71 (1) Employment Contract

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

74 (2) Compensation

75 The Selectboard shall set the compensation of the Town Administrator.

76 (3) Annual Review

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

79 SECTION 3. TOWN ADMINISTRATOR - POWERS AND DUTIES

80 (A) Chief Administrative Officer

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

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

94 (B) Powers of Appointment

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

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

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

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

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

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

123 (C) Administrative Duties

124 The Town Administrator shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

168 (D) Financial Powers and Duties

169 (1) Budget

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

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

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

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

190 (2) Collective Bargaining

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

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

197 (3) Procurement

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

202 (b) The Town Administrator may delegate such purchasing power as provided in Chapter
203 30B of the General Laws.

204 (4) Signing of Warrants

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

212 SECTION 4. TOWN ADMINISTRATOR - VACANCY

213 (A) Permanent Vacancy

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

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

219 (B) Temporary Absence or Disability

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

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

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

231 SECTION 5. TOWN ADMINISTRATOR – REMOVAL, SUSPENSION

232 (A) Removal, Suspension

233 The Selectboard may terminate and remove or suspend the Town Administrator by a
234 majority vote of the Selectboard. Prior to any termination or removal, or a suspension exceeding
235 5 days, notice shall be given and reasons for the proposed action shall be provided in writing to
236 the Town Administrator, and an opportunity shall be provided for the Town Administrator to
237 meet with the Selectboard and respond to the Board's notice. After such meeting, if any, the

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

240 SECTION 6. CONTINUATION OF EXISTING GOVERNMENT

241 (A) Continuation of Existing Laws

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

251 (B) Continuation of Personnel

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

256 SECTION 7. REPEAL AND AMENDMENT OF EXISTING ACTS

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

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

260 SECTION 8. TIME OF TAKING EFFECT

261 This Act shall take effect upon its passage.