

**HOUSE . . . . . No. 4128**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*William M. Straus*

*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 board of public works in the town of Fairhaven.

PETITION OF:

NAME:

*William M. Straus*

DISTRICT/ADDRESS:

*10th Bristol*

**HOUSE . . . . . No. 4128**

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By Mr. Straus of Mattapoisett, a petition (accompanied by bill, House, No. 4128) of William M. Straus (by vote of the town) that the town of Fairhaven be authorized to restructure the board of public works of said town. Municipalities and Regional Government. [Local Approval Received.]

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**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the Year Two Thousand Fourteen**  
\_\_\_\_\_

An Act relative to the board of public works in the town of Fairhaven.

*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. There shall be established in the Town of Fairhaven, a Board of Public  
2 Works, hereinafter called the Board, consisting of five members elected at large. Upon the  
3 expiration of the term of any member, his successor shall be elected at an annual Town election  
4 to serve for a term of three years. In all cases the members of the Board shall serve until their  
5 successors are qualified. The members of the Board shall, after annual Town Election, elect from  
6 among its members a chairperson and a clerk for the ensuing year. In the case of a vacancy, the  
7 Board of Selectmen shall, within thirty days, fill such vacancy until the next annual Town  
8 Election, when a member shall be elected to fill an unexpired term resulting from such vacancy.  
9 No person shall serve on the Board who holds an elected or appointed office in said Town other  
10 than Town Meeting member and no employee of the Town shall serve on the Board.

11           SECTION 2. The Town Administrator shall have all those powers and duties which,  
12 previous to the effective date of this act, were vested in the Board of Public Works, and such  
13 powers and duties as have been, or may from time to time be, vested by general or special laws,  
14 Town charter or Town by-laws in the following boards, departments and offices having  
15 corresponding powers and duties in the Town of Fairhaven, to wit: Highway Department, Water  
16 and Sewer Commissioners, Park Commissioners, Cemetery Commissioners, Refuse and Garbage  
17 Collection, and with respect to construction and maintenance only, the Town landfill,  
18 notwithstanding that such boards, offices and departments have been abolished. No contracts or  
19 liabilities in force on the effective date of this act shall be affected by such abolition, but the  
20 Town Administrator shall in all respects be the lawful successor of the Board of Public Works.

21 The Town Administrator shall have such additional powers with respect to the furnishing  
22 of engineering services, the maintenance and repair of Town buildings and property, and the  
23 performance of such duties of any other boards, departments and offices of the town as may be  
24 reasonably related to the duties and responsibilities of a Board of Public Works, as the Town  
25 may, from time to time, by by-law provide, and other provisions of law to the contrary  
26 notwithstanding.

27 SECTION 3. The Town Administrator, subject to review and approval by the Board of  
28 Selectmen, shall appoint and fix the compensation of a Superintendent of Public Works who  
29 shall exercise and perform, under the supervision and direction of the Town Administrator, such  
30 powers, rights and duties transferred to him under sections two and three as the Town  
31 Administrator may, from time to time, designate. He shall be responsible for the efficient  
32 exercise and performance of such powers, rights and duties and shall hold office subject to the  
33 will of the Town Administrator, with the review and approval of the Board of Selectmen, and he  
34 shall not be subject to any provisions of chapter thirty-one of the General Laws. He shall be  
35 specially fitted by education, training and experience to perform the duties of said office, and  
36 need not be a resident of the town. During his tenure he shall hold no elective office nor shall he  
37 be engaged in any other business or occupation. He shall give to the Town a bond with a surety  
38 company authorized to transact business in the commonwealth as surety, for the faithful  
39 performance of his duties, in such sum and upon such conditions as the Town Administration  
40 may require, and shall, subject to the approval of the Town Administrator, appoint and may  
41 remove such assistants, agents and employees as the exercise and performance of his powers,  
42 rights and duties may require. He shall keep full and complete records of the doings of his office  
43 and render to the Town Administrator as often as the Town Administrator may require a full  
44 report of all operations under his control during the period reported upon; and annually, and from  
45 time to time as required by the Town Administrator, he shall make a synopsis of such reports for  
46 publication. He shall keep the Town Administrator fully advised as to the needs of the town  
47 within the scope of his duties, and shall furnish to the Town Administrator each year upon his  
48 request a carefully prepared and detailed estimate in writing of the appropriations required  
49 during the next succeeding fiscal year for the proper exercise and performance of all said powers,  
50 rights and duties.

51 SECTION 4. In the performance of his duties hereunder the Town Administrator shall  
52 consult with the Board on such proposed actions as he deems appropriate and, except in the case  
53 of an emergency, he shall submit a written proposal to the Board at least fourteen days in  
54 advance, for its review and comments, on the following proposed actions:

- 55 • Contract for engineering or other design services
- 56 • Contract for Public Works or public building
- 57 • Hiring or removal of the superintendent or of an assistant superintendent

- 58           •           Contract for goods or services in excess of \$100,000

59           The Superintendent of Public Works and Town Administrator shall consult with the  
60 Board of Public Works for the purposes of receiving advice and assistance in the preparation of  
61 the department budget and in developing policy guidelines for the operation of the Department of  
62 Public Works, and the Board of Public Works shall perform such other advisory functions  
63 related to the department of Public Works as the Town Administrator or Superintendent may  
64 request. In addition to the foregoing duties, the Board shall serve as a citizen advocacy board.  
65 The Board shall hold regularly scheduled public meetings to hear requests for assistance and  
66 information from the public, and the Board shall advise the Town Administrator, Superintendent  
67 or Board of Selectmen, as appropriate, as to the resolution of such requests in a timely manner.

68           SECTION 5. A reference to the Board of Public Works for the Town of Fairhaven in the  
69 provisions of any collective bargaining agreement relating to an appeal, review or hearing in any  
70 grievance, disciplinary or similar process shall be deemed to refer to the Board of Selectmen for  
71 the Town of Fairhaven, and any other reference to the Board of Public Works for the Town of  
72 Fairhaven, in the provisions of any such collective bargaining agreement shall be deemed to refer  
73 to the Town Administrator.

74           SECTION 6. This act shall be submitted to the registered voters of the Town of  
75 Fairhaven at any Annual or Special Town Election, and shall take effect upon its acceptance by a  
76 majority of the voters voting thereon. The vote shall be taken in precincts by ballot in accordance  
77 with the provisions of the General Laws, so far as the same shall be applicable, in answer to the  
78 question, which shall be placed, in case of a special election, upon the ballot to be used for the  
79 election of Town officers: "Shall an act passed by the General Court in the year \_\_\_\_\_, entitled  
80 " \_\_\_\_\_", be accepted by this Town?"

81           SECTION 7. If this act is rejected by the registered voters of the Town of Fairhaven  
82 when submitted to said voters under section six, it may again be submitted for acceptance in like  
83 manner from time to time to such voters at any Annual Town Election in said Town within three  
84 years thereafter, but not more than three times in the aggregate.