

HOUSE No. 4129

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 town of Fairhaven establishing the position of town administrator.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>5/16/2014</i>

HOUSE No. 4129

By Mr. Straus of Mattapoisett, a petition (accompanied by bill, House, No. 4129) of William M. Straus (by vote of the town) that the town of Fairhaven be authorized to establish the position of town administrator in said town. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act relative to the town of Fairhaven establishing the position of town administrator.

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 Town of Fairhaven shall be governed by the provisions of this act. To
2 the extent that this act modified or repeals existing General Laws and special acts or the by-laws
3 of the Town of Fairhaven, this act shall govern.

4 SECTION 2. (A) The executive powers of the town shall be vested in the Board of
5 Selectmen, who shall have all the powers given to Boards of Selectmen by the General Laws,
6 except for those executive powers granted to the Town Administrator.

7 (B) The Board of Selectmen shall serve as the chief goal-setting and policy-making
8 agency of the Town. The duties and responsibilities for day-to-day management of the Town
9 shall be delegated to the Town Administrator. The Board of Selectmen shall act through the
10 adoption of policy directives and guidelines which are to be implemented by the Town
11 Administrator and the officers and employees appointed by, or under the authority of, the Board
12 of Selectmen. Individual Selectmen shall not purport to represent the Board or exercise the
13 authority of the Board except when specifically authorized by the Board.

14 (C) The Board of Selectmen shall:

15 (1) Enact rules and regulations to implement policies and to issue interpretations.

16 (2) Exercise, through the Town Administrator, general supervision over all matters
17 affecting the interests or welfare of the Town.

18 (3) Appoint the Town Counsel and any special counsels, and all members of committees,
19 boards and commissions except the Finance Committee and except those appointed by the
20 Moderator, or elected by the voters or under the jurisdiction of the School Committee. They may
21 make appointments to temporary posts and committees they create for special purposes.

22 (4) Have general administrative oversight of such boards, committees and commissions
23 appointed by the Board of Selectmen.

24 (5) Have the responsibility and authority for licenses and other quasi-judicial functions as
25 provided by the General Laws and by the Town of Fairhaven by-laws.

26 (6) Issue all Town Meeting Warrants.

27 (7) Review the annual proposed budget submitted by the Town Administrator and make
28 recommendations with respect to the annual proposed budget as they deem advisable. The Town
29 Administrator shall present the budget to the Town Meeting, incorporating the recommendations
30 of the Board of Selectmen.

31 (8) Appoint, and may re-appoint, and enter into a contract for the employment of a Town
32 Administrator for a term of not more than three years, who shall be a person with executive and
33 administrative qualifications and especially fitted by education, training and experience to
34 perform the duties of the office. The Town may from time to time, by by-law, establish such
35 additional qualifications as it deems necessary and appropriate.

36 (9) Remove the Town Administrator at any time, for just cause following a formal
37 procedure including a written intent to dismiss, a written response and a public hearing, to be
38 completed within 30 days after the issuance of a written intent to dismiss, in accordance with the
39 terms of the Town Administrator's contract.

40 (10) Set the compensation for the Town Administrator, not to exceed an amount
41 appropriated by the town meeting.

42 (11) Designate a qualified person as acting Town Administrator to perform the duties of
43 the office during any vacancy exceeding thirty days, caused by the Town Administrator's
44 absence, illness, suspension, removal or resignation. The appointment of an acting administrator
45 shall be for a period not to exceed one hundred eighty days.

46 SECTION 3. (A) The Town Administrator shall be the Chief Administrative Officer of
47 the Town and shall act as the agent for the Board of Selectmen. He shall be responsible to the
48 Board of Selectmen for coordinating and administering all Town affairs under the jurisdiction of
49 the Board of Selectmen.

50 (B) The Town Administrator's powers and duties shall include the following:

(1) Consult and advise the Board of Selectmen regarding its policies; and implement those policies.

(2) Attend all meetings of the Board of Selectmen, except when excused and consult and advise the Board of Selectmen on all matters that come before the Board.

(3) Attend all Town Meetings and advise the Town Meeting on all warrant articles within the jurisdiction of the Board of Selectmen.

(4) Attend all Finance Committee meetings, except when excused by the Board of Selectmen, and shall keep the Finance Committee informed on all matters under the jurisdiction of the Town Administrator that come before the committee.

(5) Manage and direct the daily reporting and supervision of all Town departments under the jurisdiction of the Board of Selectmen including the following: Assessors, Building Commission, Council on Aging, Police, Civil Defense, Animal Control Officer, Gas Inspector, Plumbing Inspector, Wiring Inspector and Weights and Measures Inspector, Recreation, Highway, Water, Sewer, Tree and Park, Planning, Finance, Finance Director, Collector, Treasurer, Accounting, Veterans, Town Counsel, other committees appointed by and under the jurisdiction of the Board of Selectmen and the Fire Department, subject to provisions of General Laws chapter 48 § 42.

(6) Review and advise the Board of Selectmen on all warrants for the payment of Town funds as prepared by the Town Accountant in accordance with section 56 of chapter 41 of the General Laws.

(7) Except with respect to the School Department, the Town Administrator shall have sole authority over the administration of personnel policies for all Town employees. With respect to the Fire Department, such authority shall be subject to the provisions of General Laws c. 48 § 42. The Town Administrator shall act as the personnel board under all applicable laws and by-laws, except as otherwise set forth herein. The Personnel Board as presently constituted shall be eliminated upon the appointment of the Town Administrator. The Town may enact by-laws establishing the wages, salaries, and other benefits of employees, not inconsistent with the authority herein granted to the Town Administrator. Notwithstanding its elimination, all actions taken prior to the appointment of the Town Administrator by the Personnel Board within its authority, and by any other Town official or board, with respect to personnel, including the appointment of all officers and employees, shall continue in full force and effect subject to future action by the Town Administrator within his authority.

(8) Administer the Town's insurance policies, including the ability to settle claims. All insurance contracts and claims settlements must receive the approval of the Board of Selectmen.

85 (9) With the approval of the Board of Selectmen, appoint and remove all department
86 heads under the direct control of the Town Administrator. Each department head, with the
87 approval of the Town Administrator, will appoint and remove all department staff within their
88 respective departments. All appointments shall be based on merit and fitness alone. All
89 appointments and terminations shall be consistent with the provision of the Massachusetts
90 General Laws, personnel policies and bylaws and of any applicable employment contracts, and
91 with respect to the Fire Department, shall be subject to the provisions of G.L. c. 48 § 42.

92 (10) With the approval of the Board of Selectmen, reorganize any departmental structures
93 under his jurisdiction.

94 (11) With the approval of the Board of Selectmen, negotiate all collective bargaining
95 contracts on behalf of the Town, except for School Department contracts. The Town
96 Administrator may seek the assistance of labor counsel, as he deems necessary to effect
97 successful negotiations. All final agreements must be approved and executed by the Board of
98 Selectmen.

99 (12) With the approval of the Board of Selectmen, establish compensation packages for
100 all Town employees under the jurisdiction of the Town Administrator not subject to a collective
101 bargaining agreement. Such compensation may not exceed the amount appropriated therefor by
102 Town Meeting, and shall be subject to the provisions of applicable statutes and by-laws.

103 (13) Submit to the Board of Selectmen a written proposed budget for Town government
104 for the ensuing fiscal year. The proposed budget shall detail all estimated revenue from all
105 sources, and all proposed expenditures, including debt service for the previous, current and
106 ensuing five years. It shall include proposed expenditures for both current operations and capital
107 projects during the ensuing year, detailed by department, committee, agency, purpose and
108 position and proposed financing methods. The proposed budget shall include estimated revenues
109 and free cash available at the close of the fiscal year, including estimated balances in special
110 accounts. The Town may by by-law establish additional financial information and reports to be
111 provided by the Town Administrator. To assist the Town Administrator in preparing the
112 proposed annual budget of revenue and expenditures, the Finance Director, all boards, officers
113 and committees of the Town, including the School Committee, shall furnish all relevant
114 information in their possession and submit to the Town Administrator, in writing in such form as
115 the Town Administrator shall establish, a detailed estimate of the appropriations required and of
116 available funds.

117 (14) Report on the probable amount required to be levied and raised by taxation to defray
118 all expenses and liabilities of the Town together with an estimate of the tax rate necessary.

119 (15) Establish calendar dates on or before which the proposed budget, revenue statement
120 and tax rate estimate are to be submitted to the Board of Selectmen.

(16) Submit annually to the Board of Selectmen a five-year capital improvements program (or the same as approved by a formal Capital Planning Committee) to include: (a) a list of all capital improvements, and supporting data proposed to be undertaken during the next five years; (b) cost estimates, methods of financing and recommended time schedule; and (c) the estimated annual cost of operating and maintaining any facility to be constructed or acquired.

(17) Advise the Board of Selectmen at least monthly, of all departmental year-to-date revenues. Direct action as deemed necessary to ensure that all operating and capital budgets under the direct control of the Town Administrator are maintained in accordance with the Town Meeting vote that approved those budgets. Coordinate efforts with the governing bodies of those departments not under the direct supervision of the Town Administrator to ensure that those operating and capital budgets are maintained in accordance with the Town Meeting vote that approved those budgets.

(18) Keep and complete records of the office and annually submit to the Board of Selectmen, unless requested to do so more frequently, a full report of the operations of the office of the Town Administrator.

(19) Be responsible for coordination of operational and strategic planning for the Town.

(20) Serve as the Town's Procurement Officer, establish and enforce procurement policies and guidelines in accordance with applicable state laws.

(21) Manage and be responsible for the use, maintenance, security, and with the approval of the Board of Selectmen, regulate the rental for all the Town buildings, properties and facilities, including information technology, except those under the jurisdiction of the School Department, unless requested by the School Department.

(22) Prepare application of all Town Warrants for approval by the Board of Selectmen.

(23) With the approval of the Board of Selectmen, prosecute, defend, and, settle all litigation for or against the Town, subject to such appropriation as may be necessary to effect settlement, and except for litigation involving only the school department, or its officers and employees.

(24) Delegate and direct any qualified Town official or employee to carry out any duty that is within the authority of the Town Administrator.

(25) During a temporary absence, with the approval of the Board of Selectmen, the Town Administrator may designate a qualified administrative employee or officer to exercise the powers and perform the duties of the Town Administrator.

(26) Perform any other duties or tasks assigned by the Board of Selectmen, Town Meeting or mandated by State laws.

155 SECTION 4. The Town Administrator of the Town of Fairhaven shall have access to all
156 municipal books, papers and documents or information necessary for the proper performance of
157 the duties of the town administrator. The Town Administrator may, without notice, cause the
158 affairs of any division or department under the Town Administrator's supervision, or the conduct
159 of any officer or employee thereof, to be examined.

160 SECTION 5. All laws, by-laws, votes, rules and regulations, whether enacted by
161 authority of the Town or any other authority, which are in force in the Town of Fairhaven on the
162 effective date of this act, not inconsistent with the provision of this act, shall continue in full
163 force and effect.

164 SECTION 6. No contract existing, and no action at law or suit in equity, or other
165 proceeding pending, on the effective date of this act shall be affected by this act.

166 SECTION 7. This act shall not impair the rights or obligations of any person holding a
167 Town office, or employed by the Town, on its effective date, except those duties assigned by this
168 act to another officer or employer, and except those duties which are subsequently assigned to
169 another officer or employee pursuant to this act. No person who continues in the permanent full-
170 time service or employment of the Town shall forfeit his pay, grade or time in service as a result
171 of the enactment of this act.

172 SECTION 8. This act shall take effect upon its acceptance by the Town Meeting of the
173 Town of Fairhaven.