

HOUSE No. 4192

The Commonwealth of Massachusetts

PRESENTED BY:

William Smitty Pignatelli and Benjamin B. Downing

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 selectmen-town manager form of government in the town of Great Barrington.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>William Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Benjamin B. Downing</i>	<i>Berkshire, Hampshire, Franklin and Hampden</i>

HOUSE No. 4192

By Representative Pignatelli of Lenox and Senator Downing, a joint petition (accompanied by bill, House, No. 4192) of William Smitty Pignatelli and Benjamin B. Downing (by vote of the town) relative to the board of selectmen-town manager form of government in the town of Great Barrington. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act relative to the board of selectmen-town manager form of government in the town of Great Barrington.

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. Chapter 184 of the acts of 1992 is hereby amended by striking out sections
2 1 to 9, inclusive, and inserting in place thereof the following 8 sections:-

3 Section 1. Scope of Charter. The town of Great Barrington shall be governed by the
4 provisions of this act. To the extent that the provisions of this act modify or repeal existing by-
5 laws of the town of Great Barrington, this act shall govern.

6 Section 2. Election and Terms of the Board of Selectmen. The board of selectmen of the
7 town of Great Barrington, referred to in this act as selectboard, shall consist of 5 members
8 elected by the voters of the town. At each annual election, 1 or 2 members shall be elected, each
9 for a 3-year term. Two members' terms shall begin at the annual election in 2015, 2 members'
10 terms shall begin at the annual election in 2016, and 1 member's term shall begin at the annual
11 election in 2017. Members who are in office on the effective date of this act shall serve until the
12 terms to which they were elected shall have expired.

13 Section 3. Responsibilities and Powers of the Selectboard.

14 (A) Functions. The selectboard shall set goals, develop long-range plans, and adopt
15 policy for the Town. The selectboard's policy directives shall be implemented by the town
16 manager and other employees, officers, and appointed boards, committees, and commissions of
17 the town. The selectboard shall recommend courses of action to the town meeting as required by
18 the General Laws.

19 (B) Supervisory Responsibility. The selectboard shall, through the town manager,
20 exercise general supervision over all matters affecting the town's interests or welfare.

21 (C) Creation of Special-Purpose Bodies. The selectboard may create committees to
22 perform duties specified by a resolution.

23 (D) Licensing and Adjudication. The selectboard shall issue licenses and perform other
24 quasi-judicial functions as provided by the General Laws and the town of Great Barrington by-
25 laws.

26 (E) Oversight of Bodies. The selectboard shall have responsibility for and general
27 oversight over committees it appoints.

28 (F) Appointing Authority. The selectboard may appoint the town manager, town counsel,
29 assistant and associate town counsel, agricultural commission, board of registrars, cable
30 television advisory committee, energy committee, fence viewer, historical commission, historic
31 district commission, cultural council, conservation commission, historical commission, tree
32 committee, veterans grave officer and committees created by resolution of the selectboard under
33 Section 3(C) or by action of town meeting.

34 (G) Investigation and Reporting. The selectboard may make investigations and authorize
35 the town manager or other agents to investigate the affairs of the town and the conduct of any
36 town department, office or agency, including any claims against the town. For the purpose of
37 such investigations, the board may subpoena witnesses, administer oaths, take testimony, and
38 require the production of evidence. The report of any such investigation shall be placed on file in
39 the office of the town clerk and a report summarizing said investigations shall be printed in the
40 annual town report.

41 (H) Budget. The selectboard shall review the annual proposed budget submitted by the
42 town manager. The selectboard may make recommendations with respect to the proposed
43 budget.

44 Section 4. Qualifications and Appointment of Town Manager.

45 (A) Appointment by Selectboard. The selectboard, by a majority vote of its full
46 membership, shall appoint a town manager for the town of Great Barrington.

47 (B) Qualifications and Residence. The town manager shall have a degree at the bachelor
48 level in public administration or a similar discipline and shall have had 5 years of full-time paid
49 experience in a supervisory administrative position in municipal government. A master's degree
50 may be substituted for not more than two years of such paid experience. The town manager shall
51 be appointed without regard to political designation. The town manager shall be a citizen of the
52 United States. If not already a resident of the town or Commonwealth at the time of appointment,

53 the town manager shall become a resident of the town within 1 year after the appointment, unless
54 excused by the selectboard.

55 (C) Evaluation. The selectboard shall conduct an annual evaluation of the town
56 manager's job performance. Such evaluation shall be reviewed at a public session.

57 (D) Term. The town manager may be appointed for successive terms of office. No term
58 shall exceed 3 years.

59 (E) Oath of Office. Before entering upon the duties of the office, the town manager shall
60 be sworn into the faithful and impartial performance thereof by the town clerk or notary public.

61 (F) Bond. The town manager shall execute a bond in favor of the town of Great
62 Barrington for faithful performance of the duties of the office in such sums and with such
63 sureties as may be fixed or approved by the selectboard. The cost of the bond shall be borne by
64 the town.

65 Section 5. Recruitment, Appointment and Removal of the Town Manager.

66 (A) Screening Committee. To fill a vacancy in the office of town manager, the
67 selectboard shall recruit and appoint town residents to serve on a town manager screening
68 committee. Where the vacancy is the result of resignation or removal, the selectboard shall
69 appoint the screening committee within 30 days.

70 The town manager screening committee shall consist of 7 Great Barrington residents. Its
71 duty shall be to screen all applicants for the town manager post. It shall submit at least 3 but no
72 more than 5 applicants to the selectboard for their consideration. The selectboard shall either (1)
73 appoint the town manager from the applicants submitted by the committee, or (2) recommence
74 the search process. The committee's duties shall terminate when it submits applicants to the
75 selectboard.

76 (B) Compensation. The town manager shall receive compensation for services as the
77 selectboard shall determine, but it shall not exceed the amount appropriated therefor by the town
78 meeting.

79 (C) Removal of Town Manager. The selectboard, by a vote of 3 or more members, may
80 initiate the process for removal of the town manager. The selectboard shall adopt at a public
81 meeting a written preliminary resolution for removal, setting forth in detail the specific reasons
82 for the proposed removal, and it shall file this resolution with the town clerk. The town manager
83 must reply in writing to the resolution within 7 days and may request a public hearing. If the
84 town manager so requests, the selectboard shall hold a public hearing, not earlier than 20 days
85 nor later than 30 days after the filing of such request. After such public hearing, if any, otherwise
86 after 30 days following the preliminary resolution, and after full consideration, the selectboard
87 by a vote of 4 or more members may adopt a final resolution of removal.

88 (D) Suspension Pending Final Resolution. In the preliminary resolution, the selectboard
89 may suspend the town manager from duty, but in any case the town manager's salary shall
90 continue during the period of consideration of the preliminary resolution and the final resolution.

91 (E) Acting Town Manager. During any period of vacancy or absence exceeding 30 days,
92 caused by the town manager's absence, illness, suspension, removal or resignation, the
93 selectboard shall designate a qualified person to serve as acting town manager and to perform the
94 duties of the office. The appointment shall not exceed 270 days.

95 Section 6. Powers and Duties of the Town Manager.

96 (A) General Responsibility. The town manager shall be the chief administrative officer of
97 the town and shall be responsible to the selectboard for the effective management of all town
98 affairs under the town manager's supervision.

99 The town manager shall administer, either directly or through a person or persons
100 appointed by the town manager in accordance with this act, all provisions of general and special
101 laws applicable to the town all by-laws, and all regulations established by the selectboard.

102 (B) Financial Responsibilities. The town manager shall be the chief financial officer of
103 the Town. The town manager shall be responsible for preparing the town budget, filing grant
104 applications, and controlling budget expenditures, including approval of the warrant for the
105 payment of town funds prepared by the town treasurer in accordance with the provisions of
106 section 56 of chapter 41 of the General Laws for approval by the selectboard.

107 (C) Budget Responsibility and Process.

108 (1) Budget. The town manager shall submit to the selectboard and finance committee a
109 written proposed budget for town government for the ensuing fiscal year, including the budget as
110 proposed by the school committee. The proposed budget shall detail all estimated revenue from
111 all sources and all proposed expenditures, including debt service for the previous, current and
112 ensuing years. It shall include proposed expenditures for both current operations and capital
113 projects during the ensuing year, detailed by agency, department, committee, purpose, and
114 position, together with proposed financing methods. The proposed budget shall include estimated
115 surplus revenue and free cash available at the close of the fiscal year, including estimated
116 balances in special accounts. The town, by by-law, or the selectboard may establish additional
117 financial information and reports to be provided by the town manager.

118 (2) Tax Rate Estimate. The town manager shall report on the probable amount required to
119 be levied and raised by taxation to defray all expenses and liabilities of the town, together with
120 an estimate of the tax rate necessary to raise such amount.

121 (3) Budget Process Deadlines. The selectboard and the finance committee shall specify
122 the calendar dates on or before which the proposed budget, revenue statement and tax rate
123 estimate are to be submitted to them.

124 (4) Input from Departments, Boards and Committees. All town boards, officers,
125 department heads, and committees shall furnish the town manager with relevant information, in
126 writing, of the appropriations required and available funds.

127 (D) Other Powers and Duties of Town Manager.

128 (1) Planning and Operation. The town manager shall be responsible for coordinating the
129 strategic planning and operations of the Town.

130 (2) Supervision and Consultation. The town manager shall supervise all town
131 departments, except the school department, and direct town operations. The town manager may
132 seek advice from town boards and committees and may appoint ad hoc committees.

133 (3) Personnel Appointment and Removal. The town manager may appoint and establish
134 compensation on the basis of merit and qualifications, and may remove with just cause, all
135 employees of the town of Great Barrington, except for positions that are appointed by the
136 selectboard, including but not limited to the following positions and staff:

137 administrative assistant

138 animal control officer

139 board of assessors

140 buildings and grounds

141 building inspector

142 cemetery commissioners

143 cemetery superintendent

144 civil defense director

145 communications committee

146 council on aging and director

147 crossing guards

148 department of public works superintendent - town engineer

149 fire chief and assistant

- 150 gas inspector
- 151 highway superintendent
- 152 Housatonic War Memorial Building Committee
- 153 keeper of the lockup
- 154 library director and staff
- 155 parking clerk
- 156 parking enforcement officers
- 157 parks and recreation
- 158 parks commissioners
- 159 police chief and officers according to civil service
- 160 recycling committee
- 161 right to know
- 162 sanitation superintendent
- 163 sealer of weights and measures
- 164 special police officers
- 165 town accountant
- 166 town clerk
- 167 town collector
- 168 town planner
- 169 town treasurer
- 170 tree warden
- 171 veterans service
- 172 wire inspector and deputy wire inspector

173 (4) Override by the Selectboard. The selectboard, by a majority vote of the entire board,
174 after thorough investigation and for just cause, may reverse a decision made by the town
175 manager about hiring, appointing, compensating or removing town employees and committee

176 members. The vote of the selectboard under this paragraph shall be completed within 30 days of
177 the decision by the town manager.

178 (5) Temporary Assumption of Other Duties. The town manager, with the consent of the
179 selectboard, may assume, temporarily and for no additional compensation, the duties of any
180 office that the town manager is authorized to fill by appointment. The foregoing is subject to any
181 applicable provisions of the General Laws relating thereto.

182 (6) Personnel Management. The personnel management powers, duties, and
183 responsibilities of the town manager shall include, but are not limited to, the following:

184 (a) to administer and to adopt personnel policies, practices, or rules and regulations, any
185 compensation plan and any related matters for all town employees and to administer all
186 collective bargaining agreements entered into by the town;

187 (b) to set the compensation of all town employees and officers within the limits
188 established by appropriation and any applicable compensation plan or collective bargaining
189 agreement;

190 (c) to be responsible for the negotiations of all contracts with town employees over wages
191 and other terms and conditions of employment. Such contracts shall be subject to the approval of
192 the selectboard. The town manager may, subject to the approval of the selectboard, employ
193 special counsel to help perform these duties.

194 (7) Records. The town manager shall keep complete records of the office.

195 (8) Reports. The town manager shall provide reports to boards, committees, and town
196 meetings as needed.

197 (9) Notice to Selectboard. The town manager shall advise the selectboard of all matters
198 requiring action by it or the town.

199 (10) Meetings. The town manager shall attend all meetings of the selectboard and all
200 town meetings. The town manager shall be permitted to speak when recognized by the chair or
201 moderator.

202 (11) Purchasing Agent. The town manager shall be the purchasing agent for all town
203 departments and activities, pursuant to the General Laws.

204 (12) Property. The town manager shall be responsible for all town buildings, property and
205 facilities.

206 (13) Contracts. The town manager shall be responsible for the negotiation of all contracts.

207 (14) Counsel. The town manager shall be the selectboard's liaison to town counsel and
208 shall inform the board of all communications with town counsel.

209 (15) Complaints. The town manager shall receive and address all citizens' complaints and
210 concerns and maintain a record of actions or responses.

211 (16) Insurance. The town manager shall be responsible for managing all town insurance
212 programs.

213 (17) Public Representation. The town manager shall represent the town at local, state and
214 regional meetings and undertake public relations activities as directed by the selectboard.

215 (18) Rates and Fees. The town manager shall recommend to the selectboard sewer rates,
216 landfill fees and other fees in accordance with provisions of the General Laws. After a public
217 hearing, the selectboard shall set such rates and fees.

218 (19) Other Duties. The town manager shall perform such other duties consistent with the
219 office as may be required by by-law, vote of the selectboard or town meeting.

220 Section 7. Elected Officials.

221 Maintenance of Powers. The powers, duties and responsibilities of elected officials shall
222 be as now or hereafter provided by applicable provisions of any general or special law or by-law
223 or vote of the town, except as otherwise expressly provided herein.

224 Section 8. Saving Clause.

225 All by-laws, rules, regulations and votes of town meeting in force on the effective date of
226 this act, or any portion or portions thereof, that are not inconsistent with the provisions of this act
227 shall continue in full force and effect until amended or repealed.

228 SECTION 2. This act shall take effect upon its passage.