HOUSE DOCKET, NO. 4417 FILED ON: 8/11/2021

HOUSE . . . . . No. 4087

The Commonwealth of Massachusetts

PRESENTED BY:

Carmine Lawrence Gentile and Alice Hanlon Peisch

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 creating select board/town manager form of government in the town of Wayland.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Carmine Lawrence Gentile	*13th Middlesex*	*8/11/2021*
Alice Hanlon Peisch	*14th Norfolk*	*8/11/2021*
Rebecca L. Rausch	*Norfolk, Bristol and Middlesex*	*8/18/2021*

HOUSE DOCKET, NO. 4417 FILED ON: 8/11/2021

HOUSE . . . . . No. 4087

By Representatives Gentile of Sudbury and Peisch of Wellesley, a petition (accompanied by bill, House, No. 4087) of Carmine Lawrence Gentile, Alice Hanlon Peisch and Rebecca L. Rausch (by vote of the town) that the town of Wayland be authorized to create a select board and town manager form of government in said town. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act creating select board/town manager form of government in the town of Wayland.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

§ 1. The Select Board.

1.1 The Board of Selectmen in the Town of Wayland shall hereafter be known as the Select Board, who shall be vested with all of the powers and duties conferred upon a board of selectmen by any general or special law. All references to the Board of Selectmen contained in the Town Code shall be construed as referring to the Select Board, and all powers and duties conferred upon the Board of Selectmen by the Town Code shall be vested in the Select Board.

1.2 The Select Board shall be the chief executive officers of the Town and shall serve as the chief policymaking body of the Town.

1.3 The Select Board shall consist of five (5) residents of the Town, elected by ballot, to serve a term of three (3) years. The terms of the members of the Select Board shall be staggered

such that one (1) or two (2) members shall be elected each year. Upon the effective date of this Act, the incumbent members of the Board of Selectmen shall continue in office for the duration of their elected terms but shall be referred to as members of the Select Board.

1.4 The Select Board shall develop and promulgate policy directives and regulations that shall be followed by all agencies serving under it and, in conjunction with other elected Town officers and multiple-member bodies, shall develop and promulgate policies and regulations designed to bring the operation of all town agencies into harmony; provided, however, nothing in this section shall authorize any member of the Select Board or a majority of such members to become involved in the day-to-day administration of a town agency nor shall this provision be construed as conferring upon the Select Board any policy-making directives or regulations specifically reserved to other Town boards or commissions by statute or Town Code.

1.5 The Select Board shall cause the Town Code, rules and regulations of the Town to be enforced.

1.6 The Select Board shall appoint a Town Manager, Town Counsel, independent auditor and any other boards, committees, and commissions according to Town Code, statute or any special act. The Select Board shall also appoint any other multi-member boards for whom no other method of appointment is provided by Town Code, statute or special act.

1.7 The Select Board shall have full authority as agents of the Town to employ counsel to commence, prosecute and defend suits in the name of the Town, unless otherwise especially ordered by vote of the Town. Said authority shall not extend to employing counsel to the School Committee.

1.8 The Select Board shall cause an adequate supply of the full Town report to be available in the Town offices and in the public library from which to furnish a copy to any interested person, and it shall cause the warrant and Finance Committee's report with recommendations to be served as provided in Section 36-2 of the Town Code.

1.9 The Select Board shall have the authority to declare a state of emergency in the Town of Wayland upon the occurrence of any disaster, catastrophe, fire, flood, earthquake, storm, public health emergency, other natural calamity, act of terrorism, or cyber attack. Any state of emergency proclaimed by the Select Board shall, unless sooner terminated by proclamation of the Select Board, terminate five days from the day it takes effect.

1.10 The Select Board shall have full authority to establish rules and regulations, binding upon all boards, commissions, committees, councils, authorities, officials and employees of the Town of Wayland, governing the use, marking, record-keeping, maintenance and reporting requirements pertaining to Town-owned vehicles and reimbursement for the use of privately owned vehicles by employees and officials while on Town business.

§ 2. Appointment and qualifications of Town Manager.

2.1 The Select Board, by an affirmative vote of at least four (4) members, may appoint a Town Manager for a term not to exceed three years, as the Select Board deems to be in the best interests of the Town. The Town Manager shall receive such aggregate compensation and benefits, not exceeding the amount appropriated, as the Select Board may determine. The Select Board may, but is not required to, establish a written employment contract with the Town Manager pursuant to Massachusetts General Laws Chapter 41, Section 108N, to provide for the

salary, fringe benefits, and other conditions of employment. The Town Manager position shall be a non-union position.

2.2 The Town Manager shall be appointed on the basis of educational, management and administrative qualifications and experience, including at least a bachelor's degree from an accredited four-year college or university. The Town Manager shall have considerable professional experience, consisting of compensated service in government administration or an equivalent combination of education and business management experience.

2.3 The Town Manager shall devote full-time to the responsibilities of the office. The Town Manager shall hold no elective Wayland Town office. The Town Manager may be appointed by the Select Board to any other compatible Town office or position, but he/she shall engage in no other business or occupation without advance written authorization by the Select Board.

§ 3. Authority and responsibilities of Town Manager.

3.1 Administrative Authority and Responsibilities

a. The Town Manager shall be the chief administrative and operating officer of the Town.

b. The Town Manager shall be responsible for managing, supervising and executing all of the activities noted in this Act, the Town Manager’s job description, and any other duties assigned to the Town Manager by the Select Board or in compliance with federal and state law and the Town Code and Town policies.

c. The Town Manager will not set Town policy, but will ensure there is appropriate coordination in the implementation of Town policy working across all Town departments in conjunction with all elected and appointed boards and committees.

d. The Town Manager shall ensure that all Town employees, boards, commissions and committees comply with the Town's financial, personnel and legal policies and procedures, as well as all Town Meeting votes, Town Code, federal and state law, and all regulations

e. The Town Manager shall be responsible for the management of all financial, administrative and operational affairs of the Town and Town departments and all boards, commissions and committees but excluding the School Department, provided, however, that all boards, commissions and committees shall continue to exercise permitting and/or policy-making authority as provided in state law.

f. The Town Manager shall be responsible for overseeing, coordinating, and making recommendations that may impact multiple Town boards and committees, broadly or in detail, regarding Town financial, personnel and legal activities.

g. The Town Manager shall understand and have a working knowledge of the statutory and regulatory authority and responsibility held by department heads and elected and appointed boards, commissions and committees so s/he can effectively support these

officers in the execution of their duties. Unless expressly stated herein, nothing in this Act is intended to reassign policy-making or permit granting statutory authority of any department head or any elected or appointed board, commission or committee to the Town Manager.

h. With respect to Town policies and programs that impact multiple areas of Town government, the Town Manager shall work with all elected and appointed boards, commissions and committees and Town department heads, be responsible for ensuring there is appropriate administration and coordination both (i) in the implementation and on-going adherence to Town policies; and (ii) in the

development and execution of such policies and programs.

i. With respect to the development, implementation and execution of policies and programs affecting various Town departments, the Town Manager shall:

i) Coordinate the setting of priorities with the rest of the Town government;

ii) Communicate activities, including projects, plans and studies, so that

necessary input is received from all areas of Town government that should be

involved in those initiatives; and

iii) Coordinate efforts so that cross-functional services to residents and others are

effectively and consistently delivered.

j. With the exception of the School Department and Library, and except as otherwise provided in the Town Code or Chapter 347 of the Acts of 2008, to streamline services, the Town Manager may create a new department, may reorganize, eliminate or consolidate Town departments or functions, in whole or in part, and may assign functions of one department to another department, subject to the approval of the Select Board.

k. The Town Manager is designated as the Town's Records Access Officer under the Public Records statute. The Town Manager shall, directly or through the Town's various departments, boards, commissions and committees, be responsible for the preparation, filing and maintenance of all records and reports on behalf of the Town.

l. The Town Manager oversees crisis intervention in emergency situations, working with other key Town department heads, and addresses any systemic problems impacting multiple areas of the Town as they arise. The Town Manager shall ensure priority items are properly attended to and bring concerns about problem resolution to related boards, commissions and committees, and ultimately, to the Select Board for assistance in resolution, if necessary.

3.2 Financial Authority and Responsibilities

a. The Town Manager shall be the chief financial officer of the Town.

b. The Town Manager shall initiate, draft and have general oversight of the process of preparing the Town's annual operating and capital budgets for submission to the Finance Committee. To assist the Town Manager in preparing the proposed annual operating and capital budgets, all department heads, boards, commissions and committees of the Town, including the School Department, shall furnish all relevant information and submit to the Town Manager, in writing and in such form as the Town Manager shall prescribe, a detailed estimate of the appropriations required and available funds.

c. The Town Manager shall draft and update a five-year capital improvement plan for all Town departments for submission to the Finance Committee.

d. The Town Manager shall work with the Finance Director and Finance Committee to:

i) Develop long-term financial strategies addressing operational and capital financial needs of the Town;

ii) Establish set budgetary guidelines to be used in the development of annual budgets;

iii) Review all operating and capital budgets of all Town departments and make recommendations to the affected boards, commissions and committees and to the Finance Committee about priorities important to budget development; and

iv) Evaluate actual expenditures and receipts against budgets and coordinate with affected department heads, boards, commissions and committees the development of plans to manage to the budget or obtain Finance Committee approval for Reserve Fund transfers, in advance of spending, when possible.

e. The Town Manager shall serve as the Town's chief procurement officer pursuant to state and federal law and shall ensure that all Town departments comply with applicable procurement laws. The Town Manager may, in his or her discretion, delegate any procurement responsibilities.

f. Unless any statute or special act provides to the contrary, the Town Manager is authorized to execute all grant applications and shall award and execute all contracts binding the Town up to a set amount to be established by policy set by the Select Board.

3.3 Personnel Authority and Responsibilities

a. Department Heads: Except as expressly provided herein, the Town Manager shall appoint on the basis of merit and fitness alone, all department heads or similar positions, in consultation with the respective boards, commissions and committees that the Department Heads

or similar positions support and in compliance with any applicable provision of a collective bargaining agreement, with the exception of the School Department and Library.

b. Department Employees (subordinate to Department Head or similar position): The Town Manager shall ultimately be responsible for appointing subordinates to Department Heads or similar positions. Unless otherwise provided by the terms of an applicable collective bargaining agreement, the Department Head or similar position may, with the consent of the Town Manager or his or her designee, appoint on the basis of merit and fitness alone, all subordinate employees of each Town department, with the exception of the School Department.

c. Unless otherwise provided under this Act, the Town Manager shall be responsible for appointing all other appointed employees for whom no other method of appointment is provided by the Town Code or other special act.

d. Discipline and Removal for Cause: The Town Manager may, for cause, discipline or remove any department head or similar position, with the exception of the School Department and Library Director, and shall, in consultation with the applicable

Department Head or similar position, discipline or remove all subordinate employees of each Town department, with the exception of the School Department.

e. The Town Manager shall appoint, on the basis of merit and fitness alone, with ratification by a vote of at least three members of the Select Board, and evaluate, discipline and, for cause, remove, without the ratification of the Select Board:

i) A Police Chief;

ii) A Fire Chief;

iii) A Finance Director; and

iv) A Town Clerk.

f. In the event of a vacancy, disability or absence anticipated to be greater than thirty (30) days of any department head or any position appointed by the Town Manager, the Town Manager may appoint someone to serve in an acting or interim capacity for the period of such vacancy, disability or absence.

g. Working with the Town's Human Resource Department, the Town Manager shall be responsible for the daily administration of the Town-wide personnel system, including the maintenance of personnel records and the enforcement of personnel policies, rules and regulations and managing personnel costs to ensure maximum efficiency and fairness across Town departments.

h. Evaluations: The Town Manager may develop a performance evaluation process and establish performance standards not inconsistent with any terms of any collective bargaining agreement. (new) The Town Manager shall be responsible for the annual

evaluation of job performance of all Town department heads, including the Town Clerk and other positions appointed by the Town Manager but excluding the School Department and Library Director, and shall incorporate any input or recommendations received from any elected or appointed board, commission or committee served by such department heads. Evaluation of the Library Director shall include input of the Town Manager. The Town Manager shall be responsible for ensuring the completion of annual evaluations of the job performance of all subordinate Town employees, excluding those of the School Department.

i. The Town Manager shall serve as the agent of the Select Board and negotiate collective bargaining agreements on behalf of the Select Board in accordance with General Laws Chapter 150E, provided, however, that such agreements shall be subject to ratification by the Select Board and subject to funding by Town Meeting. The Town Manager may designate appropriate employees to assist with collective bargaining.

3.4 Facilities/Property Authority and Responsibilities

a. Except as otherwise provided in Chapter 347 of the Acts of 2008, the Town Manager shall be responsible for the construction, reconstruction, restoration, rehabilitation, repair and maintenance of all Town buildings and all Town real and personal property, and information technology and infrastructure. Nothing in this provision shall be construed as conferring any authority upon the Town Manager to have access to information that is otherwise unauthorized under state law. (new)

b. The Town Manager shall, directly or through the Town's various departments, boards, commissions and committees, maintain an inventory of all Town-owned real and personal property.

3.5 Transitional Authority and Responsibilities

a. With the enactment of this Act by the General Court, Chapter 320 of the Acts of 2004, An Act Relative to the Position of Town Administrator in the Town of Wayland, shall be repealed and be of no effect, and the position of Town Administrator shall be abolished and the incumbent thereof shall serve as the Acting Town Manager, or if there is no incumbent, the Select Board shall appoint an Acting Town Manager. The Acting Town Manager shall serve until the Select Board appoints a permanent Town Manager.

b. Following the enactment of this Act, the Select Board shall appoint a Town Manager, and if the Select Board so chooses, the incumbent Town Administrator may be appointed Town Manager on a permanent basis.

c. Following the enactment of this Act by the General Court, any reference to the Town Administrator existing in any provision of the Town Code or any other special act shall be construed as referring to the Town Manager. All powers and duties conferred upon the Town Administrator by the Town Code or other special act shall be vested in the Town Manager, unless otherwise provided in this Act.

d. Following the enactment of this Act by the General Court, Sections 58 and 60 of the Town Code shall be repealed and be of no effect.

e. Following the enactment of this Act, all Town officers, boards, commissions and employees shall continue to perform their duties in the same manner and to the same extent as they have performed the same prior to the enactment of this Act, except that, upon the appointment of a Town Manager, the powers and duties outlined herein shall be vested in the Town Manager.

§ 4. Removal of the Town Manager.

The Town Manager may be removed by an affirmative vote of at least four (4) members of the Select Board in accordance with the provisions of the Town Manager's contract, if applicable.

§ 5. Acting Town Manager.

If the Town Manager shall be absent from his/her office for up to fourteen (14) days, the Town Manager may designate a qualified person to serve as the Acting Town Manager and to perform the duties of the Office of the Town Manager during this period of absence. In the event the Town Manager shall be absent for more than fourteen (14) days or the office of Town Manager shall be vacant for more than fourteen (14) days, the Select Board may appoint a qualified person to serve as the Acting Town Manager and to perform the duties of the Office of the Town Manager during the period of any vacancy caused by the Town Manager's absence, illness, suspensions, removal or resignation. The appointment by the Select Board shall be for a period not to exceed six months,

but such appointment may be extended by majority vote of the Select Board.

§ 6. Town Clerk To Become Appointed Position.

6.1 Upon the effective date of this Act, the position of Town Clerk shall cease to be elected and shall become a position appointed by the Town Manager pursuant to Sections 3.3.e and 6 of this Act.

6.2 The incumbent in the office of Town Clerk shall continue to serve until the expiration of the term for which elected as Town Clerk, and at the expiration of that term, a Town Clerk shall be appointed by the Town Manager as provided in Section 3 of this Act. If the incumbent in the office of Town Clerk vacates said office prior to the expiration of the term for which the Town Clerk was elected, the office of Town Clerk shall cease to be an elected position and shall be appointed by the Town Manager as provided in Section 3 of this Act.

§ 7. Conflict with Other Acts or Town Code.

In the event that there is a conflict between any provision of this Act and any provision of the Town Code, rules, regulations, orders, special acts, acceptances of laws, or other special act pertaining to the Town of Wayland, this Act shall prevail. All other provisions of Town Code, resolutions, rules, regulations and votes of the Town Meeting that are in force at the time this Act is enacted, not

inconsistent with or superseded by the provisions of this Act, shall continue in full force and effect until amended or repealed.

§ 8. Time for Taking Effect.

This Act shall take effect upon its passage by the General Court.