

**HOUSE . . . . . No. 4315**

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Substituted by the House, on motion of Ms. Garlick of Needham, for a bill with the same title (House, No. 4087) [Local Approval Received]. January 3, 2022.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninety-Second General Court  
(2021-2022)**  
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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           SECTION 1. Chapter 320 of the acts of 2004 is hereby repealed.

2           SECTION 2. There shall be a select board/town manager form of government in the town  
3 of Wayland, which shall be established in this act.

4           SECTION 3. The board of selectmen in the town of Wayland shall hereafter be known as  
5 the select board, who shall be vested with all of the powers and duties conferred upon a board of  
6 selectmen by any general or special law. All references to the board of selectmen contained in  
7 the town code shall be construed as referring to the select board, and all powers and duties  
8 conferred upon the board of selectmen by the town code shall be vested in the select board.

9           SECTION 4. (a) The select board shall be the chief executive officers of the town and  
10 shall serve as the chief policymaking body of the town.

11           (b) The select board shall consist of 5 residents of the town, elected by ballot, to serve a  
12 term of 3 years. The terms of the members of the select board shall be staggered such that 1 or 2

13 members shall be elected each year. Upon the effective date of this act, the incumbent members  
14 of the board of selectmen shall continue in office for the duration of their elected terms but shall  
15 be referred to as members of the select board.

16 (c) The select board shall develop and promulgate policy directives and regulations that  
17 shall be followed by all agencies serving under it and, in conjunction with other elected town  
18 officers and multiple-member bodies, shall develop and promulgate policies and regulations  
19 designed to bring the operation of all town agencies into harmony; provided, however, nothing in  
20 this section shall authorize any member of the select board or a majority of such members to  
21 become involved in the day-to-day administration of a town agency nor shall this provision be  
22 construed as conferring upon the select board any policy-making directives or regulations  
23 specifically reserved to other town boards or commissions by statute or town code.

24 (d) The select board shall cause the town code, rules and regulations of the town to be  
25 enforced.

26 (e) The select board shall appoint a town manager, town counsel, independent auditor and  
27 any other boards, committees and commissions according to town code, statute or any special  
28 act. The select board shall also appoint any other multi-member boards for whom no other  
29 method of appointment is provided by town code, statute or special act.

30 (f) The select board shall have full authority as agents of the town to employ counsel to  
31 commence, prosecute and defend suits in the name of the town, unless otherwise especially  
32 ordered by vote of the town. Said authority shall not extend to employing counsel to the school  
33 committee.

34 (g) The select board shall cause an adequate supply of the full town report to be available  
35 in the town offices and in the public library from which to furnish a copy to any interested  
36 person, and it shall cause the warrant and finance committee's report with recommendations to  
37 be served as provided in section 36-2 of the town code.

38 (h) The select board shall have the authority to declare a state of emergency in the town  
39 of Wayland upon the occurrence of any disaster, catastrophe, fire, flood, earthquake, storm,  
40 public health emergency, other natural calamity, act of terrorism or cyber attack. Any state of  
41 emergency proclaimed by the select board shall, unless sooner terminated by proclamation of the  
42 select board, terminate 5 days from the day it takes effect.

43 (i) The select board shall have full authority to establish rules and regulations, binding  
44 upon all boards, commissions, committees, councils, authorities, officials and employees of the  
45 town of Wayland, governing the use, marking, record-keeping, maintenance and reporting  
46 requirements pertaining to town-owned vehicles and reimbursement for the use of privately  
47 owned vehicles by employees and officials while on town business.

48 (j) The select board, by an affirmative vote of at least 4 members, may appoint a town  
49 manager for a term not to exceed 3 years, as the select board deems to be in the best interests of  
50 the town. The town manager shall receive such aggregate compensation and benefits, not  
51 exceeding the amount appropriated, as the select board may determine. The select board may  
52 establish a written employment contract with the town manager pursuant to section 108N of  
53 chapter 41 of the general laws, to provide for the salary, fringe benefits, and other conditions of  
54 employment. The town manager position shall be a non-union position.

55 (k) The town manager shall be appointed on the basis of educational, management and  
56 administrative qualifications and experience, including at least a bachelor's degree from an  
57 accredited 4-year college or university. The town manager shall have considerable professional  
58 experience, consisting of compensated service in government administration or an equivalent  
59 combination of education and business management experience.

60 (l) The town manager shall devote full-time to the responsibilities of the office. The town  
61 manager shall hold no elective Wayland town office. The town manager may be appointed by the  
62 select board to any other compatible town office or position, but the town manager shall engage  
63 in no other business or occupation without advance written authorization by the select board.

64 SECTION 5. (a) The town manager shall be the chief administrative and operating officer  
65 of the town.

66 (b) The town manager shall be responsible for managing, supervising and executing all of  
67 the activities noted in this act, the town manager's job description and any other duties assigned  
68 to the town manager by the select board or in compliance with federal and state law and the town  
69 code and town policies.

70 (c) The town manager will not set town policy, but will ensure there is appropriate  
71 coordination in the implementation of town policy working across all town departments in  
72 conjunction with all elected and appointed boards and committees.

73 (d) The town manager shall ensure that all town employees, boards, commissions and  
74 committees comply with the town's financial, personnel and legal policies and procedures, as  
75 well as all town meeting votes, town code, federal and state law and all regulations.

76 (e) The town manager shall be responsible for the management of all financial,  
77 administrative and operational affairs of the town and town departments and all boards,  
78 commissions and committees but excluding the school department; provided, however, that all  
79 boards, commissions and committees shall continue to exercise permitting or policy-making  
80 authority as provided in state law.

81 (f) The town manager shall be responsible for overseeing, coordinating, and making  
82 recommendations that may impact multiple town boards and committees, broadly or in detail,  
83 regarding town financial, personnel and legal activities.

84 (g) The town manager shall understand and have a working knowledge of the statutory  
85 and regulatory authority and responsibility held by department heads and elected and appointed  
86 boards, commissions and committees so the town manager can effectively support these officers  
87 in the execution of their duties. Unless expressly stated herein, nothing in this act is intended to  
88 reassign policy-making or permit granting statutory authority of any department head or any  
89 elected or appointed board, commission or committee to the town manager.

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

95 (i) With respect to the development, implementation and execution of policies and  
96 programs affecting various town departments, the town manager shall:

97 (i) coordinate the setting of priorities with the rest of the town government;

98 (ii) communicate activities, including projects, plans and studies, so that necessary input  
99 is received from all areas of town government that should be involved in those initiatives; and

100 (iii) coordinate efforts so that cross-functional services to residents and others are  
101 effectively and consistently delivered.

102 (j) With the exception of the school department and library, and except as otherwise  
103 provided in the town code or chapter 347 of the acts of 2008, to streamline services, the town  
104 manager may create a new department, may reorganize, eliminate or consolidate town  
105 departments or functions, in whole or in part, and may assign functions of 1 department to  
106 another department, subject to the approval of the select board.

107 (k) The town manager is designated as the town's records access officer under the public  
108 records statute. The town manager shall, directly or through the town's various departments,  
109 boards, commissions and committees, be responsible for the preparation, filing and maintenance  
110 of all records and reports on behalf of the town.

111 (l) The town manager oversees crisis intervention in emergency situations, working with  
112 other key town department heads, and addresses any systemic problems impacting multiple areas  
113 of the town as they arise. The town manager shall ensure priority items are properly attended to  
114 and bring concerns about problem resolution to related boards, commissions and committees,  
115 and ultimately, to the select board for assistance in resolution, if necessary.

116 SECTION 6. (a) The town manager shall be the chief financial officer of the town.

117 (b) The town manager shall initiate, draft and have general oversight of the process of  
118 preparing the town's annual operating and capital budgets for submission to the finance

119 committee. To assist the town manager in preparing the proposed annual operating and capital  
120 budgets, all department heads, boards, commissions and committees of the town, including the  
121 school department, shall furnish all relevant information and submit to the town manager, in  
122 writing and in such form as the town manager shall prescribe, a detailed estimate of the  
123 appropriations required and available funds.

124 (c) The town manager shall draft and update a 5-year capital improvement plan for all  
125 town departments for submission to the finance committee.

126 (d) The town manager shall work with the finance director and finance committee to:

127 (i) develop long-term financial strategies addressing operational and capital financial  
128 needs of the town;

129 (ii) establish set budgetary guidelines to be used in the development of annual budgets;

130 (iii) review all operating and capital budgets of all town departments and make  
131 recommendations to the affected boards, commissions and committees and to the finance  
132 committee about priorities important to budget development; and

133 (iv) evaluate actual expenditures and receipts against budgets and coordinate with  
134 affected department heads, boards, commissions and committees the development of plans to  
135 manage to the budget or obtain finance committee approval for reserve fund transfers, in advance  
136 of spending, when possible.

137 (e) The town manager shall serve as the town's chief procurement officer pursuant to state  
138 and federal law and shall ensure that all town departments comply with applicable procurement

139 laws. The town manager may, in the town manager's discretion, delegate any procurement  
140 responsibilities.

141 (f) Unless any general or special law provides to the contrary, the town manager is  
142 authorized to execute all grant applications and shall award and execute all contracts binding the  
143 town up to a set amount to be established by policy set by the select board.

144 SECTION 7. (a) Except as expressly provided herein, the town manager shall appoint on  
145 the basis of merit and fitness alone, all department heads or similar positions, in consultation  
146 with the respective boards, commissions and committees that the department heads or similar  
147 positions support and in compliance with any applicable provision of a collective bargaining  
148 agreement, with the exception of the school department and library.

149 (b) The town manager shall ultimately be responsible for appointing subordinates to  
150 department heads or similar positions. Unless otherwise provided by the terms of an applicable  
151 collective bargaining agreement, the department head or similar position may, with the consent  
152 of the town manager or his or her designee, appoint on the basis of merit and fitness alone, all  
153 subordinate employees of each town department, with the exception of the school department.

154 (c) Unless otherwise provided under this act, the town manager shall be responsible for  
155 appointing all other appointed employees for whom no other method of appointment is provided  
156 by the town code or other special act.

157 (d) The town manager may, for cause, discipline or remove any department head or  
158 similar position, with the exception of the school department and library director, and shall, in  
159 consultation with the applicable department head or similar position, discipline or remove all  
160 subordinate employees of each town department, with the exception of the school department.



161 (e) The town manager shall appoint, on the basis of merit and fitness alone, with  
162 ratification by a vote of at least 3 members of the select board, and evaluate, discipline and, for  
163 cause, remove, without the ratification of the select board:

164 (i) a police chief;

165 (ii) a fire chief;

166 (iii) a finance director; and

167 (iv) a town clerk.

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

172 (g) Working with the town's human resource department, the town manager shall be  
173 responsible for the daily administration of the town-wide personnel system, including the  
174 maintenance of personnel records and the enforcement of personnel policies, rules and  
175 regulations and managing personnel costs to ensure maximum efficiency and fairness across  
176 town departments.

177 (h) The town manager may develop a performance evaluation process and establish  
178 performance standards not inconsistent with any terms of any collective bargaining agreement.

179 (i) The town manager shall be responsible for the annual evaluation of job performance  
180 of all town department heads, including the town clerk and other positions appointed by the town  
181 manager but excluding the school department and library director, and shall incorporate any

182 input or recommendations received from any elected or appointed board, commission or  
183 committee served by such department heads. Evaluation of the library director shall include input  
184 of the town manager. The town manager shall be responsible for ensuring the completion of  
185 annual evaluations of the job performance of all subordinate town employees, excluding those of  
186 the school department.

187 (j) The town manager shall serve as the agent of the select board and negotiate collective  
188 bargaining agreements on behalf of the select board in accordance with chapter 150E of the  
189 general laws; provided, however, that such agreements shall be subject to ratification by the  
190 select board and subject to funding by town meeting. The town manager may designate  
191 appropriate employees to assist with collective bargaining.

192 SECTION 8. (a) Except as otherwise provided in chapter 347 of the acts of 2008, the  
193 town manager shall be responsible for the construction, reconstruction, restoration, rehabilitation,  
194 repair and maintenance of all town buildings and all town real and personal property, and  
195 information technology and infrastructure. Nothing in this provision shall be construed as  
196 conferring any authority upon the town manager to have access to information that is otherwise  
197 unauthorized under state law.

198 (b) The town manager shall, directly or through the town's various departments, boards,  
199 commissions and committees, maintain an inventory of all town-owned real and personal  
200 property.

201 SECTION 9. (a) Upon the enactment of this act the position of town administrator shall  
202 be abolished and the incumbent thereof shall serve as the acting town manager, or if there is no

203 incumbent, the select board shall appoint an acting town manager. The acting town manager  
204 shall serve until the select board appoints a permanent town manager.

205 (b) Following the enactment of this act, the select board shall appoint a town manager,  
206 and if the select board so chooses, the incumbent town administrator may be appointed town  
207 manager on a permanent basis.

208 (c) Following the enactment of this act, any reference to the town administrator existing  
209 in any provision of the town code or any other special act shall be construed as referring to the  
210 town manager. All powers and duties conferred upon the town administrator by the town code or  
211 other special act shall be vested in the town manager, unless otherwise provided in this act.

212 (d) Following the enactment of this act, sections 58 and 60 of the town code shall be  
213 repealed and be of no effect.

214 (e) Following the enactment of this act, all town officers, boards, commissions and  
215 employees shall continue to perform their duties in the same manner and to the same extent as  
216 they have performed the same prior to the enactment of this act, except that, upon the  
217 appointment of a town manager, the powers and duties outlined herein shall be vested in the  
218 town manager.

219 SECTION 10. The town manager may be removed by an affirmative vote of at least 4  
220 members of the select board in accordance with the provisions of the town manager's contract, if  
221 applicable.

222 SECTION 11. If the town manager shall be absent from their office for up to 14 days, the  
223 town manager may designate a qualified person to serve as the acting town manager and to

224 perform the duties of the office of the town manager during this period of absence. In the event  
225 the town manager shall be absent for more than 14 days or the office of town manager shall be  
226 vacant for more than 14 days, the select board may appoint a qualified person to serve as the  
227 acting town manager and to perform the duties of the office of the town manager during the  
228 period of any vacancy caused by the town manager's absence, illness, suspensions, removal or  
229 resignation. The appointment by the select board shall be for a period not to exceed 6 months,  
230 but such appointment may be extended by majority vote of the select board.

231 SECTION 12. (a) Upon the effective date of this act, the position of town clerk shall  
232 cease to be elected and shall become a position appointed by the town manager pursuant to this  
233 act.

234 (b) The incumbent in the office of town clerk shall continue to serve until the expiration  
235 of the term for which elected as town clerk, and at the expiration of that term, a town clerk shall  
236 be appointed by the town manager as provided in this act. If the incumbent in the office of town  
237 clerk vacates said office prior to the expiration of the term for which the town clerk was elected,  
238 the office of town clerk shall cease to be an elected position and shall be appointed by the town  
239 manager as provided in this act.

240 SECTION 13. In the event that there is a conflict between any provision of this act and  
241 any provision of the town code, rules, regulations, orders, special acts, acceptances of laws or  
242 other special act pertaining to the town of Wayland, this act shall prevail. All other provisions of  
243 town code, resolutions, rules, regulations and votes of the town meeting that are in force at the  
244 time this act is enacted, not inconsistent with or superseded by the provisions of this act, shall  
245 continue in full force and effect until amended or repealed.

246 SECTION 14. This form of government shall take effect upon its passage.

247 SECTION 15. This act shall take effect upon its passage.