

SENATE No. 3144

The Commonwealth of Massachusetts

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

SENATE, December 1, 2022.

The committee on Senate Bills in the Third Reading to whom was referred the House Bill changing the Board of Selectmen of the town of Lee to a Select Board (House, No. 4729); reports, recommending that the same be amended as follows, and that, when so amended, it will be correctly drawn:-- by striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 3144.

For the committee,
Sal N. DiDomenico

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1 SECTION 1. Chapter 471 of the acts of 1990, as most recently amended by chapter 99 of
2 the acts of 2021, is hereby further amended by striking out sections 1 to 17, inclusive, and
3 inserting in place thereof the following 12 sections:-

4 Section 1. The powers, duties and responsibilities of elected officials shall be as now or
5 hereafter provided by applicable provisions of any general or special law, by-law or vote of the
6 town, except as otherwise expressly provided herein.

7 Notwithstanding the election by the voters of the town of the officers named in this
8 section, such officers shall be available to the town administrator for consultation, conference
9 and discussion on matters relating to their respective offices.

10 Section 2. The select board shall consist of 3 members elected by the voters of the town.
11 Select board members in office at the time of the approval of this act shall serve until the term
12 for which they were elected expires.

13 Section 3. The select board shall appoint town counsel, members of all appointed multi-
14 member boards, committees and commissions except those appointed by the moderator and the
15 town administrator as herein provided.

16 The moderator shall appoint the finance committee, as provided by by-law, and such
17 committees and officers as the moderator may now or hereafter be directed to appoint by any
18 applicable general or special law, by-law or vote of the town meeting.

19 Section 4. Any registered voter in the town of Lee shall be eligible to hold any elective
20 town office; provided, however, that no person can simultaneously hold more than 1 elected
21 town office, other than that of town representative for as long as the representative form of
22 government is in place. No town employee in the town of Lee meeting the guidelines of full-time
23 employment, working not less than 20 hours per week with benefits, shall hold any elective
24 office in the town of Lee, other than that of town representative for as long as the representative
25 form of government is in place.

26 Section 5. The select board shall, by unanimous vote, appoint, as soon as practicable, for
27 an indefinite term, a town administrator who shall be qualified by education, training and
28 previous full-time experience to perform the duties of the office. In its search for a town
29 administrator, the select board shall advertise in the Massachusetts Municipal Association, Inc.'s
30 Beacon and the website of the Massachusetts Municipal Association, Inc. and in at least 1
31 newspaper having statewide or regional circulation. The town administrator shall be appointed
32 without regard to their political designation. They need not be a resident of the town or the
33 commonwealth when appointed but shall become a resident of Berkshire county during the first
34 year of appointment unless otherwise provided by the select board. The town administrator shall
35 have a college degree at the bachelor level and shall have had 5 years of full-time paid
36 experience in a supervisory administrative position in the public sector; provided, however, that
37 a master's degree may be substituted for not more than 2 years of such paid experience. No
38 person holding elective office in the town with the exception of town meeting members shall,

39 within 3 years of holding such office, be eligible for appointment as town administrator. Before
40 entering upon the duties of the office, the town administrator shall be sworn to the faithful and
41 impartial performance thereof by the town clerk or a notary public. The town administrator shall
42 execute a bond in favor of the town for the faithful performance of duties in such sum and with
43 such sureties as may be fixed or approved by the select board, the cost of which shall be borne by
44 the town.

45 Section 6. The town administrator shall receive such compensation for their services as
46 the select board shall determine; provided, however, that such compensation shall not exceed the
47 amount appropriated therefor by the town.

48 Section 7. Any vacancy in the office of town administrator shall be filled as soon as
49 possible by the select board. Pending the appointment of a town administrator or the filling of
50 any vacancy, the select board shall, within 7 days, appoint an officer of the town or another
51 suitable person to perform the duties of the office.

52 Section 8. The town administrator may designate, subject to the approval of the select
53 board, by letter filed with the town clerk, an officer of the town or another suitable person to
54 perform the duties of administrator during the town administrator's temporary absence or
55 disability. In the event of failure by the town administrator to make such designation, the select
56 board may, by resolution, designate an officer of the town or another suitable person to perform
57 the duties of the administrator until the town administrator shall return or their disability shall
58 cease.

59 Section 9. The select board may remove the town administrator. Not less than 30 days
60 before such proposed removal shall become effective, the select board shall adopt, at a public

61 meeting, and shall file with the town clerk a written preliminary resolution of removal, a copy of
62 which resolution shall be delivered to the town administrator in person or at the administrator's
63 last known mailing address.

64 Section 10. The town administrator shall appoint all town officials whose appointment or
65 election is not specifically provided for herein. The town administrator shall appoint, with the
66 majority approval of the select board, and may remove, with the majority approval of the select
67 board, all department heads, officers and subordinates and employees for whom no other method
68 of appointment is provided in this act, except persons serving under other appointments made by
69 representatives of the commonwealth. Appointments to permanent positions made by the town
70 administrator shall become effective on the fifth day following the day the notice of appointment
71 is filed with the select board, unless the select board, within that period, by a majority vote of the
72 board, votes to reject any such appointment.

73 Any person appointed by the town administrator to any town office under the provisions
74 of this act or any general or special law shall be eligible during the term of said office to hold any
75 other town office; provided, however, that the town accountant shall not be eligible to hold the
76 position of town treasurer or town collector. The town administrator, subject to any applicable
77 provision of the General Laws relating thereto, may, with the approval of the select board,
78 assume the duties of any office, which the town administrator is authorized to fill by
79 appointment, but shall not receive additional compensation for assuming the duties of any such
80 additional office.

81 Section 11. In addition to the specific powers and duties provided in this act, the town
82 administrator shall have the following general powers and duties:

83 (a) The town administrator shall attend all regular meetings of the select board except
84 meetings at which the town administrator's removal is being considered, shall attend all town
85 meetings and shall be permitted to speak when recognized by the moderator.

86 (b) The town administrator shall be the chief financial officer of the town. Warrants for
87 the payment of town funds prepared by the town accountant in accordance with the provision of
88 section 56 of chapter 41 of the General Laws shall be submitted to the town administrator. The
89 approval of any such warrants by the town administrator shall be sufficient authority to authorize
90 payment by the town treasurer; provided, however, that the select board shall approve all
91 warrants in the absence of the town administrator or in the event of a vacancy in the office of
92 town administrator.

93 (c) The town administrator shall be the chief budget officer of the town and shall prepare
94 and submit to the select board an operating and capital improvement budget as provided by by-
95 law.

96 (d) Except as otherwise provided by this act, the town administrator shall appoint upon
97 merit and fitness alone and may remove all officers and employees of the town at will with 7-
98 days notice in writing,

99 (e) The town administrator shall keep the select board fully advised as to the needs of the
100 town and shall recommend to the board for adoption such measures requiring action by the board
101 or by the town meeting as the town administrator may deem necessary or expedient.

102 (f) The select board shall have jurisdiction over the rental and use of all town property.

103 (g) The town administrator shall be responsible for the purchase of all supplies and
104 materials and equipment, except those intended for the school department or for the library, and
105 shall approve the award of all contracts for all departments of the town; provided, however, that
106 the town administrator may make purchases for departments not under their supervision only
107 upon and in accordance with requisitions duly signed by the heads of such departments.

108 (h) The town administrator may, upon the request and with the approval of the select
109 board, prosecute, defend or compromise all litigation to which the town is party and shall be the
110 executive officer of a public employer in the town as defined in section 1 of chapter 258 of the
111 General Laws pertaining to the processing of claims against the town.

112 (i) The town administrator shall be the agent of the select board for collective bargaining.

113 (j) The town administrator shall be responsible for the implementation of town meeting
114 votes and shall annually report in writing to the town meeting on the implementation of prior
115 town meeting votes.

116 (k) The town administrator shall be accessible and available for consultation to boards,
117 committees and commissions of the town, whether appointed or elected, and shall be responsive
118 to their request for assistance.

119 (l) The town administrator shall keep full and complete records of the town
120 administrator's office and shall provide quarterly reports to the select board.

121 (m) The town administrator, with the unanimous approval of the members of the select
122 board and in accordance with the provisions of this act and the General Laws, may reorganize,
123 consolidate or abolish departments or offices under the town administrator's direction and

124 supervision, may establish, in whole or in part, such new departments or offices as the town
125 administrator deems necessary and may transfer the powers and duties of 1 department or office
126 to another.

127 (n) The town administrator shall perform such other duties as may be required of the
128 town administrator by by-law, vote of the select board or vote of the town meeting.

129 Section 12. The town administrator may without notice cause to be examined the affairs
130 of any department under the town administrator's supervision or the job-related conduct of any
131 officer or employee thereof. The town administrator shall have access to all town books and
132 papers for information necessary for the proper performance of their duties.

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