

HOUSE No. 5119

The Commonwealth of Massachusetts

PRESENTED BY:

James C. Arena-DeRosa

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 Holliston.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>James C. Arena-DeRosa</i>	<i>8th Middlesex</i>	<i>10/29/2024</i>

HOUSE No. 5119

By Representative Arena-DeRosa of Holliston, a petition (accompanied by bill, House, No. 5119) of James C. Arena-DeRosa (by vote of the town) for legislation to create a select board-town manager form of government in the town of Holliston. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act creating select board-town manager form of government in the town of Holliston.

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 94 of the acts of 1994, entitled AN ACT ESTABLISHING A
2 SELECT BOARD-ADMINISTRATOR FORM OF GOVERNMENT IN THE TOWN OF
3 HOLLISTON, is hereby repealed.

4 SECTION 2. (a) The Town Manager shall be the chief administrative and operating
5 officer of the town, with the following authority and duties, provided however that the Holliston
6 School Committee shall retain any and all authority conferred on it under Massachusetts General
7 Law.

8 (b) The Town Manager shall be responsible for managing, supervising and executing all
9 of the activities under this act and in compliance with federal and state law and the town code
10 and town policies.

11 (c) The Town Manager shall not set town policy, but shall work with the Select Board to
12 implement its policy directives, and ensure there is appropriate coordination in the
13 implementation of town policy working across all town departments in conjunction with all
14 elected and appointed boards, commissions and committees.

15 (d) The Town Manager shall ensure that all town employees, boards, commissions and
16 committees comply with the town's financial, personnel and legal policies and procedures, as
17 well as all town meeting votes, town code, federal and state law and all regulations.

18 (e) The Town Manager shall be responsible for the management of all financial,
19 administrative and operational affairs of the town and town departments and all boards,
20 commissions and committees but excluding the school department; provided, however, that all
21 boards, commissions and committees shall continue to exercise permitting or policy-making
22 authority as provided by state law.

23 (f) The Town Manager shall be responsible for overseeing, coordinating and making
24 recommendations that may impact town boards, commissions and committees, broadly or in
25 detail, regarding town financial, personnel and legal activities, including but not limited to:
26 executing the weekly accounts payable and payroll warrants and reporting bi-monthly to the
27 Select Board on spending, approving event permits with the exception of those permits that
28 require permission to serve or sell alcohol as may be required under G.L. c. 138. The Town
29 Manager shall also be afforded the authority to accept allowable donations and gifts on behalf of
30 the Town, as may be required pursuant to G.L. c. 44, s. 53A, excepting gifts to the School
31 Department.

32 (g) The Town Manager shall understand and have a working knowledge of the statutory
33 and regulatory authority and responsibility held by department heads and elected and appointed
34 boards, commissions and committees so the town manager can effectively support these officers
35 in the execution of their duties. Unless expressly stated in this act, nothing in this act shall
36 reassign policy-making or permit granting statutory authority of any department head or any
37 elected or appointed board, commission or committee to the Town Manager.

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

43 (i) With respect to the development, implementation and execution of policies and
44 programs affecting various town departments, the Town Manager shall:

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

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

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

51 (j) With the exception of the school department, to streamline services, the Town
52 Manager may create new departments, reorganize, eliminate or consolidate town departments or

53 functions, in whole or in part, and assign functions of a department to another department,
54 subject to the approval of the Select Board.

55 (k) The Town Manager shall oversee crisis intervention in emergency situations, with the
56 exception of the school department, working with other key town department heads, and shall
57 address any systemic problems impacting multiple areas of the town as they arise. The Town
58 Manager shall ensure priority items are properly attended to and bring concerns about problem
59 resolution to related boards, commissions and committees and, ultimately, to the Select Board for
60 assistance in resolution, if necessary.

61 SECTION 3. (a) The Town Manager shall have the authority and duties described in this
62 section, provided however that the Holliston School Committee shall continue to enjoy the
63 authority and responsibilities over educational financial issues, as may be conferred under the
64 General Laws of the Commonwealth.

65 (b) The town manager shall initiate, draft and have general oversight of the process of
66 preparing the town's annual operating and capital budgets for submission to the Select Board and
67 Finance Committee.

68 (i) On or before December 31 of each year, the Town Manager shall meet with the
69 Finance Committee and shall jointly develop a revenue model for the upcoming fiscal year.
70 Updates to said revenue model may be made by agreement between the Town Manager and the
71 Finance Committee.

72 (ii) To assist the Town Manager in preparing the proposed annual operating and
73 capital budgets, all department heads, boards, commissions and committees of the town,
74 including the school department, shall furnish all relevant information and submit to the Town

75 Manager, in writing and in such form as the town manager shall prescribe, a detailed estimate of
76 the appropriations required and available funds.

77 (c) The Town Manager shall draft and update a 5-year capital improvement plan for all
78 town departments for submission to the finance committee.

79 (d) The Town Manager shall consult with the finance staff and Finance Committee in the
80 development of operating and capital budgets in order to:

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

83 (ii) establish and set budgetary guidelines to be used in the development of annual
84 budgets, utilizing the revenue model established through Section 3(b)(i);

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

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

92 (e) The Town Manager shall serve as the town's chief procurement officer pursuant to
93 state and federal law and shall ensure that all town departments comply with applicable
94 procurement laws. The Town Manager may, in the Town Manager's discretion, delegate any
95 procurement responsibilities to a qualified designee.

96 (f) Unless any general or special law provides to the contrary, the Town Manager may
97 execute all grant applications and shall award and execute all contracts binding the town up to a
98 set amount to be established by policy set by the Select Board, provided however that the
99 Holliston School Committee shall retain any and all authority to seek or accept grants and accept
100 gifts, as such authority may be conferred under the General Laws of the Commonwealth.

101 SECTION 4. (a) Except as expressly provided in this act, the Town Manager shall
102 appoint or hire, on the basis of merit and fitness alone, all department heads or similar positions,
103 in consultation with the respective boards, commissions and committees that the department
104 heads or similar positions support and in compliance with any applicable provision of a
105 collective bargaining agreement, with the exception of the school department. Prior to any such
106 appointment, the Town Manager shall, at the option of any such board, commission, or
107 committee, meet with the same for the purpose of reaching consensus on the process of making
108 any such appointment. This provision shall supersede any contrary provision of the General
109 Bylaws of Holliston, for which appointment or hiring for such positions may be specified.

110 (b) The Town Manager shall ultimately be responsible for appointing or hiring
111 subordinates to department heads or for boards and commissions, subject to the consultation
112 therewith. Unless otherwise provided by the terms of an applicable collective bargaining
113 agreement, the department head or similar position may, with the consent of the Town Manager
114 or their designee, appoint on the basis of merit and fitness alone, all subordinate employees of
115 each town department, with the exception of the school department.

116 (c) Unless otherwise provided under this act, the Town Manager shall be responsible for
117 appointing or hiring of all other employees for whom no other method of appointment or hiring
118 is provided by the town code or other special act.

119 (d) The Town Manager may, for cause, discipline or remove any department head or
120 similar position, with the exception of the school department, and shall, in consultation with the
121 applicable department head or similar position, discipline or remove all subordinate employees
122 of each town department, with the exception of the school department.

123 (e) The Town Manager shall appoint, on the basis of merit and fitness alone, with
124 ratification by a vote of a majority of the Select Board, and evaluate, discipline and, for cause,
125 remove, without the ratification of the Select Board:

126 (i) a police chief;

127 (ii) a fire chief;

128 (iii) a public works director; and

129 (iv) an Assistant Town Manager.

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

134 (g) Working with the town's human resource department, the Town Manager shall be
135 responsible for the daily administration of the town-wide personnel system, including the
136 maintenance of personnel records and the enforcement of personnel policies, rules and

137 regulations and managing personnel costs to ensure maximum efficiency and fairness across
138 town departments, provided however that the School Committee shall continue to have any and
139 all authority over educational personnel, as such authority may be conferred under the General
140 Laws of the Commonwealth.

141 (h) The Town Manager shall develop a performance evaluation process and establish
142 performance standards not inconsistent with any terms of any collective bargaining agreement.

143 (i) The Town Manager shall be responsible for the annual evaluation of job performance
144 of all town department heads, excluding the school department, and shall incorporate any input
145 or recommendations received from any elected or appointed board, commission or committee
146 served by such department heads. The Town Manager shall be responsible for ensuring the
147 completion of annual evaluations of the job performance of all subordinate town employees,
148 excluding those of the school department. The evaluation of the Town Manager shall be
149 performed annually by the Select Board.

150 (j) The Town Manager shall serve as the agent of the Select Board and negotiate
151 collective bargaining agreements on behalf of the Select Board in accordance with chapter 150E
152 of the General Laws; provided, however, that such agreements shall be subject to ratification by
153 the Select Board and subject to funding by town meeting. The Town Manager may utilize the
154 services of counsel and designate appropriate employees to assist with collective bargaining.

155 SECTION 5. (a) The Town Manager shall be responsible for the construction,
156 reconstruction, restoration, rehabilitation, repair and maintenance of all town buildings and all
157 town real and personal property, and information technology and infrastructure, excepting such
158 real and personal property as may be subject to the custody and control of another town entity,

159 pursuant to state law, including, without limitation, the School Committee. Nothing in this
160 section shall confer any authority upon the Town Manager to have access to information that is
161 otherwise unauthorized under state law.

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

165 SECTION 6. (a) Upon the effective date of this act, the position of Town Administrator
166 shall be abolished and the incumbent thereof shall serve as the acting Town Manager, or if there
167 is no incumbent, the Select Board shall appoint an acting Town Manager. The acting Town
168 Manager shall serve until the Select Board appoints a permanent Town Manager.

169 (b) Following the effective date of this act, the Select Board shall appoint a Town
170 Manager, and if the Select Board so chooses, the incumbent Town Administrator may be
171 appointed town manager on a permanent basis.

172 (c) Following the effective date of this act, any reference to the Town Administrator
173 existing in any provision of the town code or any other special act shall be construed as referring
174 to the Town Manager. All powers and duties conferred upon the Town Administrator by the
175 town code or other special act shall be vested in the Town manager, unless otherwise provided in
176 this act.

177 (d) Following the effective date of this act, the provisions of this act shall supersede any
178 inconsistent provisions of the town code.

179 (e) Following the effective date of this act, all town officers, boards, commissions and
180 employees shall continue to perform their duties in the same manner and to the same extent as
181 they have performed the same prior to the enactment of this act, except that, upon the
182 appointment of a Town Manager, the powers and duties outlined in this act shall be vested in the
183 Town Manager.

184 SECTION 7. The Town Manager may be removed by an affirmative vote of a majority
185 of the Select Board, in accordance with the Town Manager's contract, if applicable.

186 SECTION 8. If the Town Manager shall be absent from their office for not more than 14
187 days, the Town Manager may designate a qualified person to serve as the acting Town Manager
188 and to perform the duties of the office of the Town Manager during this period of absence,
189 subject to the ratification of the Select Board, and the Town Manager fails or is unable to do so
190 or if the Select Board chose not to ratify the Town Manager's designee, the Select Board may
191 appoint a qualified person to serve as the acting town manager and to perform the duties of the
192 office of the town manager during the period of any vacancy caused by the Town Manager's
193 absence. The appointment by the Select Board shall be for a period of not more than 6 months,
194 but such appointment may be extended by majority vote of the Select Board.

195 SECTION 9. If there is a conflict between any provision of this act and any provision of
196 the town code, rules, regulations, orders, special acts, acceptances of laws or other special acts
197 pertaining to the town of Holliston, this act shall prevail. All other provisions of town code,
198 resolutions, rules, regulations and votes of the town meeting that are in force at the time this act
199 is enacted, not inconsistent with or superseded by the provisions of this act, shall continue in full
200 force and effect until amended or repealed. Boards, Committees and officials that have authority

201 derived under State law shall continue to enjoy such authority, provided that such authority is not
202 directly abridged by the terms thereof.

203 SECTION 10. This form of government shall take effect upon its passage.

204 SECTION 11. This act shall take effect upon its passage.