HOUSE DOCKET, NO. 4543 FILED ON: 4/4/2025

HOUSE . . . . . No. 4030

The Commonwealth of Massachusetts

PRESENTED BY:

Mark D. Sylvia and Michael J. Rodrigues

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 organization and governance structure of the town of Rochester.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
Mark D. Sylvia	*10th Bristol*	*4/4/2025*
Michael J. Rodrigues	*First Bristol and Plymouth*	*4/4/2025*

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HOUSE . . . . . No. 4030

By Representative Sylvia of Fairhaven and Senator Rodrigues, a joint petition (accompanied by bill, House, No. 4030) of Mark D. Sylvia and Michael J. Rodrigues (by vote of the town) relative to the organization and governance structure of the town of Rochester. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act relative to the organization and governance structure of the town of Rochester.

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

SECTION 1. The executive powers of the town of Rochester shall be vested in the select board, which shall have all the powers given to select boards and boards of selectmen by the General Laws, except for those executive powers granted to the town administrator.

The select board shall serve as the chief goal-setting and policy-making agency of the town of Rochester. The duties and responsibilities for day-to-day management of the town shall be delegated to the town administrator. The board shall act through the adoption of policy directives and guidelines which shall be implemented by the town administrator and the officers and employees appointed by, or under the authority of, the board. Individual select board members shall not purport to represent the board or exercise the authority of the board except when specifically authorized by the board.

The select board shall:

(a) enact rules and regulations to implement policies and to issue interpretations;

(b) exercise, through the town administrator, general supervision over all matters affecting the interests or welfare of the town;

(c) appoint the town counsel and any special counsels, and all members of committees, boards and commissions except the finance committee and except those appointed by the moderator, elected by the voters, or under the jurisdiction of the school committee, and may make appointments to temporary posts and committees the board creates for special purposes;

(d) have general administrative oversight of such boards, committees and commissions appointed by the select board;

(e) have the responsibility and authority for licenses and other quasi-judicial functions as provided by the General Laws and by the by-laws of the town of Rochester;

(f) issue all town meeting warrants;

(g) review the annual proposed budget submitted by the town administrator and make recommendations with respect to the annual proposed budget as the board deems advisable; provided, however, that the town administrator shall present the budget to the town meeting, incorporating the recommendations of the select board and finance committee;

(h) appoint, and may re-appoint, and enter into a contract for the employment of a town administrator for a term not to exceed what is allowed by statute and such appointment shall be subject to the qualifications and criteria set forth in the first paragraph of section 2;

31 (i) remove the town administrator at any time, for cause, upon seven (7) days prior
32 written notice, and after hearing at which the town administrator shall have the right to be
33 represented by counsel, in accordance with the terms of the town administrator's contract;

34 (j) set the compensation for the town administrator, not to exceed the amount
35 appropriated by the town meeting; and

36 (k) designate a qualified person as acting town administrator to perform the duties of the
37 office during any vacancy exceeding 30 days, caused by the town administrator's absence,
38 illness, suspension, removal or resignation; provided, that the appointment of an acting town
39 administrator shall be for a period not to exceed 180 days.

40 SECTION 2. The town administrator appointed pursuant to clause (h) of the third
41 paragraph of section 1 shall be a person with executive and administrative qualifications and
42 especially fitted by education, training and experience to perform the duties of the office;
43 provided, that the town may from time to time, by by-law, establish such additional
44 qualifications as it deems necessary and appropriate. The person appointed as town administrator
45 shall not have served in an elective office in or for the town of Rochester for the appropriate
46 cooling off period required by the conflict of interest law, prior to their appointment. The town
47 administrator shall devote full time to the office and shall not hold any other public office,
48 elective or appointive, and shall not engage in any other business, occupation or profession
49 during the term of office, unless such action is approved in advance, in writing by the select
50 board. The select board may enter into a formal contract with the town administrator consistent
51 with the provisions of this act which shall take precedence over any personnel by-laws. The town
52 administrator shall be a citizen of the United States of America and need not be a resident of the

town of Rochester. The select board shall evaluate annually the performance of the town administrator, based on mutually established predetermined goals, standards or criteria for performance and the evaluation shall, at least in summary form, be a public record.

The town administrator shall be the chief administrative officer of the town of Rochester and shall act as the agent for the select board. The town administrator shall be responsible to the select board for coordinating and administering all town affairs under the jurisdiction of the select board.

The town administrator's powers and duties shall include those outlined in subsections (a) to (cc), inclusive.

(a) Consult and advise the select board regarding its policies and implement those policies.

(b) Attend all meetings of the select board, except when excused, and consult with and advise the select board on all matters that come before the board.

(c) Attend all town meetings and advise the town meeting on all warrant articles within the jurisdiction of the select board.

(d) Attend all finance committee meetings, except when excused by the select board, and keep the finance committee informed on all matters under the jurisdiction of the town administrator that come before the committee.

(e) Manage and direct the daily reporting and supervision of all town departments under the jurisdiction of the select board including: building commissioner, police, civil defense, animal control officer, gas inspector, plumbing inspector, wiring inspector and weights and

74 measures inspector, recreation, highway staff, planning, finance, finance director, treasurer,
75 accounting, veterans, town counsel, other committees appointed by and under the jurisdiction of
76 the select board and the fire department, subject to section 42 of chapter 48 of the General Laws.

77 (f) Review and advise the select board on all warrants for the payment of town funds as
78 prepared by the town accountant in accordance with section 56 of chapter 41 of the General
79 Laws.

80 (g) Except with respect to the school department, the town administrator shall: (1) have
81 sole authority over the administration of personnel policies for all town employees, unless
82 otherwise stated in statute or bylaws, including but not limited to personnel policies and
83 practices, rules and regulations and standards, including provisions for an annual employee
84 performance review, and the consolidated personnel by-law; and (2) prepare the job
85 compensation plan for consideration of town meeting if necessary. With respect to the fire
86 department, such authority shall be subject to section 42 of chapter 48 of the General Laws.

87 (h) Administer the town's insurance policies, including the ability to settle claims;
88 provided, however, that all insurance contracts and claims settlements shall receive the approval
89 of the select board.

90 (i) With the approval of the select board, appoint and remove all department heads under
91 the direct control of the select board; provided that each department head, with approval of the
92 town administrator, shall appoint and remove all department staff within their respective
93 departments. All appointments shall be based entirely on merit and fitness. The town
94 administrator shall be responsible for the initial screening of all applicants and shall recommend
95 to the select board finalists for the positions of fire chief, police chief and all applicable

department heads. The select board shall maintain the right to appoint a member to sit on any search committee for a department head position. All appointments and terminations shall be conducted in accordance with the General Laws, personnel policies, by-laws of the town of Rochester and any applicable employment contracts; provided, that fire department appointments shall also be subject to section 42 of chapter 48 of the General Laws.

(j) With the approval of the select board, reorganize any departmental structures under the jurisdiction of the select board.

(k) With the approval of the select board, negotiate all collective bargaining agreements on behalf of the town, except for the school department. The town administrator may seek the assistance of labor counsel if the town administrator deems it necessary to effectuate successful negotiations. All final agreements must be approved and executed by the select board. The town administrator shall serve as the town's designee for school employee negotiations and shall participate and vote as a member of the town's school committee.

(l) With the approval of the select board, execute contracts on behalf of the town.

(m) With the approval of the select board, establish compensation packages for all town employees under the jurisdiction of the select board, not subject to a collective bargaining agreement. Such compensation shall not exceed the amount appropriated therefore by town meeting and shall be subject to all applicable statutes and by-laws.

(n) Submit to the select board a written proposed budget for town government for the ensuing fiscal year. The proposed budget shall detail all estimated revenue from all sources, and all proposed expenditures, including debt service for the previous, current and ensuing 5 years. The proposed budget shall include proposed expenditures for both current operations and capital

118 projects during the ensuing year, detailed by department, committee, agency, purpose and
119 position and proposed financing methods. The proposed budget shall include estimated revenues
120 and free cash available at the close of the fiscal year, including estimated balances in special
121 accounts. The town may, by by-law, establish additional financial information and reports to be
122 provided by the town administrator. To assist the town administrator in preparing the proposed
123 annual budget of revenue and expenditures, the finance director, all boards, officers and
124 committees of the town, including the school committee, shall furnish to the town administrator,
125 in a writing in such a form as the town administrator shall establish, all relevant information in
126 their possession, including a detailed estimate of the appropriations required and any available
127 funds.

128 (o) Establish calendar dates by which the proposed budget, revenue statement and tax rate
129 estimate are to be submitted to the select board.

130 (p) Direct action as deemed necessary to ensure that all operating and capital budgets
131 under the direct control of the town administrator are maintained in accordance with the town
132 meeting vote that approved those budgets and coordinate efforts with the governing bodies of
133 those departments not under the direct supervision of the town administrator to ensure that those
134 operating and capital budgets are maintained in accordance with the town meeting vote that
135 approved those budgets.

136 (q) Keep and complete records of the office of the town administrator and annually
137 submit to the select board, unless requested to do so more frequently, a full report of the
138 operations of the office.

139 (r) Be responsible for coordination of operational and strategic planning for the town.

140 (s) Serve as the procurement officer for the town and establish and enforce procurement
141 policies and guidelines in accordance with applicable state laws.

142 (t) Manage and oversee the use, maintenance, security and, with the approval of the select
143 board, regulate the rental for all the town buildings, properties and facilities, including
144 information technology, except those under the jurisdiction of the school department, unless
145 requested by the school department.

146 (u) Prepare the application of all town warrants for approval by the select board.

147 (v) With the approval of the select board, prosecute, defend and settle all litigation for or
148 against the town, subject to such appropriation as may be necessary to effect settlement, except
149 for litigation involving only the school department, or its officers and employees.

150 (w) Review current bylaws, regulations and policies that affect the departments and
151 agencies under the jurisdiction of the select board and make recommendations for changes as
152 deemed necessary.

153 (x) Negotiate contracts and grants that the select board is authorized by law to enter into,
154 subject to final approval and execution by the select board.

155 (y) Act as liaison and represent the select board before state, federal and regional
156 authorities.

157 (z) Develop and maintain a full and complete inventory of all town-owned real and
158 personal property.

159 (aa) Delegate and direct any qualified town official or employee to carry out any duty
160 that is within the authority of the town administrator.

161 (bb) During a temporary absence, with the approval of the select board, designate a
162 qualified administrative employee or officer to exercise the powers and perform the duties of the
163 town administrator.

164 (cc) Perform any other duties or tasks assigned by the select board pursuant to contract
165 negotiations, that do not conflict with any statute or bylaw.

166 SECTION 3. The town administrator of the town of Rochester shall have access to all
167 municipal books, papers and documents or information necessary for the proper performance of
168 the duties of the town administrator. The town administrator may, without notice, cause the
169 affairs of any division or department under the town administrator's supervision, or the conduct
170 of any officer or employee thereof, to be examined.

171 SECTION 4. All laws, by-laws, votes, rules and regulations, whether enacted by
172 authority of the town of Rochester or any other authority, which are in force in the town on the
173 effective date of this act, not inconsistent with this act, shall continue in full force and effect.

174 SECTION 5. No contract existing, and no action at law or suit in equity, or other
175 proceeding pending, on the effective date of this act shall be affected by this act.

176 SECTION 6. The town of Rochester shall be governed by this act. To the extent that this
177 act modifies or repeals existing General Laws and special acts or the by-laws of the Town of
178 Rochester, this act shall govern.

179 SECTION 7. This act shall not impair the rights or obligations of any person holding a
180 town office, or employed by the town, on its effective date, except those duties assigned by this
181 act to another officer or employer, and except those duties which are subsequently assigned to

182 another officer or employee pursuant this act. No person who continues in the permanent full-
183 time service or employment of the town shall forfeit their pay, grade or time in service as a result
184 of this act.

185 SECTION 8. This act shall take effect upon its acceptance by the town of Rochester by a
186 vote at town meeting.