

**HOUSE . . . . . No. 1894**

**[LOCAL APPROVAL RECEIVED.]**

**The Commonwealth of Massachusetts**

PRESENTED BY:

**Paul Kujawski, Richard T. Moore**

*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 passage of the accompanying bill:  
**An Act ESTABLISHING A TOWN ADMINISTRATOR AND A MUNICIPAL FINANCE DEPARTMENT IN THE TOWN OF DOUGLAS .**

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Paul Kujawski	8th Worcester
Richard T. Moore	Worcester and Norfolk

# The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine  
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## An Act ESTABLISHING A TOWN ADMINISTRATOR AND A MUNICIPAL FINANCE DEPARTMENT IN THE TOWN OF DOUGLAS .

*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 - TOWN ADMINISTRATOR**

#### **SECTION 1-1: APPOINTMENT; QUALIFICATION; TERM**

The executive powers of the Town of Douglas shall be vested in the board of selectmen who shall serve as the chief executive officer and policymaking board of the town. Said board of selectmen shall continue to have and to exercise all the powers and duties vested in boards of selectmen under the General Laws or by vote of the town, except as otherwise provided herein.

The board of selectmen shall appoint a town administrator to serve for a term to be determined by contract, and shall fix the compensation for such person, annually, within the amount appropriated by the town. The board of selectmen may establish an employment contract with the town administrator for salary, fringe benefits and other conditions of employment, including but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performance of his duties or office, liability insurance, conditions of discipline, termination, dismissal, and reappointment, performance standards and leave. The town administrator shall be appointed on the basis of educational, executive, and administrative qualifications and experience. The educational qualifications shall consist of a master's degree, preferably in public or business administration, granted by an accredited degree-granting college or university. The professional experience shall include at least three (3) years of prior full-time compensated executive service in public or business administration. Alternatively, five (5) years or more of such professional experience and a bachelor's degree in an appropriate discipline shall qualify any applicant. Seven (7) years or more of prior full-time compensated service in public or business administration shall also qualify any applicant. The board of selectmen may, by a four-fifths (4/5ths) vote, waive the education or experience requirements listed above. A town administrator need not be a resident of town or of the Commonwealth at the time of appointment, nor at any time during the period of such service. The town administrator shall not have served in an elective office in the town government for at least twelve months prior to appointment. The town may from time to time establish, by by-law, such additional qualifications as seem necessary and appropriate.

The town administrator shall devote full time to the office and shall not hold any other public office, elected or appointed, nor engage in any business or occupation during such service,

unless such action is approved in advance by the board of selectmen. The board of selectmen shall provide for an annual review of the job performance of the town administrator.

## **SECTION 1-2: POWERS AND DUTIES**

The town administrator shall be the chief administrative officer of the town, directly responsible to the board of selectmen for the administration of all town affairs for which the office of town administrator is given responsibility by this special act. The powers and duties of the town administrator shall include, but are not intended to be limited to the following:

(a) To supervise, direct and be responsible for the efficient administration of all functions and activities for which the office of town administrator is given authority, responsibility or control by this special act, by by-law, by town meeting vote, by vote of the board of selectmen, or otherwise.

(b) To appoint, and in appropriate circumstances, to remove, subject to the provisions of any collective bargaining agreements as may be applicable, all department heads, officers, and employees for whom no other method of selection is provided by this act, including, but not limited to, the chief of police, fire chief, highway superintendent, director of municipal finance, town accountant, town treasurer, town collector, building commissioner, town engineer, senior director, and facilities maintenance director, except employees of the water and sewer department, the library department, and the school department. The town administrator shall, after consultation with the board of assessors, appoint the principal assessor. Appointments of department heads and officers shall become effective on the twenty-first (21st) day following the day on which notice of the appointment is filed with the board of selectmen, unless the board of selectmen shall, within that period by a majority of all of its members, vote to reject such action, or has sooner voted to affirm it. Copies of the notices of all such proposed appointments shall be posted on the town bulletin board when submitted to the board of selectmen. Except as otherwise provided herein, all offices under the supervision of the town administrator as set forth in this section shall have the powers and duties set forth in the General Laws, the town bylaws and this act.

Notwithstanding the provisions of this section, the board of selectmen shall be the appointing authority for town counsel, town auditor, appointed multiple member bodies created by statute, bylaw or town meeting, except as may otherwise be provided by applicable provisions of said statute, bylaw or town meeting vote, and for other individuals who are to serve as representatives of the town to the governing or advisory bodies of area, regional or district authorities.

(c) To be entrusted with the administration of the town personnel system; to administer the personnel policies and procedures and rules and regulations; and to administer the personnel by-law and collective bargaining agreements entered into by the town.

(d) To attend all regular and special meetings of the board of selectmen, including executive sessions, unless excused in advance by the chairman of said board, and shall have a voice, but

no vote, in all of its proceedings. However, the board of selectmen shall in no way be prohibited from conducting a meeting because of the lack of attendance of the town administrator.

(e) To assure that full and complete records of the financial and administrative activities of the town are kept and to render as often as may be required by the board of selectmen, but not less than quarterly, a full report of all town administrative operations during the period reported on, which report shall be made available to the public.

(f) To keep the board of selectmen fully advised as to the needs of the town and recommend to the board of selectmen and to other elected town officers and agencies for adoption such measures requiring action by them or by the town meeting as the town administrator may deem necessary or expedient. The town administrator shall keep the board of selectmen informed in regards to issues affecting the administration and governance of the town, in a timely manner.

(g) The town administrator shall be responsible for the maintenance repair, and use, of all town land and buildings which fall under the jurisdiction of the board of selectmen. Other municipal boards may request that the town administrator be responsible for the maintenance and repair of the land and buildings under their respective jurisdictions.

(h) To prepare and present to the board of selectmen and finance committee an annual operating budget for the town; and to work in conjunction with the capital improvement committee, created by by-law, to prepare a proposed capital improvement plan for the five (5) fiscal years next ensuing.

(i) To negotiate, on behalf of the board of selectmen, all personnel contracts and collective bargaining agreements involving any subject within the jurisdiction of the office of the town administrator or board of selectmen, including contracts with town employees involving wages, hours and other terms and conditions of employment. All such contracts and agreements shall be subject to the approval of the board of selectmen.

(j) To be the chief procurement officer for the town, in accordance with the provisions of Chapter 30B of the Massachusetts General Laws, and to appoint such assistant procurement officers as provided in Chapter 30B of the Massachusetts General Laws.

(k) To see that the provisions of the general laws, this act, town by-laws, votes of the town meeting and of the board of selectmen which require enforcement by the town administrator are faithfully executed, performed or otherwise carried out.

(l) To prosecute, defend and compromise, subject to the approval of the board of selectmen, all litigation to which the town is a party.

(m) To inquire and make investigation, at any time, into the conduct and operation of office or performance of duties of any officer or employee, department, board, commission or other town agency.

(n) To attend all sessions of all town meetings, unless excused in advance by the chairman of the board of selectmen, and answer questions raised by voters which relate to warrant articles and to matters over which the town administrator exercises any supervision.

(o) To coordinate the activities of all town agencies serving under the office of the town administrator and the office of the board of selectmen with those under the control of other officers and multiple member bodies elected directly by the voters. For this purpose, the town administrator shall have authority to require the persons so elected, or their representatives, to meet with the town administrator, at reasonable times, for the purpose of effecting coordination and cooperation among all agencies of the town. The town administrator shall have the right to attend and speak at any public meeting of any multiple member body.

(p) To seek out and work to obtain resources from federal, state and other governmental jurisdictions that further town purposes.

(q) To approve all payroll and expense warrants for payment of town funds. Such approval shall be sufficient authority to authorize payment of the same by the town treasurer. In the event of the absence of the town administrator, the board of selectmen shall approve such warrants. If a vacancy exists in the office of town administrator, the board of selectmen shall approve all such warrants, or, may delegate such responsibility to a temporary town administrator appointed pursuant to section 1-4(b) of this act.

(r) To perform any other duties as are required to be performed by the town administrator by by-laws, administrative code, votes of the town meeting, or votes of the board of selectmen, or otherwise.

### **SECTION 1-3: DELEGATION OF AUTHORITY**

The town administrator may authorize any subordinate officer or employee to exercise any power or perform any function or duty which is assigned to the office of the town administrator, provided, however, that all acts performed under any such delegation shall at all times be deemed to be the acts of the town administrator.

### **SECTION 1-4: ACTING TOWN ADMINISTRATOR**

(a) Temporary Absence - With the approval of the board of selectmen, the town administrator may designate a qualified town administrative officer or employee to exercise the powers and perform the duties of the town administrator during an absence of the town administrator of not more than twenty (20) days, including Saturdays, Sundays and holidays. Such delegation shall be made by letter filed with the town clerk, the municipal finance director, and the board of selectmen.

(b) Vacancy - Any vacancy in the office of town administrator shall be filled as soon as possible by the board of selectmen. However, pending such regular appointment the board of selectmen shall appoint a qualified town administrative officer or employee to perform the duties of the office on an acting basis. Such temporary appointment may not exceed six (6) months but one renewal may be voted by the board of selectmen not to exceed a second six (6) months. Compensation for such person shall be set by the board of selectmen.

(c) Powers and Duties - The powers and duties of the temporary or acting town administrator, under subsection (a), above, shall be limited to matters not admitting of delay and shall include authority to make temporary, emergency appointments or designations to town office or employment but not to make permanent appointments or designations.

### **SECTION 1-5: REMOVAL AND SUSPENSION**

The board of selectmen may, by a vote of four out of five members, terminate and remove the town administrator. The board must provide a preliminary statement of removal to the town administrator setting forth the reasons for removal, which notice may provide for suspension of the town administrator for a period of not more than 45 days. Within five days after receipt of said notice, the town administrator may request a public hearing by filing with the board of selectmen a written request for the same, and may be represented by counsel at said hearing. If no request for a hearing is received upon the expiration of the above-referenced five days, the preliminary resolution of removal shall immediately become a final resolution of removal without further action by the board of selectmen.

If a hearing is requested, no later than ten days following the close of the public hearing, the board of selectmen shall adopt, by a vote of four out of five members a final resolution of removal, which may be made effective immediately. Failure to adopt a final resolution prior to the expiration of the ten days following the close of the public hearing shall nullify the preliminary resolution of removal, and the town administrator shall forthwith resume the duties of the office.

The board of selectmen may, by a vote of two-thirds of those members present and voting, suspend the town administrator.

#### **SECTION 1-6 IMPLEMENTATION**

The executive administrator holding office as of the effective date of this act shall have the powers and duties of the town administrator as set forth herein, and shall continue to serve for the remainder of any applicable contract term. The obligations of the executive administrator and the town under such contract, including any option to renew, shall not be affected by passage of this act. Upon expiration of the term of the contract or sooner resignation, the town administrator shall be appointed by the board of selectmen in accordance with the provisions of this act; provided, however, that this act shall not be deemed to prohibit the appointment of the executive administrator holding office as of the effective date of this act as the town administrator.

### **SECTION 2 - MUNICIPAL FINANCE DEPARTMENT**

#### **SECTION 2-1: ESTABLISHMENT AND SCOPE**

There shall be a department of municipal finance, under the direction of a director of municipal finance, which shall be responsible for the performance of all fiscal and financial activities of the town, including those duties and responsibilities related to municipal finance activities which prior to the effective date of this act were performed by or under the authority of the town accountant, the town treasurer, and the town collector. Although the board of assessors shall be part of the department of municipal finance, the board of assessors shall continue to exercise all of the duties and responsibilities of a board of assessors under the general laws, except as otherwise provided in Sections 1-2(b) and 2-3 of this act. The department shall have such additional powers, duties and responsibilities with respect to municipal finance-related functions and activities as the town may from time to time provide by by-law.

#### **SECTION 2-2: DIRECTOR OF MUNICIPAL FINANCE**

The department of municipal finance shall be under the direct control and supervision of a director of municipal finance who shall be appointed by and be responsible to the town administrator. The director of municipal finance shall be a person especially fitted by education,

experience and training to perform the duties of the office. The educational qualifications shall consist of a master's degree, preferably in accounting or business administration, granted by an accredited degree-granting college or university. The professional experience shall include at least three (3) years of prior full-time compensated service in accounting or business administration. Alternatively, five (5) years or more of such professional experience and a bachelor's degree in an appropriate discipline shall qualify an applicant. Seven (7) years or more of prior full-time compensated experience in accounting or business administration shall also qualify any applicant. The board of selectmen may, by a four-fifths (4/5ths) vote, waive the education or experience requirements listed above. The salary, fringe benefits and other conditions of employment of the director of municipal finance, including but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performance of his duties or office, liability insurance, conditions of discipline, termination, dismissal, and reappointment, performance standards and leave may be established by contract.

### **SECTION 2-3: DUTIES AND RESPONSIBILITIES**

The director shall be responsible for the supervision and coordination of all activities of the department in accordance with the General Laws, town by-laws, administrative codes and rules and regulations. The director of municipal finance may serve as the town accountant and shall be responsible for coordinating the fiscal management procedures of the offices of the town treasurer, town collector, board of assessors, and town accountant, and shall be the administrator of budgeting, including financial reporting, accountability and control, as well as an advisor on financial and programmatic implications of current and future policies to all town departments, the town administrator, and the board of selectmen. The finance director shall be responsible for coordinating all financial tasks required by the General Laws, and, to the extent that the same exists and is issued timely, shall accomplish such tasks in accordance with the dates specified in the Massachusetts Department of Revenue Municipal Calendar, as it may be amended from time to time.

### **SECTION 3 - Transition**

#### **Section 3-1. Implementation**

Upon the effective date of this act, the positions of elected town treasurer and town collector shall be abolished and the terms of the elected incumbents shall be terminated. The appointed town accountant holding office as of the effective date of this act shall thereupon become the director of municipal finance. The appointed assistant assessor holding office as of the effective date of this act shall thereupon become the principal assessor. The elected incumbents holding the offices of town treasurer and town collector as of the effective date of this act shall thereupon become the first appointed town treasurer and town collector, respectively, subject to removal in accordance with Section 1-2b of this act. They shall, subject to appropriation, maintain the same salary and benefits as they received in their elected capacities, and

shall be eligible to receive salary increases in the same manner as all other non-union personnel. They shall be employees of the department of municipal finance under the direction and supervision of the director of municipal finance. Thereafter, appointments to the positions of town treasurer and town collector will be made by the town administrator pursuant to Section 1-2(b), in consultation with the director of finance.

#### **Section 3-2. Contracts, Transfer of Records and Property**

No contracts or liabilities in force on the effective date of this act shall be affected by abolition of the elected offices and consolidation of financial functions of the town as provided for herein,

and the newly created appointed offices and municipal finance department shall in all respects be the lawful successor of offices and departments so abolished or consolidated.

All records, property and equipment whatsoever of any office, department, or part thereof, the powers and duties of which are assigned in whole or in part to another office or department are assigned to such office or department.

**Section 4.** This act shall be submitted to the voters of the town of Douglas for acceptance at an annual or special town election in the form of the following question:

“Shall an act passed by the General Court in the year 2009 entitled ‘An Act Establishing a Town Administrator and a Municipal Finance Department in the Town of Douglas,’ be accepted?”

The Town shall include below the ballot question a fair and concise summary thereof prepared by Town Counsel and approved by the Board of Selectmen. If a majority of votes cast in answer to this question is in the affirmative, Sections 1 through 3 of this act shall take effect sixty (60) days following acceptance by the voters.

**Section 5.** Section 4 of this act shall take effect upon its passage.