

HOUSE No. 4548
[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

John W. Scibak and Stanley C. Rosenberg

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 Selectboard-Town Administrator Form of Government for the Town of South Hadley.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>Stanley C. Rosenberg</i>	<i>Hampshire and Franklin</i>

HOUSE No. 4548

By Mr. Scibak of South Hadley and Senator Rosenberg, a joint petition (accompanied by bill, House, No. 4548) of John W. Scibak and Stanley C. Rosenberg (by vote of the town) for legislation to establish a selectboard-town administrator form of government in the town of South Hadley. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

An Act Establishing a Selectboard-Town Administrator Form of Government for the Town of South Hadley.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is to establishing a Selectboard-Town Administrator form of government for the Town of South Hadley, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

□

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. SELECTBOARD

2 (A) Composition

3 There shall be a Selectboard consisting of five (5) members elected for terms of three (3) years
4 each, so arranged that the term of office of as nearly an equal number of members as is possible
5 shall expire each year.

6 (B) Vacancy in Office

7 Vacancies on the Selectboard shall be filled by a special election in accordance with the
8 provisions of the General Laws.

9 (C) Executive Powers

10 The executive powers of the Town shall be vested in the Selectboard, which shall serve as the
11 chief policymaking body of the Town.

12 (1) The Selectboard shall have all of the executive powers given to boards of selectmen by the
13 General Laws, except for those granted herein to the Town Administrator.

14 (2) The Selectboard shall be responsible for the formulation and promulgation of policy
15 directives and guidelines to be followed by all Town agencies serving under it, and in
16 conjunction with other elected Town officers and multiple member bodies to develop and
17 promulgate policy guidelines designed to bring the operation of all Town agencies into harmony;
18 provided, however, that nothing in this section shall be construed to authorize any member of the
19 Selectboard, or a majority of such members, to become involved in the day-to-day administration
20 of any Town agency. It is the intention of this provision that the Selectboard shall act only
21 through the adoption of broad policy guidelines, which are to be implemented by officers and
22 employees serving under it.

23 (3) The Selectboard shall cause the bylaws, rules, and regulations for the government of the
24 Town to be enforced and shall cause an up-to-date record of all its official acts to be kept.

25 (4) The Selectboard shall appoint and may remove the Town Administrator as provided in
26 Sections 2 and 5, respectively, and Town Counsel, and shall approve the appointment of
27 department heads as provided in Section 3(B)(1).

28 (5) The Selectboard shall appoint the Board of Appeals, Registrars of Voters, Conservation
29 Commission, Recreation Commission, Historical Commission, trustees of special funds, and
30 members of all appointed multiple member bodies for whom no other method of selection is
31 provided by this Act or by bylaw, except persons serving under other elected Town officers and
32 members appointed by state officers.

33 (6) The Selectboard shall be the licensing board of the Town and shall have the power to issue
34 licenses, to make all necessary rules and regulations regarding the issuance of such licenses, and
35 to attach such conditions and restrictions thereto as it deems to be in the public interest. The
36 Selectboard shall enforce the laws relating to all businesses for which it issues such licenses.

37 (7) The Selectboard shall be responsible for providing timely audits as required by law. The
38 audits shall be made by a certified public accountant, or firm of such accountants, who have no
39 personal interests, direct or indirect, in the fiscal affairs of the government of the Town of South
40 Hadley or any of its officers. The Board shall approve the selection of the Town audit firm,
41 which shall be recommended by the Town Administrator.

42 SECTION 2. TOWN ADMINISTRATOR - APPOINTMENT, QUALIFICATIONS,
43 RESTRICTIONS, AND TERMS OF EMPLOYMENT

44 (A) Appointment

45 There shall be established in the Town of South Hadley the office of Town Administrator, who
46 shall be appointed by the Selectboard for a term not to exceed three (3) years, as the Board may
47 determine, and who may be appointed for successive terms of office. Whenever a vacancy shall
48 occur in the office of Town Administrator, the Selectboard shall appoint a Town Administrator
49 Screening Committee to identify and recommend qualified candidates for the position. The

50 Selectboard shall provide the Committee with a written charge and statement of qualifications
51 and duties of the position that have been approved by the Board. The Committee shall design
52 and undertake a recruitment process, and shall present candidates to the Selectboard. The
53 Selectboard shall, within 45 days following the date of receipt of the list of candidates, choose
54 one candidate from the list to fill the position of Town Administrator or reject such candidates
55 and direct that the Committee resume the search.

56 (B) Qualifications

57 The Town Administrator shall be a person of demonstrated ability and who is qualified by reason
58 of education, skills, and experience in public management or business administration. The
59 Selectboard may establish additional qualifications for the office of Town Administrator.

60 (C) Restrictions

61 The Town Administrator shall devote full-time to the duties of the office and shall not engage in
62 any other business or occupation during such employment by the Town, unless such action is
63 approved in advance, in writing, by the Selectboard. The Town Administrator shall hold no
64 elective office in the Town while serving as Town Administrator, but the Selectboard may
65 appoint the Town Administrator to any non-elective office or position consistent with the
66 responsibilities of the Town Administrator. Before entering upon his or her duties, the Town
67 Administrator shall be sworn to the faithful and impartial performance thereof by the Town
68 Clerk.

69 (D) Terms of Employment

70 (1) Employment Contract

71 To the extent permitted by law, the terms of the Town Administrator's employment may be the
72 subject of a written agreement between the parties.

73 (2) Compensation

74 The Selectboard shall set the compensation of the Town Administrator.

75 (3) Annual Review

76 The Selectboard shall provide for an annual review of the job performance of the Town
77 Administrator, which shall, at least in summary form, be a public record.

78 SECTION 3. TOWN ADMINISTRATOR - POWERS AND DUTIES

79 (A) Chief Administrative Officer

80 The Town Administrator shall be the chief administrative and financial officer of the Town and
81 shall be responsible to the Selectboard for the effective management of all Town affairs placed in
82 his or her charge by this Act, the Selectboard, or vote of the Town Meeting. The Town
83 Administrator shall be responsible for the implementation of Town policies established by the
84 Selectboard and shall supervise, manage, and coordinate the day-to-day activities of all Town
85 departments and employees under the jurisdiction of the Selectboard, and coordinate all activities
86 of these Town departments with the activities of other departments under the jurisdiction of other
87 elected Town boards and commissions. The Town Administrator may delegate, authorize, or
88 direct any subordinate or employee of the Town to exercise any power, duty, or responsibility
89 which the office of Town Administrator is authorized to exercise; provided, however, that all
90 acts which are performed under such delegation shall be deemed to be the acts of the Town

91 Administrator. The functions and duties of the Town Administrator shall include, but shall not be
92 limited to, the functions and duties as herein described.

93 (B) Powers of Appointment

94 (1) Subject to the approval of the Selectboard, the Town Administrator shall appoint and may
95 remove the Police Chief, Superintendent of Public Works, and Town Accountant.

96 (2) Except as provided in this Act, the Town Administrator shall appoint and may remove all
97 other department heads, including those that serve with an appointed board, commission, or
98 committee, and other employees for whom no other method is provided under this Act, and shall
99 approve the appointment and removal of all other employees, pursuant to the General Laws or
100 this Act. The Town Administrator shall consult with the appropriate appointed board,
101 commission, or committee prior to making any appointment or removal under this subsection.
102 This subsection shall not apply to any department heads or employees that serve with elected
103 boards, commissions, or committees.

104 (3) Department heads shall appoint and may remove, subject to the approval of the Town
105 Administrator, assistant department heads, subordinates, and employees; provided, however, that
106 the Town Administrator may undertake removal proceedings if he or she determines that such an
107 action is necessary to assure effective operations and management of any department. The
108 department head seeking to make said appointments shall consult with the appropriate appointed
109 board, commission, committee, or official prior to making said appointments or removals, unless
110 otherwise provided under the General Laws or this Act. This subsection shall not apply to any
111 assistant department heads, subordinates, and employees that serve with elected boards,
112 commissions, or committees.

113 (4) The Town Administrator may, in consultation with department heads and any affected board,
114 as applicable, transfer personnel between departments as needed. Such transfer is presumed to be
115 temporary, and requires the approval of the affected board. This subsection shall not apply to
116 personnel of the school department.

117 (5) All personnel appointments of the Town Administrator shall be based on education, skills,
118 and experience alone.

119 (6) Copies of notices of board and commission vacancies, job vacancies, and opportunities and
120 requests for volunteers shall be conspicuously posted in town hall and on the Town's official
121 website.

122 (C) Administrative Duties

123 The Town Administrator shall:

124 (1) be responsible for the day-to-day supervision of all Town departments and direction of the
125 operations of the Town; provided, however, that this section shall not apply to employees of the
126 school department and to the statutory responsibilities and functions of the School Committee;

127 (2) supervise, direct, and be responsible for the efficient administration of all officers appointed
128 by the Town Administrator and the Selectboard, and their representative departments, and of all
129 functions for which the Town Administrator is given responsibility, authority or control by this
130 Act, bylaw, Town Meeting vote, or vote of the Selectboard;

131 (3) reorganize, consolidate, or establish any department or position under the Town
132 Administrator's direction or supervision, at the Town Administrator's discretion and with the
133 Selectboard's approval. With the approval of both the Selectboard and Appropriations

134 Committee, the Town Administrator may transfer all or part of any unexpended appropriation of
135 a reorganized or consolidated department, board, or office to any other Town department, board
136 or office;

137 (4) administer, either directly or through a person appointed by the Town Administrator, all
138 provisions of general and special laws applicable to the Town, including federal and
139 Massachusetts emergency management agencies' requirements, bylaws, votes of the Town
140 within the scope of the Town Administrator's duty, and all policy rules and regulations made by
141 the Selectboard; provided, however, that all acts that are performed under such delegation shall
142 be deemed to be the acts of the Town Administrator;

143 (5) establish control and data systems appropriate to monitoring expenditures by Town boards
144 and departments to enable the Town Administrator to make periodic reports to the Selectboard
145 and the Town's Appropriations Committee on the status of the Town's finances;

146 (6) develop and administer, either directly or through a person appointed by the Town
147 Administrator, a personnel system, including, but not limited to, determination of compensation,
148 the development and implementation of ongoing training programs, personnel and hiring
149 policies, practices and regulation, and evaluation process, for Town employees;

150 (7) manage and be responsible for all Town buildings, properties and facilities, except those
151 under the control of the School Committee, Library Trustees, and Conservation Commission;
152 provided, however, that the Town Administrator may maintain and repair School Committee,
153 Library Trustees, and Conservation Commission buildings, properties, and facilities to the extent
154 the School Committee, Library Trustees, or Conservation Commission may request and
155 authorize same;

156 (8) attend and participate in all regular and special Selectboard meetings and Town Meetings,
157 unless excused therefrom by the Selectboard;

158 (9) cause full and complete records of meetings of the Selectboard to be taken and maintained,
159 and compile reports of the meetings as requested by the Selectboard;

160 (10) act as the liaison to, and represent the Selectboard before, state, federal, and regional
161 authorities;

162 (11) be responsible for approving all grant requests and applications submitted on behalf of the
163 Town; and

164 (12) perform any other duties consistent with the office of the Town Administrator as may be
165 required by bylaw or vote of the Town, or by vote of the Selectboard.

166 (D) Financial Powers and Duties

167 (1) Budget

168 (a) At a time fixed by bylaw, the Selectboard, after consultation with the Town Administrator
169 and the Appropriations Committee, shall issue a policy statement relating to the budget for the
170 next fiscal year. The statement shall establish the parameters of expected budget growth, if any,
171 for the Town, with appropriate guidance provided to various Town agencies, officers, and
172 committees for use in the preparation of operating budgets for the ensuing fiscal year.

173 (b) The Town Administrator shall prepare and submit to the Selectboard and Appropriations
174 Committee at a public meeting prior to the annual Town Meeting a written proposed balanced
175 budget for Town government, including the school department, for the ensuing fiscal year. To
176 assist the Town Administrator in preparing the proposed annual budget of revenues and

177 expenditures, all boards, officers, and committees of the Town, including the School Committee,
178 shall, within the timeframe requested by the Town Administrator, furnish all relevant
179 information in their possession and submit to the Town Administrator, in writing and in such
180 form as the Town Administrator shall establish, a detailed estimate of the appropriations required
181 and available funds.

182 (c) The proposed budget shall detail all estimated revenues from all sources, and all
183 expenditures, including debt service for the previous, current, and upcoming years.

184 (d) It shall include proposed expenditures for both current operations and capital expenditures
185 during the next fiscal year, together with estimated revenues and free cash available at the close
186 of the current fiscal year, including estimated balances in special accounts.

187 (2) Collective Bargaining

188 (a) The Town Administrator shall negotiate collective bargaining contracts on behalf of the
189 Selectboard, which contracts shall be subject to approval, ratification, and execution by the
190 Board. The Selectboard may authorize at its discretion use of additional counsel to assist the
191 Town Administrator in the negotiations.

192 (b) The Town Administrator shall administer and enforce collective bargaining agreements,
193 personnel rules and regulations, and bylaws adopted by the Town.

194 (3) Procurement

195 (a) The Town Administrator shall be responsible for procurement under the provisions of
196 Chapter 30B of the General Laws, and shall be responsible for the purchasing of all supplies,

197 materials, and equipment for the Town, including the bidding and awarding of all contracts,
198 subject to policies established by the Selectboard, except for the school department.

199 (b) The Town Administrator may delegate such purchasing power as provided in Chapter 30B of
200 the General Laws.

201 (4) Signing of Warrants

202 (a) Warrants for payments of Town funds prepared by the Town Accountant in accordance with
203 the provisions of the General Laws shall be submitted to the Town Administrator for approval.
204 Subject to policies established by the Selectboard, the approval of any such warrant by the Town
205 Administrator shall be sufficient authority to authorize payment by the Town. Any warrants
206 generated by the office of the Town Administrator shall be signed by the Selectboard. The
207 Selectboard shall approve all warrants in the event of the absence of the Town Administrator or a
208 vacancy in the office of Town Administrator.

209 SECTION 4. TOWN ADMINISTRATOR - VACANCY

210 (A) Permanent Vacancy

211 The Selectboard shall fill any permanent vacancy in the office of the Town Administrator as
212 soon as feasible in accordance with section 2(A) of this Act. Pending the appointment of a Town
213 Administrator or filling of a vacancy, the Selectboard shall, within a reasonable period of time,
214 not to exceed 14 days, appoint some other qualified person to temporarily perform the duties of
215 the Town Administrator until a permanent replacement is appointed.

216 (B) Temporary Absence or Disability

217 (1) The Town Administrator may designate by letter filed with the Town Clerk and Selectboard a
218 qualified officer of the Town to perform the duties of Town Administrator during a temporary
219 absence or disability.

220 (2) If the absence or disability exceeds 30 days, any designation by the Town Administrator shall
221 be subject to approval by the Selectboard. If the Town Administrator fails to make such a
222 designation, or if the person so designated is unable to serve, the Selectboard may designate
223 some other qualified person to perform the duties of Town Administrator.

224 (3) The powers and duties of the acting Town Administrator, under section (B) of this Act shall
225 be limited to matters not permitting of delay and shall include authority to make temporary,
226 emergency appointments or designations to Town office or employment, but not to make
227 permanent appointments or designations, unless authorized by the Selectboard.

228 SECTION 5. TOWN ADMINISTRATOR – REMOVAL, SUSPENSION

229 (A) Removal, Suspension

230 The Selectboard may terminate and remove or suspend the Town Administrator by a majority
231 vote of the Selectboard. Prior to any termination or removal, or a suspension exceeding 5 days,
232 notice shall be given and reasons for the proposed action shall be provided in writing to the
233 Town Administrator, and an opportunity shall be provided for the Town Administrator to meet
234 with the Selectboard and respond to the Board's notice. After such meeting, if any, the
235 Selectboard may act by majority vote of the entire Selectboard to terminate, remove, or suspend
236 the Town Administrator.

237 SECTION 6. CONTINUATION OF EXISTING GOVERNMENT

238 (A) Continuation of Existing Laws

239 All laws, bylaws, rules, and regulations of or pertaining to the Town of South Hadley which are
240 in force on the effective date of this Act and which are not inconsistent with the provisions of
241 this Act, shall continue in full force and effect until amended or repealed. Elected and appointed
242 officers, boards, commissions, and committees shall have all of the powers, duties, and
243 responsibilities which are in force on the effective date of this Act that are not inconsistent with
244 this Act, which are given to the respective officers, boards, commissions, and committees by
245 law, this Act, Town bylaw, or by vote of Town Meeting. If any provision of this Act conflicts
246 with any provision of any law, bylaw, rule, or regulation of the Town of South Hadley, this Act
247 shall govern.

248 (B) Continuation of Personnel

249 Any office or position in the administrative service of the Town of South Hadley and incumbents
250 in such offices, on the effective date of this Act, shall continue to function as the office, position
251 or incumbent did previously until a change in such office, position, or incumbent is effected in
252 accordance with the provisions of this Act.

253 SECTION 7. REPEAL AND AMENDMENT OF EXISTING ACTS

254 (A) Chapter 34 of the Acts of 1992 is hereby repealed.

255 (B) Chapter 558 of the Acts of 1986 is hereby amended by striking the first and fifth
256 paragraphs of Section 3 of said Act.

257 SECTION 8. TIME OF TAKING EFFECT

258 This Act shall take effect upon its passage.