

SENATE No. 01965

[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

Robert L. Hedlund

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 revising the charter of the town of Norwell.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Robert L. Hedlund</i>	<i>Plymouth and Norfolk</i>
<i>Rhonda Nyman</i>	<i>5th Plymouth</i>

SENATE No. 01965

By Mr. Hedlund, a petition (accompanied by bill, Senate, No. 1965) of Robert Hedlund and Rhonda Nyman (by vote of the town) for legislation to revise the charter of the town of Norwell. [Local Approval Received.] Municipalities and Regional Government.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act revising the charter of the town of Norwell.

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: The charter of the town of Norwell, which is on file in the office of the
2 archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws is
3 hereby revised as follows:

4 ARTICLE 3: Article 3 is hereby revised by striking out Section 3-1 in its entirety, and inserting
5 in place Sections 3 -1 and 3- 2 as provided herein:

6 Section 3 -1 Composition: There shall be a board of selectmen consisting of five (5) members
7 elected for terms of three (3) years each, so arranged that the term of office of as nearly an equal
8 number of members as is possible shall expire each year.

9 Section 3 -2 Powers and Duties:

10 (a) The executive powers of the town shall be vested in the board of selectmen, which shall serve
11 as the chief policy-making board of the town.

12 (b) The board of selectmen shall have the powers and duties given to boards of selectmen under
13 the Massachusetts Constitution and Massachusetts General Laws, except those powers and duties
14 assigned by this Act to the town administrator, and shall have such additional powers and duties
15 as may be authorized by this charter, by town by-laws, or by vote of town meeting. The board of
16 selectmen shall be authorized to enter into intergovernmental and other agreements on such
17 terms it deems beneficial to the citizens of Norwell, subject to the Massachusetts General Laws,
18 this Act, town charter and by-laws or by vote of town meeting.

19 (c) The board of selectmen shall be responsible for the formulation and promulgation of policy
20 directives and guidelines to be followed by all town departments serving under it, and in
21 conjunction, with other elected town officials and multiple member bodies, to develop and
22 promulgate policy guidelines designed to bring the operation of all town agencies into harmony,
23 provided however, nothing in this section shall be construed to authorize any member of the
24 board of selectmen, nor a majority of such members, to become involved in the day-to-day
25 administration of any town agency. It is the intention of this provision that the board of
26 selectmen shall act only through the adoption of broad policy guidelines and long-term plans or
27 programs, which are to be implemented by officials and employees serving under it.

28 (d) The board of selectmen shall communicate periodically with all town agencies, departments,
29 committees, and boards, including meeting with representatives of volunteer committees and
30 boards, and shall consider the concerns and plans of all such agencies, departments, committees,
31 and boards when formulating policy and long-term plans or programs.

32 (e) The board of selectmen shall cause the by-laws and rules and regulations for the government
33 of the town to be enforced and shall cause an up-to-date record of all its official acts to be kept.

34 (f) The board of selectmen shall appoint the town administrator, a town counsel, and a town
35 auditor by a majority vote of the board.

36 (g) The board of selectmen shall appoint such other offices, boards, committees, and
37 commissions, by a majority vote of the board, as may be provided by the Massachusetts General
38 Laws or by vote of the town. In the event of a vacancy in any of said offices, boards,
39 committees, and commissions, the board of selectmen shall act to fill said vacancy within ninety
40 (90) days from notice by the affected board to the board of selectmen of any vacancy.

41 This subsection shall not apply to the appointment or approval of any paid full or part-time
42 employees, said appointments or approvals already provided for under Section 5-2(b)(2) of this
43 charter.

44 (h) The board of selectmen shall be the licensing board of the town and shall have the power to
45 issue licenses, in accordance with Massachusetts General Laws, to make all necessary rules and
46 regulations regarding the issuance of such licenses and to attach such conditions and restrictions
47 thereto as it deems to be in the public interest, and to enforce the laws relating to all businesses
48 for which it issues licenses.

49 (i) The board of selectmen shall be responsible for ensuring that timely audits are conducted as
50 required by law. The audits shall be performed by a certified public accountant, or firm of such
51 accountants, who have no personal interests, direct or indirect, in the fiscal affairs of the town
52 government or any of its officials.

53 Article 3, Section 3-4 is hereby repealed by striking out present text.

54 The remaining provisions of Article 3 shall be renumbered sequentially.

55 ARTICLE 4: Article 4 is hereby revised as follows:

56 Sections 4-1 (a), 4-1 (g), and 4-1 (h) are hereby repealed by striking out the text appearing in
57 each clause therein in its entirety. The remaining provisions of Section 4-1 shall be reordered
58 sequentially.

59 Section 4-3 is revised as follows:

60 Section 4 -3 Advisory Board

61 (a) Composition: There shall be an advisory board consisting of nine (9) members with three (3)
62 members appointed each year for a term of three (3) years each. Members shall hold no other
63 elective or appointed office in town government while on the advisory board, unless otherwise
64 provided by this charter, town by-laws, or by vote of town meeting, and shall serve without pay.
65 Members of the board shall choose from among its membership a chair, a vice-chair, and a clerk.

66 (b) Nomination Process for Advisory Board: Members of the advisory board shall be appointed
67 by a majority vote of a nominating committee consisting of three (3) members, each duly
68 authorized to represent their respective board or office: the town moderator, who shall serve as
69 chair; one (1) member of the board of selectmen; and one (1) member of the advisory board,
70 except that no member of the advisory board shall serve on a nominating committee if said
71 member seeks re-appointment to the advisory board and said re-appointment would be the
72 subject of that nominating committee. The nominating committee shall consider only the

73 education, skills and experience of individual candidates as they relate to the function of the
74 advisory board.

75 (c) Responsibilities of the Advisory Board: The Advisory Board shall investigate and consider
76 all articles in the warrant to be brought before the town and shall report and advise on such
77 articles at town meeting. The Advisory Board shall consider short and long-range financial
78 impacts including both revenue and expenses to ensure financial stability.

79 Section 4-4 is added to Article 4 of the charter to address Term of Office of Appointed Officials

80 ARTICLE 5: Article 5 is hereby revised as follows:

81 ARTICLE 5 shall be replaced in its entirety by striking the present Article 5 and inserting in
82 place thereof Article 5 as provided herein:

83 ARTICLE 5: Town Administrator

84 Section 5 – 1: Appointment, Qualifications, and Term of Service

85 (a) Appointment: The board of selectmen shall appoint a town administrator for a term not to
86 exceed three (3) years, as the board may determine, and said town administrator may be
87 appointed for successive terms of office.

88 (b) Qualifications: The town administrator shall be a person of demonstrated ability with
89 administrative experience in public management or business administration and who is qualified
90 by reason of education, skills and experience. The board of selectmen may from time to time
91 establish additional qualifications for the office of town administrator. To the extent permitted
92 by law, the terms of the town administrator's employment may be the subject of a written

93 agreement between the parties setting forth the length of service, compensation and other terms
94 that are customarily included in an employment contract.

95 (c) General Terms: The town administrator shall devote full time to the duties of said office and
96 shall not engage in any other business or occupation during the term of his or her employment by
97 the town without the written approval of the board of selectmen. The town administrator shall
98 hold no elective office in the town during his or her tenure as town administrator, but the board
99 of selectmen may appoint the town administrator to any appointed office or position consistent
100 with the responsibilities of the town administrator. Before entering upon his or her duties, the
101 town administrator shall be sworn to the faithful and impartial performance thereof by the town
102 clerk. The town administrator shall not have served in an elected office for the town of Norwell
103 for at least twenty-four (24) months prior to his or her appointment.

104 (d) Compensation: The board of selectmen shall set the compensation of the town administrator,
105 not to exceed the amount appropriated by the town meeting.

106 (e) Performance Evaluation: The board of selectmen shall conduct an annual performance
107 review of the town administrator. Annual performance reviews shall be based on the town
108 administrator's accomplishments pursuant to the powers and duties specified under Section 5 -2
109 and of this charter, and the successful completion of any additional goals set by the board of
110 selectmen the preceding year.

111 Section 5 -2 Powers and Duties of the Town Administrator

112 (a) In General: The town administrator shall be the chief administrative officer of the town. The
113 town administrator shall be responsible to the board of selectmen for the effective management
114 of all town affairs placed in the town administrator's charge by this charter, the board of

115 selectmen, or vote of the town meeting. The town administrator shall be responsible for the
116 implementation of town policies and the coordination of operational and strategic planning for
117 the town. The town administrator shall facilitate communication between all town departments
118 and officials and communication between all town departments and officials and the public. The
119 functions and duties of the town administrator shall include, but not be limited to, the following:

120 (b) Appointment Authority:

121 (1) The town administrator shall appoint and may remove a treasurer, and accountant. The town
122 administrator shall consult with the board of selectmen prior to making any appointment or
123 removal under this subsection. Unless otherwise provided under law, said appointments or
124 removals shall become effective on the twentieth day following the day notice of said
125 appointments or removals is filed with the board of selectmen, unless the board of selectmen
126 shall within said twenty (20) days reject, or sooner approve, said appointments or removals by a
127 majority vote of the board.

128 (2) The town administrator shall appoint and may remove all other department heads that serve
129 with any appointed board, commission or committee, other employees for whom no other
130 method is provided under this charter, and shall approve the appointment and removal of all
131 other employees, except employees of the school department, fire department and officers of the
132 police department, pursuant to the Massachusetts General Laws or this charter. The town
133 administrator shall consult with, and obtain the approval of, the appropriate appointed board,
134 commission, or committee prior to making any appointment or removal under this subsection.
135 Unless otherwise provided under law, said appointments or removals shall become effective on
136 the twentieth day following the day notice of said appointments or removals is filed with the

137 board of selectmen, unless the board of selectmen shall within said twenty (20) days reject, or
138 sooner approve, said appointments or removals by a majority vote of board members present and
139 voting.

140 This subsection shall not apply to any department heads that serve with
141 elected boards, commissions, or committees.

142 (3) The town administrator shall appoint and may remove all other department heads that serve
143 with any elected board, commission, or committee, except employees of the school department,
144 provided that the town administrator shall consult with, and obtain the approval of, said elected
145 bodies prior to making any appointment or removal under this subsection, unless otherwise
146 provided under the Massachusetts General Laws or this charter.

147 (4) Department heads shall, subject to the approval of the town administrator under Article 5,
148 section 5-2 (b) appoint and may remove assistant department heads, subordinates, and
149 employees, except employees of the school department, the fire department, and officers of the
150 police department; the department head seeking to make said appointments shall consult with the
151 appropriate elected or appointed board, commission, committee or official prior to making said
152 appointments or removals, unless otherwise provided under the Massachusetts General Laws or
153 this charter.

154 (5) The town administrator, in consultation with department heads and the affected board, as
155 applicable, may transfer personnel between departments as needed. Such transfer is presumed to
156 be temporary, and requires the approval of the affected board. This subsection shall not apply to
157 personnel of the school department.

158 (6) All appointments shall be based on education, skills and experience alone.

159 (7) Copies of notices of board and commission vacancies, job vacancies, and opportunities and
160 requests for volunteers shall be conspicuously posted in town hall and on the town's official
161 website. The town administrator may also advertise such vacancies and opportunities in local
162 newspapers or other media at a cost not to exceed the amount appropriated by the town meeting.

163 (c) Administrative Responsibilities:

164 (1) Supervise the general activities and direct the operations of all town departments, unless
165 otherwise provided under the Massachusetts General Laws, this charter, or town by-laws. This
166 section shall not apply to the activities and operations of the school department and to the
167 statutory responsibilities and functions of the school committee.

168 (2) Supervise and be responsible for all town employees unless otherwise provided under the
169 Massachusetts General Laws, this charter, or town by-laws. This section shall not apply to
170 employees of the school department and to the statutory responsibilities and functions of the
171 school committee.

172 (3) Reorganize, consolidate, and establish departments under the town administrator's
173 supervision and the jurisdiction of the board of selectmen, subject to the Massachusetts General
174 Laws, this charter, town by-laws, or by vote of town meeting. Prior to taking any action under
175 this subsection, the town administrator shall notify and obtain the approval of the board of
176 selectmen. The board of selectmen shall hold a public hearing and shall have thirty (30) days
177 following said public hearing to approve any proposal under this subsection. With the approval
178 of both the board of selectmen and advisory board, the town administrator may transfer all or

179 part of any unexpended appropriation of a reorganized or consolidated department, board, or
180 office to any other town department, board or office.

181 (4) Administer, either directly or through a person appointed by him, all provisions of general
182 and special laws applicable to the town, and by-laws and votes of the town within the scope of
183 his or her duty, and all policy rules and regulations made by the board of selectmen, provided,
184 however, that any delegation shall be considered an act of the town administrator.

185 (5) Establish control and data systems appropriate for monitoring expenditures by town boards
186 and departments to enable the town administrator to make periodic reports to the board of
187 selectmen and the advisory board on the status of the town's finances.

188 (6) Develop and administer a personnel management system, including but not limited to, the
189 creation of job descriptions, a reporting structure, determination of rates of pay, the development
190 and implementation of an ongoing training program, evaluation process, personnel management
191 and hiring policies, practices, and regulations relating to town employment.

192 (7) Manage and maintain all town buildings, properties and facilities, excluding those of the
193 school department, pursuant to the town administrator's authority under this charter, town by-
194 laws, or by vote of town meeting. The town administrator may maintain and repair other
195 buildings, properties and facilities if and to the extent departments, agencies, boards, committees
196 and commissions request and authorize such maintenance and repair activities, unless otherwise
197 prohibited by the Massachusetts General Laws, this charter, town by-laws, or by vote of town
198 meeting. The town administrator shall keep and annually update a full and complete inventory
199 of all town property, both real and personal.

200 (8) Attend and participate in all regular and special meetings of the board of selectmen and town
201 meetings, unless excused therefrom by the board of selectmen.

202 (9) Cause full and complete records of meetings from the board of selectmen to be taken and
203 maintained, and compile reports of the meetings as requested by the board of selectmen.

204 (10) Act as the liaison to, and represent the board of selectmen before, state, federal and regional
205 authorities.

206 (11) Subject to policy established by the board of selectmen, approve all warrants and vouchers,
207 including payroll warrants, for payment of town funds submitted by the town accountant. Any
208 warrants generated by the town administrator shall be signed by the board of selectmen.

209 (12) In consultation with the board of selectmen, identify and submit applications for state and
210 federal grants for which the town is eligible. Approve all grant applications submitted by other
211 boards, commissions, and departments of the town on behalf of the town, or as a member of a
212 proposed or active regional agreement, consortium, or similar partnership.

213 (13) Perform any other duties consistent with his or her office as may be required by by-law or
214 vote of the town or by vote of the board of selectmen.

215 (d) Financial Management and Reporting: Budget Preparation

216 (1) Prepare and submit at a public meeting to the board of selectmen and the advisory board not
217 less than ninety (90) days prior to the annual town meeting a proposed written budget for town
218 government, excluding the school committee, for the ensuing fiscal year.

219 (2) Detail in said proposed budget all estimated revenues from all sources and all expenditures,
220 including debt service, in each case for the previous, current, and ensuing years.

221 (3) Include in said proposed budget free cash, stabilization funds, and other funds available for
222 appropriation for the ensuing fiscal year, including estimated balances in special accounts.

223 (4) Provide additional financial reports as established by town by-law and vote of town meeting.

224 (5) All departments, boards, officials, and committees of the town, including the school
225 committee, shall, within the timeframe reasonably requested by the town administrator, furnish
226 all relevant information in their possession and submit to the town administrator, the board of
227 selectmen, and the advisory board, in writing, a reasonable estimate of the appropriations
228 required and any other funds expected to be available. The town administrator shall cooperate
229 and share information with all departments, boards, officials, and committees of the town,
230 including the school committee, in preparation of said budget.

231 (6) Assist the board of selectmen to develop a long-range financial plan for the town, including
232 preparation of a multi-year forecast of expected revenues and expenditures.

233 (e) Labor Relations

234 (1) Negotiate collective bargaining contracts on behalf of the board of selectmen, which
235 contracts shall be subject to approval, ratification and execution by the board of selectmen. The
236 board of selectmen may authorize use of special counsel to assist the town administrator in the
237 negotiations at its discretion.

238 (2) Administer and ensure adherence to collective bargaining agreements.

239 (f) Procurement: Act as the chief procurement officer under the provisions of Chapter 30B of the
240 Massachusetts General Laws, responsible for the purchasing of all supplies, materials, and

241 equipment for the town, including the bidding and awarding of all contracts, except for the
242 school department.

243 Section 5 - 3 Vacancy in the Position of Town Administrator

244 (a) Permanent Vacancy: The board of selectmen shall fill any permanent vacancy in the office of
245 the town administrator as soon as feasible in accordance with Article 5, Section 5-1 of this
246 charter. Pending the appointment of a town administrator, the board of selectmen shall, within a
247 reasonable period of time appoint some other capable person to temporarily perform the duties of
248 the town administrator until a permanent replacement is appointed.

249 (b) Temporary Absence or Disability:

250 (1) The board of selectmen shall designate a capable officer of the town to perform the duties of
251 town administrator during a temporary absence or disability. If the person so designated is
252 unable to serve, the board of selectmen may designate some other capable person to perform the
253 duties of town administrator.

254 (2) Powers and Duties of Acting Administrator – The powers and duties of the acting town
255 administrator under section 5.B.1 shall be limited to matters not permitting of delay and shall
256 include authority to make temporary, emergency appointments or designations to town office or
257 employment, but not to make permanent appointments or designations unless authorized by the
258 board of selectmen.

259 Section 5 – 4: Removal and Suspension Proceedings

260 The board of selectmen may remove or suspend the town administrator from office after first
261 applying the following procedures, unless otherwise provided under an employment contract or
262 Massachusetts General Laws:

263 (a) Notice: By the affirmative vote of at least 3 of its members, the board of selectmen may
264 adopt a preliminary resolution of removal setting forth in reasonable detail the reason or reasons
265 for the proposed removal. The preliminary resolution may suspend the town administrator for a
266 period not to exceed 45 days. A copy of the resolution shall be delivered to the town
267 administrator immediately following adoption and a copy shall be filed with the town clerk.

268 (b) Public Hearing: Within 5 days after the delivery of the preliminary resolution of removal, the
269 town administrator may request a public hearing on the reasons cited for removal by filing a
270 written request with the board of selectmen. The board shall convene said hearing not less than
271 20 but not more than 30 days after a request is filed. The board of selectmen shall give the town
272 administrator not less than 5 days written notice of the date, time, and location of said hearing.
273 The town administrator may waive, in writing, such time limits. The town administrator may file
274 a written statement with the board of selectmen responding to the reasons cited for the proposed
275 removal. The board of selectmen shall receive said statement not less than 48 hours prior to the
276 time set for said hearing. The town administrator may be represented at the hearing by his or her
277 own counsel. The town administrator shall be entitled to present evidence, call witnesses, and,
278 personally or through counsel, question any witness appearing at the hearing.

279 (c) Removal: The board of selectmen may, by the affirmative vote of at least 3 of its members,
280 adopt a final resolution of removal that shall be effective upon adoption, as follows:

281 (1) If the town administrator does not request a public hearing, then upon the expiration of 10
282 days from the date of delivery to him or her of the preliminary resolution of removal, the
283 selectmen may act as stated above.

284 (2) If the town administrator does request a public hearing, then 5 days from the completion of
285 the public hearing, or 45 days from the date of the adoption of the preliminary resolution,
286 whichever occurs later, the board of selectmen may act as stated above.

287 Failure to adopt a final resolution of removal within the time limitations provided in this section
288 shall nullify the preliminary resolution of removal. This section vests all authority and fixes all
289 responsibility for such suspension or removal in the board of selectmen. The action of the board
290 of selectmen in removing the town administrator shall be final. The town administrator shall
291 continue to receive his or her salary until a final resolution of removal has become effective.

292 Article 6 of the charter is hereby added as provided herein:

293 ARTICLE 6 GENERAL PROVISIONS

294 Section 6 -1: Severability

295 If any of the provisions of the charter are held to be unconstitutional or invalid, the remaining
296 provisions of the charter shall not be affected thereby. If the application of the charter or any of
297 its provisions to any person or circumstance is held to be invalid, the application of this charter
298 and its provisions to other persons and circumstances shall not be affected thereby.

299 Section 6 -2: Continuation of Existing Government

300 (a) Continuation of existing laws, bylaws: The town's charter, all special acts, by-laws, rules and
301 regulations which are in force on the effective date of this Act that are not inconsistent with the

302 provisions of this Act shall continue in full force until amended or repealed and elected and
303 appointed officials, boards, commissions, and committees shall have all of the powers, duties and
304 responsibilities, which are in force on the effective date of this Act that are not inconsistent with
305 this Act, which are given to the respective boards, officials and agencies by law, this Act, town
306 by-law or by vote of town meeting.

307 (b) Continuation of personnel: Any office or position in the administrative service of the town or
308 incumbents in such offices, shall continue to function as they did previously until a change in
309 those offices, positions or incumbents is effected in accordance with the provisions of this
310 charter.

311 Article 7 of the charter is hereby added as provided herein:

312 ARTICLE 7: Transitional Provisions

313 Section 7-1: Increasing the Membership of the Board of Selectmen

314 At the annual election following the acceptance of this charter revision by the voters of the town
315 of Norwell, two (2) additional selectmen shall be elected one (1) to a term expiring at the town
316 election in the third year following the election of said selectman and one (1) to a term expiring
317 at the town election in the second year following the election of said selectman. The candidate
318 receiving the highest number of votes shall be elected to the three-year term, and the candidate
319 receiving the next highest number of votes shall be elected to the two-year term. Thereafter, as
320 the terms of selectmen expire, successors shall be elected for terms of three (3) years.

321 SECTION 2: Effective Date

322 This Act shall take effect upon its passage by the general court and, if approved by the voters of
323 Norwell, shall take effect as this act so provides, but not otherwise.

324 SECTION 3: Acceptance at Town Election

325 This charter revision shall be submitted for acceptance to the voters of the town of Norwell at an
326 annual town election held following its approval in the form of the following question which
327 shall be placed on the official ballot to be used at said election: Shall an act entitled “AN ACT
328 REVISING THE CHARTER OF THE TOWN OF NORWELL” be accepted? A summary
329 prepared by the town counsel noting in summary form the major changes proposed in the charter
330 by this act shall appear on the ballot. - - - - -

331 and to authorize the board of selectmen to act on behalf of the town relative to any inquiries and
332 minor changes made by the general court concerning the proposed Act or take any other action
333 relative thereto.”