

*Chapter  
of the Acts of 2022*

T H E   C O M M O N W E A L T H   O F   M A S S A C H U S E T T S

*In the One Hundred and Ninety-Second General Court*

AN ACT CHANGING THE BOARD OF SELECTMEN IN THE TOWN OF LEE TO THE SELECT BOARD.

*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. Chapter 471 of the acts of 1990, as most recently amended by chapter 99 of the acts of 2021, is hereby further amended by striking out sections 1 to 17, inclusive, and inserting in place thereof the following 12 sections:-

Section 1. The powers, duties and responsibilities of elected officials shall be as now or hereafter provided by applicable provisions of any general or special law, by-law or vote of the town, except as otherwise expressly provided herein.

Notwithstanding the election by the voters of the town of the officers named in this section, such officers shall be available to the town administrator for consultation, conference and discussion on matters relating to their respective offices.

Section 2. The select board shall consist of 3 members elected by the voters of the town. Select board members in office at the time of the approval of this act shall serve until the term for which they were elected expires.

Section 3. The select board shall appoint town counsel, members of all appointed multi-member boards, committees and commissions except those appointed by the moderator and the town administrator as herein provided.

The moderator shall appoint the finance committee, as provided by by-law, and such committees and officers as the moderator may now or hereafter be directed to appoint by any applicable general or special law, by-law or vote of the town meeting.

Section 4. Any registered voter in the town of Lee shall be eligible to hold any elective town office; provided, however, that no person can simultaneously hold more than 1 elected town office, other than that of town representative for as long as the representative form of government is in

place. No town employee in the town of Lee meeting the guidelines of full-time employment, working not less than 20 hours per week with benefits, shall hold any elective office in the town of Lee, other than that of town representative for as long as the representative form of government is in place.

Section 5. The select board shall, by unanimous vote, appoint, as soon as practicable, for an indefinite term, a town administrator who shall be qualified by education, training and previous full-time experience to perform the duties of the office. In its search for a town administrator, the select board shall advertise in the Massachusetts Municipal Association, Inc.'s Beacon and the website of the Massachusetts Municipal Association, Inc. and in at least 1 newspaper having statewide or regional circulation. The town administrator shall be appointed without regard to their political designation. They need not be a resident of the town or the commonwealth when appointed but shall become a resident of Berkshire county during the first year of appointment unless otherwise provided by the select board. The town administrator shall have a college degree at the bachelor level and shall have had 5 years of full-time paid experience in a supervisory administrative position in the public sector; provided, however, that a master's degree may be substituted for not more than 2 years of such paid experience. No person holding elective office in the town with the exception of town meeting members shall, within 3 years of holding such office, be eligible for appointment as town administrator. Before entering upon the duties of the office, the town administrator shall be sworn to the faithful and impartial performance thereof by the town clerk or a notary public. The town administrator shall execute a bond in favor of the town for the faithful performance of duties in such sum and with such sureties as may be fixed or approved by the select board, the cost of which shall be borne by the town.

Section 6. The town administrator shall receive such compensation for their services as the select board shall determine; provided, however, that such compensation shall not exceed the amount appropriated therefor by the town.

Section 7. Any vacancy in the office of town administrator shall be filled as soon as possible by the select board. Pending the appointment of a town administrator or the filling of any vacancy, the select board shall, within 7 days, appoint an officer of the town or another suitable person to perform the duties of the office.

Section 8. The town administrator may designate, subject to the approval of the select board, by letter filed with the town clerk, an officer of the town or another suitable person to perform the duties of administrator during the town administrator's temporary absence or disability. In the event of failure by the town administrator to make such designation, the select board may, by resolution, designate an officer of the town or another suitable person to perform the duties of the administrator until the town administrator shall return or their disability shall cease.

Section 9. The select board may remove the town administrator. Not less than 30 days before such proposed removal shall become effective, the select board shall adopt, at a public meeting, and shall file with the town clerk a written preliminary resolution of removal, a copy of which resolution shall be delivered to the town administrator in person or at the administrator's last known mailing address.

Section 10. The town administrator shall appoint all town officials whose appointment or election is not specifically provided for herein. The town administrator shall appoint, with the majority approval of the select board, and may remove, with the majority approval of the select board, all department heads, officers and subordinates and employees for whom no other method of appointment is provided in this act, except persons serving under other appointments made by representatives of the commonwealth. Appointments to permanent positions made by the town administrator shall become effective on the fifth day following the day the notice of appointment is filed with the select board, unless the select board, within that period, by a majority vote of the board, votes to reject any such appointment.

Any person appointed by the town administrator to any town office under the provisions of this act or any general or special law shall be eligible during the term of said office to hold any other town office; provided, however, that the town accountant shall not be eligible to hold the position of town treasurer or town collector. The town administrator, subject to any applicable provision of the General Laws relating thereto, may, with the approval of the select board, assume the duties of any office, which the town administrator is authorized to fill by appointment, but shall not receive additional compensation for assuming the duties of any such additional office.

Section 11. In addition to the specific powers and duties provided in this act, the town administrator shall have the following general powers and duties:

(a) The town administrator shall attend all regular meetings of the select board except meetings at which the town administrator's removal is being considered, shall attend all town meetings and shall be permitted to speak when recognized by the moderator.

(b) The town administrator shall be the chief financial officer of the town. Warrants for the payment of town funds prepared by the town accountant in accordance with the provision of section 56 of chapter 41 of the General Laws shall be submitted to the town administrator. The approval of any such warrants by the town administrator shall be sufficient authority to authorize payment by the town treasurer; provided, however, that the select board shall approve all warrants in the absence of the town administrator or in the event of a vacancy in the office of town administrator.

(c) The town administrator shall be the chief budget officer of the town and shall prepare and submit to the select board an operating and capital improvement budget as provided by by-law.

(d) Except as otherwise provided by this act, the town administrator shall appoint upon merit and fitness alone and may remove all officers and employees of the town at will with 7-days notice in writing.

(e) The town administrator shall keep the select board fully advised as to the needs of the town and shall recommend to the board for adoption such measures requiring action by the board or by the town meeting as the town administrator may deem necessary or expedient.

(f) The select board shall have jurisdiction over the rental and use of all town property.

(g) The town administrator shall be responsible for the purchase of all supplies and materials and equipment, except those intended for the school department or for the library, and shall approve the award of all contracts for all departments of the town; provided, however, that the town administrator may make purchases for departments not under their supervision only upon and in accordance with requisitions duly signed by the heads of such departments.

(h) The town administrator may, upon the request and with the approval of the select board, prosecute, defend or compromise all litigation to which the town is party and shall be the executive officer of a public employer in the town as defined in section 1 of chapter 258 of the General Laws pertaining to the processing of claims against the town.

(i) The town administrator shall be the agent of the select board for collective bargaining.

(j) The town administrator shall be responsible for the implementation of town meeting votes and shall annually report in writing to the town meeting on the implementation of prior town meeting votes.

(k) The town administrator shall be accessible and available for consultation to boards, committees and commissions of the town, whether appointed or elected, and shall be responsive to their request for assistance.

(l) The town administrator shall keep full and complete records of the town administrator's office and shall provide quarterly reports to the select board.

(m) The town administrator, with the unanimous approval of the members of the select board and in accordance with the provisions of this act and the General Laws, may reorganize, consolidate or abolish departments or offices under the town administrator's direction and supervision, may establish, in whole or in part, such new departments or offices as the town administrator deems necessary and may transfer the powers and duties of 1 department or office to another.

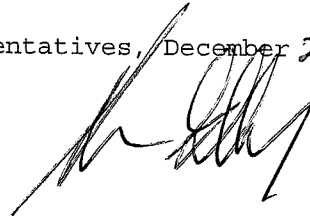
(n) The town administrator shall perform such other duties as may be required of the town administrator by by-law, vote of the select board or vote of the town meeting.

Section 12. The town administrator may without notice cause to be examined the affairs of any department under the town administrator's supervision or the job-related conduct of any officer or employee thereof. The town administrator shall have access to all town books and papers for information necessary for the proper performance of their duties.


SECTION 2. This act shall take effect upon its passage.

House of Representatives, December 29, 2022.

Passed to be enacted,

 , Speaker.  
In Senate, December 29, 2022.

Passed to be enacted,

 , President.

 , 2022.<sup>3</sup>  
Approved,  
at 3 o'clock and 10 minutes, P. M.

  
Governor.