

SENATE No. 1962

The Commonwealth of Massachusetts

PRESENTED BY:

Richard J. Ross

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 creating a town administrator in the town of Plainville.

PETITION OF:

NAME:

Richard J. Ross

Shawn Dooley

DISTRICT/ADDRESS:

Norfolk, Bristol and Middlesex

9th Norfolk

SENATE No. 1962

By Mr. Ross, a petition (accompanied by bill, Senate, No. 1962) of Richard J. Ross and Shawn Dooley (by vote of the town) for legislation to create a town administrator in the town of Plainville. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act creating a town administrator in the town of Plainville.

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. (a) There shall be in the town of Plainville a town administrator with the
2 powers and duties set forth in this act. The town administrator shall have the appropriate
3 education, training and administrative experience and shall have at least 3 years of experience in
4 public administration: (i) as a city or town administrator; (ii) as an assistant city or town
5 administrator; or (iii) in a position with substantially similar functions as a city or town
6 administrator or an assistant city or town administrator.

7 (b) The town administrator shall be a full-time position. The town administrator shall not
8 hold any other elective or appointive office and shall not engage in any other business unless it is
9 approved in advance in writing by the board of selectmen.

10 (c) The board shall at least annually evaluate the performance of the town administrator
11 and shall designate 1 member of the board to prepare a fair and concise summary of the
12 evaluation process and results. The summary shall be a public record.

13 SECTION 2. (a)(1) Upon a vacancy in the office of town administrator because of
14 resignation, removal or otherwise, the board of selectmen of the town of Plainville shall
15 immediately appoint a screening committee to solicit, receive and evaluate applications for the
16 office of town administrator. In seeking applications, the screening committee shall require that
17 all candidates satisfy the minimum qualifications required by town by-laws or as set forth in the
18 job description for town administrator as it may exist from time to time.

19 (2) The screening committee shall recommend to the board a minimum of 3 qualified
20 candidates and a maximum of 6 qualified candidates. After receiving the recommendations of
21 the screening committee, the board shall appoint a town administrator from the recommended
22 candidates for a term of up to 3 years; provided, however, that the board shall not be required to
23 appoint any of the recommended candidates and may request that the screening committee
24 continue the screening process or shall appoint a new screening committee to continue the
25 screening process.

26 (b) Pending appointment of the town administrator pursuant to subsection (a), the board
27 shall within a reasonable period of time appoint an interim town administrator to perform the
28 duties of the town administrator. The interim town administrator may serve for 90 days;
29 provided, however, that the board may extend the appointment for not more than 2 additional 90-
30 day periods if a permanent town administrator has not yet assumed the duties of the town
31 administrator or, if the search for a permanent town administrator is actively ongoing, for
32 additional 90-day periods as needed after discussion and vote at an open meeting for which the
33 matter appears on the meeting notice posted pursuant to section 20 of chapter 30A of the General
34 Laws.

35 (c) The town administrator may, by a letter filed with both the board and the town clerk,
36 designate a qualified officer of the town to serve as the interim town administrator who shall
37 perform the duties of the town administrator during a temporary absence or disability. If the
38 temporary absence or disability exceeds 14 days, a designation of an interim town administrator
39 made by the town administrator shall be subject to the approval of the board. If the town
40 administrator fails to make the designation or if the designated person is unable to serve for any
41 reason or is considered not qualified by the board, the board may designate some other qualified
42 person as the interim town administrator to perform the duties of the town administrator until the
43 town administrator returns to the office.

44 SECTION 3. The town administrator shall receive compensation for services as
45 determined by the board of selectmen of the town of Plainville; provided, however, that the
46 compensation shall be within the limits of available appropriations. The board may enter into a
47 contract with the town administrator pursuant to section 108N of chapter 41 of the General Laws
48 for a period of time to provide for the salary, fringe benefits and other conditions of employment
49 including, but not limited to, severance pay, relocation expenses, reimbursement for expenses
50 incurred in the performances of duties or office, liability insurance and leave.

51 SECTION 4. (a) Notwithstanding any general or special law to the contrary, the town
52 administrator of the town of Plainville shall, based upon merit and qualifications, appoint all
53 town employees except employees of the school department. The appointments shall become
54 effective not later than 15 days following appointment; provided, however, that the board of
55 selectmen may vote to reject the appointment. The town administrator shall consider
56 appointment of departmental employees after seeking where appropriate the input or
57 recommendation of the respective department head or multiple-member board.

58 (b) Notwithstanding section 108A of chapter 41 of the General Laws and subject to any
59 applicable collective bargaining agreements, individual employment contracts or town personnel
60 by-laws, the town administrator or a designee shall be responsible for the classification,
61 assignment, promotion, discipline, discharge or layoff of all town employees except employees
62 of the school department.

63 (c) Subject to any applicable collective bargaining agreements, individual employment
64 contracts or town personnel by-laws, policies established by each multiple-member body derived
65 directly from and adopted to carry out their respective statutory authority shall be applicable to
66 employees appointed by the town administrator; provided, however, that the employees shall be
67 subject to administrative policies and procedures applicable to all employees.

68 SECTION 5. The town administrator shall be the chief administrative officer of the town
69 of Plainville and shall be responsible to the board of selectmen for the proper operation of town
70 affairs for which the town administrator is given responsibility under this act. The powers, duties
71 and responsibilities of the town administrator shall include, but not be limited to:

72 (i) supervising, directing and being responsible for the efficient administration of all
73 employees appointed by the town administrator and their respective departments and of all
74 functions for which the town administrator is given responsibility, authority or control;

75 (ii) administering, either directly or through persons supervised by the town
76 administrator, general and special laws applicable to the town, town by-laws and all regulations
77 established by the board;

78 (iii) coordinating all activities of town departments under the direction of the board
79 and the town administrator with the activities of departments under the control of officers, boards
80 or commissions elected directly by the voters of the town;

81 (iv) keeping the board fully informed as to the needs of the town and recommending
82 to the board for adoption any measures requiring action by the board or by the town as the town
83 administrator considers necessary or expedient;

84 (v) ensuring that complete and full records of the financial and administrative activity
85 of the town are maintained and rendering reports to the board as may be required;

86 (vi) administering personnel policies, practices or rules and regulations, any
87 compensation plan and any related matters for all municipal employees and administering all
88 collective bargaining agreements entered into by the town except for school department
89 agreements;

90 (vii) fixing the compensation of all town employees appointed by the town
91 administrator within the limits established by appropriation and any applicable compensation
92 plan;

93 (viii) negotiating all contracts with town employees over wages and other terms and
94 conditions of employment except employees of the school department consistent with direction
95 from the board; provided, however, that the town administrator may, subject to the approval of
96 the board of selectmen, employ special counsel to assist in the performance of these duties; and
97 provided further, that all collective bargaining agreements negotiated under this section shall be
98 subject to the ratification of the board;

99 (ix) preparing and submitting an annual operating budget and capital improvement
100 program;

101 (x) keeping the board and the finance committee fully informed as to the financial
102 condition of the town and making recommendations to the board and other elected and appointed
103 officials as the town administrator considers necessary or expedient;

104 (xi) investigating or inquiring into the affairs of any town department or office under
105 the supervision of the town administrator or the job related conduct of any officer or employee of
106 the town administrator or delegating the authority to another person;

107 (xii) performing other duties as necessary or as may be assigned by charter, by-law,
108 town meeting vote or the board.

109 (xiii) developing, implementing and overseeing an annual performance review
110 procedure for department heads; provided, however, that performance evaluations for all other
111 employees shall be developed and implemented with assistance where appropriate from the
112 respective department head or multi-member board or committee.

113 (xiv) appointing, in the event that a particular town office is changed from elected to
114 appointed whether under sections 1B or 21 of chapter 41 of the General Laws or any other
115 general law, any newly created appointed position under subsection (a) of section 4; provided,
116 however, that notwithstanding any other provision of this act or any other general or special law
117 to the contrary, the elected incumbent holding office on the effective date of a change in the
118 manner of selection from elected to appointed shall be considered the first appointee to the
119 position and shall hold office for an indefinite term or the incumbent's sooner resignation,

120 retirement or removal or, if authorized by town meeting, until a permanent appointment is made
121 under this clause and said subsection (a) of said section 4.

122 SECTION 6. A person holding the office of town administrator as provided in section
123 23A of chapter 41 of the General Laws as of the effective date of this act shall, in the absence of
124 a contract that provides otherwise, be considered an interim town administrator pursuant to
125 subsection (b) of section 2.

126 SECTION 7. This act shall take effect upon its passage.