

MMA Website: Ask the MMA

Do town managers in different towns have roughly the same authority?

Thursday, August 30, 2007

Q: Does a town manager or a town administrator in one town have roughly the same authority as his or her counterpart in another town?

A: Because neither title is defined by state law, a town manager or town administrator in one town will not necessarily have the same authority as a person with the same title in another town.

Distinctions among the powers of town administrators are particularly noteworthy, due to a 1996 amendment to the 1956 law that enabled the creation of an executive secretary position (Chapter 41, Section 23a). Until 1996, town administrator positions, like those of town managers, were created through a home rule charter or special act of the Legislature. Executive secretary positions, by contrast, could be created through a town bylaw. The 1996 amendment, drafted by attorney D.M. Moschos of the firm Mirick O'Connell, gave towns the right to use "town administrator" as an alternative title to "executive secretary."

The amendment reflected the sense that the title of executive secretary did not convey the authority the position is invested with. Since the new law went into effect, the number of Massachusetts towns with executive secretaries has declined from 55 to 13. Moschos says the change to the law has created two categories of "town administrator"—those with powers similar to a town manager's, and those who have the more restricted powers of an executive secretary.

Town managers, and town administrators whose positions were created through the charter process rather than through a bylaw, are granted what Moschos describes as "sovereign authority"—the power to make appointments and prepare budgets. Town administrators who prior to 1996 would have been referred to as executive secretaries serve as agents of their boards of selectmen, which retain hiring and budget-making authority.

According to Moschos, the more meaningful distinction today is whether the top government official in a town functions as a "chief executive officer" or as a "chief administrative officer." As chief executive officer, Moschos says, the person "determines the town's priorities and the execution of the policies of the board of selectmen without [the board] overseeing him or her." A CEO has the authority to enter into collective-bargaining agreements and purchasing contracts. In a town in which the top municipal official serves as a chief administrative officer, final authority for such decisions rests with the board of selectmen.

Moschos says he knows of no instance where a town administrator in Massachusetts is granted chief executive officer powers. But he says that some recent charters limit the authority of the town manager to that of a chief administrative officer.

What are the sizes of boards of selectmen in Massachusetts, and how many of each?

Monday, June 30, 2003

Q: What are the sizes of boards of selectmen in Massachusetts, and how many of each are there?

A: Boards of selectmen in Massachusetts' 301 towns comprise three, five or seven members. Wakefield has the only seven-member Board of Selectmen in the state. More common are five-member boards, found in 130 towns, and three-member boards, found in 170 towns. All told, there are 1,167 selectmen serving in Massachusetts.

This spring Groton increased the size of its Board of Selectmen from three members to five. In 2004, Canton and Duxbury will also expand their boards of selectmen to five members.

How would a town change elected position to appointed without special legislation?

Tuesday, June 01, 1999

Q: How would a town go about changing an elected position to appointed now that state law allows such a change without special legislation?

A: Chapter 149 of the Acts of 1997 allows towns to convert officers or boards elected pursuant to Chapter 41, Section 1, with the exception of selectmen and school committee members, to appointed officers by majority vote of both town meeting and the electorate at an annual town election. Each position must be changed by a separate vote. The annual or special town meeting vote must be held at least sixty days before the proposed change is placed on the annual town election ballot. The law specifies the language that must appear on the ballot. Once an elected position is converted to appointed, the incumbent continues to hold office and perform his or her duties until either the expiration of the elected term or the appointment of another person to the office, whichever is later. Under Chapter 41, the appointing authority is the board of selectmen unless another provision of law applies. Chapter 149 can affect town clerks, treasurers, tax collectors, assessors, auditors, sewer commissioners, road commissioners, highway surveyors, tree wardens, constables, and board of health members. Any municipal charter provision or special act of the Legislature addressing such a change from elected to appointed would take precedence.

Does state law define the position of town manager?

Tuesday, June 01, 1999

Q: Does state law define the position of town manager?

A: No. According to the Department of Housing and Community Development, towns define the position by the job description included in the town's home rule charter, special act charter, or special act creating the town manager position. State law briefly describes one type of municipal management position, "executive secretary or town administrator" (M.G.L. Ch. 41, Sect. 23A). This statute was amended in 1996 to include "town administrator." While there are references to "town manager" in several places in the General Laws, they do not constitute a definition of the position.