

Local Government Organizational Structure

Introduction

Whether you're considering adopting the town manager form of government, looking to hire someone to handle just some of the day-to-day operations of the town, or reconsidering your town government's organizational structure altogether, it is important to understand the legal and practical differences between a town manager and a town administrator.

The biggest difference between a town manager and town administrator is that a town manager isn't just another position in the local government employment organizational chart, it's its own unique form of government. A town manager represents a shift in the statutory organizational structure of town government from the selectboard to the town manager model.

Regardless of which one a town chooses – town manager or administrator – the respective relationships with their selectboards will only work if there is clear communication. It's important for both selectboards and managers/administrators to understand their own and the other's role and responsibilities.

Importance of Assessment

We suggest that if a selectboard has identified the need for additional administrative assistance, a helpful next step would be to determine the types of functions and level of expertise necessary to accomplish its goals. This assessment may also inform whether the town manager form of government or a town administrator would best suit the town. While town officials can collect information on necessary tasks, in some cases it's helpful to enlist additional assistance to conduct this assessment.

Learning directly from selectboards and town managers and town administrators about their experiences, procedures and relationships is also recommended for practical information to help evaluate which of these different organizational structures may be most beneficial to the town.

Additional Municipal Assistance Center Resources

This document is one of several resources VLCT's Municipal Assistance Center offers members on this topic (as well as others). Contact us for information about training, to discuss ideas for assessing your town's needs as well as with specific legal questions for our staff attorneys by accessing the Municipal Access Portal, emailing [info @vlct.org](mailto:info@vlct.org) or calling 802-229-9111 or 800-649-7915.

Status Statewide

As of early August 2023, 95 municipalities employ either a town manager or town administrator. According to VLCT's 2022 Municipal Compensation and Benefits Report, there appears to be a correlation between the size of a town's population and whether it employs the services of a town manager or administrator. Of the 68 respondents, those municipalities with a population over 5,000 almost exclusively retain the services of a municipal manager (16 vs. 3) while those with less than 5,000 inhabitants appear evenly split between the two (25 vs. 24). Regarding experience, on average, town managers tend to have more total municipal experience compared to town administrators (17.26 vs. 11.12 years) as well as more management experience (14.39 vs. 10.72 years).

Selectboard Default Statutory Structure

While the state and federal governments each have three separate and distinct branches of government – legislative, executive, and judicial – local government in Vermont is unique in

the sense that in its basic default form, the selectboard, occupies all three roles, sometimes all at the same meeting. A selectboard's legislative authority includes its ability to make, amend, and repeal local laws. Municipal authority to make law is narrowly defined by statute. A town may not enact an ordinance unless the State has expressly granted it the authority to adopt local legislation on the subject. A selectboard's executive powers are those related to its administration and management of the town and the enforcement and execution of its laws and policies. A selectboard's judicial authority - or more accurately its quasi-judicial authority - is its power to act "like a court." Though selectboards are not judges in the eyes of the law, there are discrete instances in which it asks them to sit in judgment of the legal rights of parties like a court. Selectboards serve in this capacity when they hold vicious dog hearings; hear tax assessment appeals as members of the Board of Civil Authority; or when they lay out or discontinue roads.

The basic, default statutory organizational structure of local government in Vermont is relatively flat with the selectboard overseeing most of the town's employees and appointed officials, and the rest of local government comprised of elected officials operating independently of one another. *Town of Bennington v. Booth*, 101 Vt. 24 (1928). The independence of elected officials creates a separation of powers that has the potential to lend itself to operational dysfunction. Cooperation amongst them therefore is crucial for town government to function. Given their broad powers, including their responsibility for the general supervision of the affairs of the town, it is the legislative body (e.g., selectboard, city council, trustees, etc.) that the voters often look to when local government doesn't function well.

The authority of the selectboard itself derives from the State. Its powers and duties are extensive and while some are very specific and narrow in application (e.g., to levy impact fees, borrow money on behalf of the town, etc.) others exist that, due to the breadth of its responsibilities, are, by necessity, quite broad. One such statute provides that "(t)he selectboard shall have the general supervision of the affairs of the town and shall cause to be performed all duties required of towns and town school districts not committed by law to the care of any particular officer." 24 V.S.A. § 872(a). More than just a catch-all grant of authority, this provision of law notably reads that the selectboard must "*cause to be performed . . .*" the duties referenced therein. (Emphasis added). These words represent an explicit grant of authority to the selectboard to do what is necessary to execute State law, including employing those it deems necessary to aid in the exercise of its powers and the performance of its duties. This ability to employ assistance can also be said to be implied or incident to the

selectboard's express powers or essential to its declared objectives and purposes. (Note: The Vermont Supreme Court has "consistently adhered to the so-called Dillon's Rule that a municipality has only those powers and functions specifically authorized by the legislature, and such additional functions as may be incident, subordinate or necessary to the exercise thereof." *Petition of Ball Mountain Hydroelectric Project*, 154 Vt. 189 (1990)). Common hires in furtherance of these goals include road crew employees, administrative assistants, bookkeepers, and town administrators.

Whether it adopts the town manager form of government or hires a town administrator, the selectboard will still retain its legislative and judicial responsibilities.

In contrast, a common attribute of the town manager form of government is that it is more efficient and responsive because there's one person making the day-to-day decisions. When a town adopts the town manager form of government, it alters its organizational structure by inserting a new level of administration (i.e., the town manager) between the selectboard and the town's employees. The town manager becomes the "administrative head of all departments of the town government" and is "responsible for the efficient administration thereof." 24 V.S.A. § 1235. This form of government vests most of the administrative and management functions in a professional manager who reports directly to the selectboard.

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If you have additional questions please use the ask a question button to submit them.

Ask a Question