

If the amended Article 3 proposed at this election is not adopted the term "county executive" used in this Article shall be understood to mean the "board of county commissioners".

In order to achieve the overlapping terms for county councilors, as provided in section 2-1(c) the county clerk shall certify the three candidates receive the highest number of votes in the even numbered districts and the three candidates receive the highest number of votes in the ~~even~~ odd numbered districts, at the first election held under these provision, to be elected to a four year term the other five candidates elected shall be certified as receiving two year terms.

Transitional provisions

1 County councilors shall be considered successors to the assembly of delegates and service as a delegate shall be construed as service on the county council and the salary and benefits received by delegates shall, initially, be the salary and benefits received by councilors.

SECTION 2. Article 3 of the Barnstable county charter, as appearing in chapter 183 of the acts of 1988, , is hereby amended by striking out the full text of said Article 3 and inserting in its place the following new article 3:-

ARTICLE 3
EXECUTIVE BRANCH

SECTION 3-1: County Executive

(a) County Executive - The executive powers of Barnstable county shall be exercised by a county executive. A county executive shall be elected for a term of four years at alternate biennial state elections.

(b) Compensation - The county council shall, by ordinance, establish an annual salary for the county executive. The salary shall be reasonable and commensurate with the duties of the office and may not be lowered during a term of office. No ordinance changing the salary for the county executive shall be effective unless it has been adopted during the first fifteen months of the term for which county councilors are elected and it provides the new rate of compensation is to be effective upon the reorganization of the county government in January of the year following the biennial state election.

SECTION 3-2 Executive Powers

The executive powers of the county shall be vested solely in the county executive and may be exercised either directly by such officer, or through the several county agencies under its direction

and supervision. The county executive shall cause this charter, the laws and the ordinances and orders for the government and administration of the county to be enforced.

The county executive shall exercise a general supervision and direction over all county agencies, unless otherwise provided by law. Each county agency shall furnish to the county executive, forthwith when so requested, any information, materials or otherwise as the county executive may request and as the needs of that office and the interest of the county may require.

SECTION 3-3 Powers and Duties

The county executive shall have, possess and may exercise all the powers, rights and duties commonly associated with the office of chief executive officer of a local governmental unit. The powers and duties of the county executive shall include, but are not limited to, the following:

- (a) Prepare and submit, simultaneously to the county council and to the advisory board on county expenditures, an annual operating budget, and a capital outlay budget, as provided in Article 5.
- (b) Supervise the care and custody of all county property, institutions and agencies;
- (c) Supervise the collection of all county revenues and the disbursement of all county funds;
- (d) Supervise the selection of the depositories for all county funds.
- (e) Keep the assembly of delegates and the public fully informed as to the financial and administrative condition of the county by filing reports with the county council, at least semi-annually, summarizing such condition.
- (f) To make at any time such recommendations to the county council for actions required to be taken by it as the county executive deems necessary for the improvement of the county and the welfare of its residents.
- (g) Sign all deeds, contracts, bonds or other instruments requiring the consent of the county.
- (h) At any time to inquire into the conduct of office or performance of duty of any county officer, department head or employee.
- (i) The identification of emergency situations;
- (j) The declaration of emergencies;
- (k) Designation of newspapers to be used to give notice of county matters to the public;

SECTION 3-4: Delegation by County Executive

The county executive may authorize the county administrator, or any subordinate officer or employee of the county to exercise any power, function or duty assigned by this charter to the county executive provided, however, that all acts which are performed under any such delegation shall be deemed to be the acts of the county executive.

SECTION 3-5: Appointments by County Executive

The county executive shall appoint and in appropriate circumstances may remove, subject to the provisions of any collective bargaining agreements as may be applicable, all county officers, department heads, members of multiple member bodies and all county employees for whom no other method of selection is provided by this charter.

SECTION 3-6: Temporary Appointments to County Office

Whenever any vacancy occurs in a county office whether temporary or permanent and the needs of the county require that such office be filled, county executive may designate the head of some other county office or agency or a county officer or employee to perform the duties of the office on a temporary or acting basis until such time as the incumbent resumes the duties of the office or the position has been filled in the manner provided by this charter, or by county ordinance.

SECTION 3-7: Communications: Special Meetings

(a) Communications to County Council

Annually, at the first regular business meeting of the county council held in each calendar year the county executive shall in person, or in writing, submit to the assembly of delegates a report on the state of the county including an indication of such plans and proposals for changes in county programs and services as the county executive intends to propose during the ensuing year. The county executive shall, from time to time throughout the year, in person, or in writing, submit to the county council specific proposals to be considered for adoption by the county council as the county executive deems to be necessary or desirable.

(b) Special Meetings of the County Council

The county executive may at any time and for any purpose call a special meeting of the county council by causing a notice of such meeting to be delivered in hand or to the place of residence or of business of each member of the county council. Except in cases of special emergency, of which the county executive shall be the sole judge, such notice shall be delivered at least seventy-two hours in advance of the time set and public notice shall be given as otherwise required by this charter or by law.

SECTION 3-8: Approval of the County Executive, Exception

Every order, ordinance, resolution or other vote of the county council pertaining to the business and affairs of the county (but not including matters relating to the internal affairs of the county council or resolutions merely stating an opinion of the county council) shall forthwith following its adoption be presented to the county executive. If the county executive approves of such measure, the signature of the county executive shall be affixed to the said measure and it shall, subject to the provisions of article 7, be deemed to be in effect. If the county executive disapproves of such

measure, the county executive shall within ten days following the date the approved copy of the measure is filed in its office return the measure to the county council with specific reasons for such disapproval, in writing, attached thereto.

The county council shall upon receipt of notice of disapproval from the county executive forthwith reconsider the measure. If the county council shall, notwithstanding the objections of the county executive, by a vote of its members representing two-thirds of the population of Barnstable county, taken by roll call vote, again pass the measure, the measure shall, subject to the provisions of article 7, be deemed to be in effect.

If the county executive has not signed nor returned a measure adopted by the county council to the county council within ten days following its receipt, said measure shall, subject to the provisions of article 7, be deemed to be in effect at the expiration of such time notwithstanding such failure by the county executive. If the county council has not acted upon a message of disapproval filed with it by the county executive within fourteen days of such filing the measure shall be deemed to have been rejected by the county council at the expiration of such period.

SECTION 3-9: Vacancy in Office of County Executive

If a vacancy occurs in the office of county executive during the term for which such office is chosen the county council shall order the office to be filled at the next regular biennial state election to be held one hundred and twenty or more days following the date such vacancy occurs.

Forthwith when a vacancy in the office county executive occurs, the county council shall act to temporarily fill such vacancy by electing some suitable person, who shall serve in such office until a successor is chosen at the next biennial state election. Upon the election of a successor by the voters, such person shall forthwith assume the duties of the office and shall serve as county executive for the period between the election and the organization of the government on the first business day in January following, in addition to the term for which elected.

Nothing in this section shall be deemed to prevent a member of the county council from being chosen to serve as temporary county executive or from being a candidate for the office of county executive.

Whenever a member of the county council becomes the temporary county executive pursuant to this provision, a vacancy shall be deemed to exist on the county council from the district such person had represented.

SECTION 3-10: County Administrator, Qualifications, Term of Office; Compensation

(a) Appointment, Qualifications, Term of Office - The chief administrative officer of the county shall be a county administrator, who shall be appointed by the county executive to serve for an indefinite term. The county administrator shall be a person especially fitted by education, training and experience in public administration to perform the duties of the office. The county administrator need not be a resident of Barnstable county at the time of appointment to the office but, the county administrator shall establish a residence in the county within a reasonable time.

The county administrator shall devote full time to the office and shall hold no other public office, elected or appointed, except as an unpaid member of a municipal multiple member body, nor be actively engaged in any other business, occupation or profession while serving as county administrator.

(b) Compensation - The county executive shall fix the compensation of the county administrator within the sum appropriated for that purpose, annually. The salary shall be reasonable and commensurate with the duties of the office and may not be lowered during the tenure of an incumbent.

(c) Administrative Powers - The county administrator shall exercise a general supervision and direction over all county agencies, unless otherwise provided by law. Each county agency shall furnish to the county administrator, forthwith when so requested, any information, materials or otherwise as the county administrator may request and as the needs of that office and the interest of the county may require.

SECTION 3-11: Powers and Duties

The county administrator shall have, possess and may exercise all the powers, rights and duties commonly associated with the office of chief administrative officer of a local governmental unit. The powers and duties of the county administrator shall include, but are not limited to, the following:

(a) To prepare and submit to the county executive for consideration and further action an annual operating budget, and a capital outlay budget, as provided in article 5.

(b) To establish the schedules and procedures to be followed by all county departments, offices and agencies in connection with their budgets and supervise and administer all phases of the budgetary process following adoption of the budget by the assembly of delegates and throughout the fiscal year.

(c) To be responsible for the conduct of all negotiations with county employees concerning wages, hours and other conditions of employment and the negotiation of all other contracts proposed to be entered into by the county.

(d) To develop, install and maintain centralized procedures applicable to all county agencies, including, but not limited to purchasing, budgeting and personnel administration.

(e) To be responsible for recommending personnel actions to the county executive including the appointment and removal of officers and employees appointed by the county executive.

(f) To keep the county executive, the county council and the public fully informed as to the financial and administrative condition of the county by filing reports with the county council, at least semi-annually, summarizing such condition.

- (g) To make at any time such recommendations to the county executive for actions required to be taken by the county executive as the county administrator deems necessary for the improvement of the county and for the welfare of its residents.
- (h) To review and make recommendations to the county executive concerning all contracts, bonds or other instruments requiring the consent of the county.
- (i) To review, analyze and forecast trends of county services, programs and finances and make such recommendations to the county executive, department heads and other personnel affected as the county administrator shall deem necessary, desirable or expedient.
- (j) To inquire at any time into the conduct of office or performance of duty of any county officer, department head or employee.
- (k) To require any county agency to prepare and to submit such reports, records and summaries of operations and activities as may be necessary to assist in the proper administration of the county.
- (l) To perform any other duties as may be required to be performed by the county administrator by this charter, by county ordinance or by other direction from the county executive.

SECTION 3-13: Delegation of Authority

The county administrator may authorize any subordinate officer, department head or employee of the county to exercise any power, function or duty assigned by this charter to the county administrator provided, however, that all acts which are performed under any such delegation shall be deemed to be the acts of the county administrator.

SECTION 3-14: Acting County Administrator

- (a) Temporary Absence - The county administrator shall by letter filed with the county clerk, designate a qualified county officer, department head or employee to exercise the powers and perform the duties of county administrator during a temporary absence.
- (b) Vacancy - Any vacancy in the office of county administrator shall be filled as soon as possible by the county executive but pending such appointment the county executive shall designate a qualified county officer, department head or employee to perform the duties of the county administrator on an acting basis, or, may appoint a qualified retired county officer, department head or employee to serve as acting county administrator. The appointment of an acting county administrator shall be for a term not to exceed three months, provided however, one renewal thereof, not to exceed an additional three months, may be made.
- (c) Powers and Duties - The powers of a temporary or acting county administrator, under (a) or (b) above, shall be limited to matters not admitting of delay and shall include authority to make temporary, emergency appointments or designations, to county office or employment, but no appointments or designations of a permanent nature shall be made.

SECTION 3-15: Removal and Suspension

The county executive may, terminate and remove, or suspend, the county administrator from office in accordance with the following procedure:

- (a) The county executive shall issue a preliminary resolution of removal which must state the reason or reasons for removal. This preliminary resolution may suspend the county administrator for a period not to exceed forty-five days. A copy of the resolution shall be delivered to the county administrator forthwith.
- (b) Within five days after receipt of the preliminary resolution the county administrator may request a public hearing by filing a written request for such hearing with the county clerk. This hearing shall be held not later than thirty days after the request is filed, nor earlier than twenty days. The county administrator may file a written statement responding to the reasons stated in the resolution of removal provided the same is received at the office of the county clerk at least forty-eight hours in advance of the public hearing.
- (c) The county executive may adopt a final resolution of removal, which may be made effective immediately, not less than ten nor more than twenty-one days following the date of delivery of a copy of the preliminary resolution to the county administrator, if the county administrator has not requested a public hearing; or, within ten (10) days following the close of the public hearing if the county administrator has requested one. Failure to adopt a final resolution of removal within the time periods as provided in this section shall nullify the preliminary resolution of removal, and the county administrator shall, at the expiration of said time, forthwith resume the duties of the office.

The county administrator shall continue to receive a salary until the effective date of a final resolution of removal.

All authority and responsibility for such suspension or removal shall be in the county executive.

Amend Article 8, section 8-3 by striking out "board of county commissioners' and substituting "county executive".

The two county commissioners whose terms of office continue beyond the election at which the new article 3 is adopted, shall continue to serve for the balance of the then fiscal year, but their powers shall be limited and while it is hoped, and expected, they will continue to act in the best interest of Barnstable county they will do so in an advisory capacity to the county executive.

SECTION 3. The state secretary shall cause to be placed on the official ballot to be used in Barnstable county at the biennial state election to be held in the year two thousand and fourteen the following two questions:

1. "Shall section 1, relating to the legislative branch of the Barnstable county government , of an act passed by the general court in the year two thousand and fourteen entitled ' An act to amend the charter of Barnstable country', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative section one of said act shall take full effect, but not otherwise.

2. "Shall section 2, relating to the executive branch of the Barnstable county government , of an act passed by the general court in the year two thousand and fourteen entitled ' An act to amend the charter of Barnstable country', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative section one of said act shall take full effect, but not otherwise.

Section 10-5 Time of Taking Effect.

This charter shall not become fully effective until the first Wednesday in January in the year following the year in which this charter has been ratified by the voters of Barnstable county.

Upon its ratification by the voters, this charter shall become effective for the limited purposes as otherwise provided in this section:

(a) Forthwith following the enactment of this chapter, the secretary of the commonwealth shall cause to be prepared nomination forms for the office of county councilor in each of the 11 legislative districts to be established in Barnstable county for each town in Barnstable county to be elected at the state election in the current year. Nomination papers shall be issued by the said secretary to the several town clerks, along with a calendar indicating the dates on which nomination papers are to be returned, the time for review by boards of registrars of voters in said towns and the final date by which each such the town clerk shall certify to the said secretary the names and addresses of candidates to be listed on the state election ballot.

Notwithstanding section 8-3, in the current year only, every nomination paper of a candidate for assembly delegate shall be submitted to the registrars of voters of the municipality where the signers appear to be voters on or before five o'clock post meridian of the fourteenth day preceding the day on which it must be filed with the county clerk. The names of candidates for assembly delegate shall not be included on the ballots at the state primary election to be held in September.

(b) County councilors shall be deemed to be successors to the members of the assembly of delegates. Until such time as the assembly of delegates shall act, in accordance with section 2-3, to establish a different level of compensation, each member of the assembly of delegates shall receive an annual salary of one thousand dollars.

(c) Until such time as the assembly of delegates shall act, in accordance with section 3-1(b), to establish a different level of compensation, each member of the board of county commissioners shall continue to receive the same salary as a member of such board as was in effect prior to the adoption of this home rule charter.

(d) Forthwith following the certification of the election results of the first election of delegates under this charter, the members elected shall be called together by the secretary of the commonwealth who shall present to each member a certificate of election, swear the members to the faithful performance of their duties and shall preside pending the temporary organization of the assembly of delegates. Forthwith following its temporary organization, the members of the first assembly of delegates shall provide for the preparation of temporary rules and regulations governing the conduct of its meetings, provide for temporary officers and committees, and shall initiate procedures governing its formal organization in January of the year following the year in which elected.

(d)[e] Notwithstanding the provisions of article 4 of this charter, the offices of county treasurer and register of deeds shall not be filled by appointment until the expiration of the term of office to be filled by another election for each such office next following the adoption of this charter; provided, however, that if following such election a vacancy shall occur in either of said offices for any reason the provisions of article 4 of this charter with respect to such office shall forthwith take effect.

(e)[f] Notwithstanding any provision of this charter to the contrary, the advisory committee on county expenditures, as currently established under the provisions of section twenty-eight B of chapter thirty-five, shall continue until the last day of June in the year following the year in which this charter is adopted by the voters. During the period following the inauguration of the first members of the assembly of delegates until the said last day of June the members of the advisory committee on county expenditures and the assembly of

delegates shall jointly exercise the appropriation and other fiscal powers of the county which are assigned to either of them. Public hearings on the proposed budget for the county as submitted by the board of county commissioners shall be held jointly, any committees or subcommittees established to investigate any portion or portions of the proposed budget shall consist of an equal number of members, casting equally weighted votes, from each such body. All votes taken shall require a vote of the combined bodies representing a majority of the population of Barnstable County times two. The speaker of the assembly of delegates and the chairperson of the advisory committee on county expenditures shall jointly preside at all such meetings and hearings, but, in the event of a disagreement between them, the ruling of the speaker of the assembly of delegates shall prevail.

SECTION 2. In Barnstable county, in addition to the excise imposed on deeds, instruments and writings pursuant to the provisions of section twenty-three of chapter sixty-four D of the General Laws and chapter five hundred and forty-six of the acts of nineteen hundred and sixty-nine, the Barnstable county assembly of delegates with the approval of the Barnstable county board of county commissioners may adopt an additional excise on such deeds, instruments and writings filed with the register of deeds of said county at a rate up to but not exceeding the rate imposed by the commonwealth under such statutes. The revenue provided by this additional excise shall be retained by Barnstable county. Provided, however, that the provisions of section four of chapter sixty-two F of the General Laws shall not apply to this section.

SECTION 3. The state secretary shall cause to be placed on the official ballot to be used in Barnstable county at the biennial state election to be held in the year nineteen hundred and eighty-eight the following question: "Shall an act be passed by the general court in the year nineteen hundred and eighty-eight entitled ' An act relative to a charter for the county of Barnstable', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative this act shall take full effect, but not otherwise.

SECTION 3. The state secretary shall cause to be placed on the official ballot to be used in Barnstable county at the biennial state election to be held in the year nineteen hundred and eighty-eight the following question: "Shall an act be passed by the general court in the year nineteen hundred and eighty-eight entitled ' An act relative to a charter for the county of Barnstable', be accepted?" If a majority of the votes cast in answer to said question is in the affirmative this act shall take full effect, but not otherwise.

SECTION 4. This act shall take effect upon its passage.
Approved July 16, 1988.