

Petition for Charter Changes submitted by Delegate Prentice A of D-5-4-16

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. The Cape Cod Regional government home rule charter, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out Articles 1-4 and inserting in place thereof the following section:

ARTICLE 2
LEGISLATIVE BRANCH

SECTION 2-1: COMPOSITION; TERM OF OFFICE; ELIGIBILITY; REGIONAL DISTRICTS

- (a) Composition - There shall be an Assembly of Delegates consisting of 5 members which shall exercise the legislative powers of the regional government. Members shall be nominated and elected by and from voters from 5 districts as described in section (d). A Finance Advisory Committee which shall be appointed by municipalities by the Board of Selectman and in Barnstable the Town Council to represent all 15 Barnstable County Towns that make up Barnstable County.
- (b) Term of Office – Commissioners shall be elected for terms of two years each at the biennial state election. The term of office for Commissioners shall begin on the first business day in January in the year following the year in which elected and shall continue until their successors have been chosen and qualified.
- (c) Eligibility - Any voter of the regional district from which election is sought shall be eligible to hold the office of commissioner who at the time of election has been a resident of Barnstable county for a period of one year or more. A Commissioner who during a term of office moves from the municipality from which elected shall forthwith be deemed to have resigned and the office shall be declared vacant by the remaining members of the assembly of delegates.
- (d) Regional Districts – The voting wards of the 15 constituent municipalities of the regional government shall be grouped into 5 regional districts as follow:
 - (i) District 1 is comprised of (Town) voting wards ____ .
 - (ii) District 2 is comprised of (Town) voting wards ____ .
 - (iii) District 3 is comprised of (Town) voting wards ____ .
 - (iv) District 4 is comprised of (Town) voting wards ____ .
 - (v) District 5 is comprised of (Town) voting wards ____ .
- (e) Municipal Finance Advisory Committee shall be appointed on a bi-annual basis through the appointment of the Board of Selectman or Council in Barnstable to meet no less than four times per year to review and make recommendations to the Assembly of Delegates. The Municipal Finance Advisory Committee shall receive all financial reports and meeting agendas electronically that the Assembly of Delegates receive. The Municipal Finance Committee shall meet at least two times per year with the Assembly of Delegates to discuss county finances.

SECTION 2-2: CHAIRMAN AND VICE-CHAIRMAN; DUTIES; CLERK

- (a) Chairman and Vice-Chairman - At its organizational meeting each January, the Assembly of Delegates shall select one of its members to serve as chairman and one to serve as vice-chairman for the year. They shall be called to order by the member present who is senior in years of service as a member of the Assembly of Delegates, who shall preside; if two or more members have equal lengths of service the member present senior in both age and years of service shall preside. The chairman shall preside over board meetings during his/her tenure, and in his/her absence, the vice-chairman shall preside.
- (b) Powers and Duties - Except as is otherwise provided by law, or this charter, all legislative powers of the Cape Cod regional government shall be vested in the Assembly of Delegates which shall provide for the exercise of all powers and the performance of all duties imposed upon the county in a manner consistent with the provisions of this charter. The Finance Advisory Committee to serve in conjunction with the Cape Cod Regional Government shall consist of the persons appointed from each town to serve as members of the regional assembly of delegates.
- (c) Clerk of the Assembly of Delegates - The clerk of the Assembly of Delegates shall give notice of all meetings of the Assembly of Delegates to its members and to the public, keep a journal and other records of all of its proceedings and perform such other duties as may from time to time be assigned to the office by this charter, by ordinance, or by other vote of the Assembly of Delegates. The clerk of the Assembly of Delegates may be the county clerk. The clerk of the Assembly shall be deemed a Cape Cod regional government employee and shall not be considered an elected official.

SECTION 2-3: PROHIBITIONS

- (a) No member of the Assembly of Delegates shall individually, or collectively, seek to influence the County Manager to dismiss, to appoint, or to promote any person to any position in the executive branch of the Cape Cod regional government.
- (b) Interference with Administration - No Assembly of Delegate shall give orders or directions to any employee of the Cape Cod Regional Government appointed by the County Manager, either publicly or privately. The members of the Assembly of Delegates shall deal with officers and employees of the Cape Cod regional government solely through the County Manager. All contact with employees, all actions and communications concerning the Cape Cod regional government, administrative activity and provisions of services shall be solely through the County Manager, except as is otherwise provided in this charter.

- (c) No member of the Assembly of Delegates, shall, during the term of office for which elected, or, within twelve months following the expiration of such term, hold any appointed compensation office, position or employment in or under the Cape Cod regional government.

SECTION 2-4: COMPENSATION

The members of the Assembly of Delegates shall receive a stipend of \$6000 per year, excluding health insurance benefits. No ordinance increasing or reducing the salary of the members of the Assembly of Delegates shall be effective unless it is adopted by a two-thirds vote of the full Assembly of Delegates. No ordinance increasing the salary of the Delegates shall be effective unless it is adopted during the first 18 months of the term for which the Assembly of Delegates is elected and it provides that the salary increase is to take effect upon the organization of the regional government following the next regular biennial state election.

SECTION 2-5: GENERAL POWERS; EXCEPTIONS; APPOINTMENTS

- (a) General Powers - Except as otherwise provided by the General Laws or by this charter, all powers of the county shall be vested in the Assembly of Delegates which shall provide for the performance of all duties and obligations imposed upon the county by law.
- (b) Exceptions - Such legislative power shall be exercised by ordinance, except for the exercise of the following powers which are required to be, or are permitted to be, exercised by resolution:
 - (i) The establishment of a municipal advisory council;
 - (ii) The conduct of an inquiry of investigation;
 - (iii) The expression of disapproval of the suspension or dismissal of officers or employees;
 - (iv) The adoption of rules for the board;
 - (v) The establishment of times and places for board meetings;
 - (vi) The establishment of the board as a committee of the whole and the delegation of any number of its members as an ad hoc committee.
 - (vii) The declaration of emergencies;
 - (viii) The identification of emergency situations;
 - (ix) The establishment of county personnel policies;
 - (x) The election, appointment and removal of such officers and employees as the board is permitted by law;
 - (xi) Designation of newspapers for required advertisements and notices;
 - (xii) Approval of contracts presented by the county manager;

- (xiii) Actions specified as resolutions; and
- (xiv) The expression of such board policies or opinions as require no formal board action.
- (xv) County manager; rights at meetings. The county manager may be present at all board meetings and participate in all deliberations, without the right to vote.
- (xvi) Shall approve the annual operating and capital budgets.
- (xvii) Shall Pass in accordance with this act whenever ordinances and resolutions it deems necessary and proper for the good governance of the county

(c) Appointments.

- (i) The Assembly of Delegates shall appoint a county manager under the provisions of this act;
- (ii) Shall appoint a clerk to the Assembly of Delegates who shall serve at its pleasure and keep the records and minutes of the Assembly;
- (iii) Shall appoint or contract a county counsel, who shall head the county's legal department; and who shall serve at the pleasure of the Assembly of Delegates;
- (iv) Shall appoint members of all boards and commissions and other bodies whose manner of appointments is not otherwise specified in this section;
- (v) Shall pass in accordance with this act whenever ordinances and resolutions it deems necessary and proper for the good governance of the county.

SECTION 2-6. EXERCISE OF POWERS; QUORUM; RULES.

(a) Exercise of Powers

- (i) Form of Ordinance - Every proposed ordinance shall be introduced in writing and in the form required for final adoption. The enacting clause shall be: "The Cape Cod regional government, known as Barnstable county, hereby ordains;"
- (ii) Acts required to be by Ordinance - In addition to such other acts as this charter or any other provision of law requires to be by ordinance, the following acts of the Assembly of Delegates are required to be by ordinance:
 - I Establishment, alter or abolish any department, office or agency;
 - II Provide for a fine or other penalty or establish a rule or regulation for violation of which a fine or other penalty is imposed;
 - III Make appropriations, or transfer appropriations from the account of one agency to another;
 - IV Grant, renew or extend a franchise;
 - V Regulate the rate charged for any service provided to any other governmental unit;
 - VI Authorize the borrowing of money;
 - VII Authorize the conveyance or lease of any real estate belonging to the Cape Cod regional government;
 - VIII Adopt, with or without amendment, ordinances proposed by voters in accordance with the initiative procedures as provided in

Article 7; and

IX Amend or repeal any ordinance previously adopted.

- (b) Quorum – The presence of 3 members shall constitute a quorum for the transaction of business. Except as otherwise provided by General Laws or by this charter, the affirmative vote, taken by roll call vote, of 4 members shall be required to adopt an appropriation order. Except as otherwise provided by law or this charter, the affirmative vote, taken by roll call vote, of a majority of the full Assembly of Delegates shall be required to adopt any ordinance.
- (a) Rules of Procedure - The Assembly of Delegates shall adopt rules regulating its procedures, which shall include, but not be limited to, the following rules:
- (i) Regular meetings of the Assembly of Delegates shall be held at a time and place fixed by ordinance. All regular meetings of the Assembly of Delegates shall provide for a period of public comment; provided, however, the Assembly of Delegates may promulgate rules that regulate the period of public comment as deemed appropriate.
 - (ii) Special meetings of the Assembly of Delegates shall be held at the call of the chairman or at the call of any 3 or more members, for any purpose. Notice of the meeting shall, except in an emergency, which shall be designated by the chairman, be delivered to each member at least 48 weekday hours in advance of the time set and shall specify the date, time and location of the meeting and the purpose or purposes for which the meeting is to be held. A copy of each notice shall immediately be posted as the General Laws relative to such postings require.
 - (iii) All sessions of the Assembly of Delegates and of every committee or subcommittee of the Delegates shall at all times be open to the public unless otherwise specified by law.
 - (iv) A full, accurate, up-to-date account of the proceedings of the Assembly of Delegates shall be maintained by the county clerk, which shall include a record of each vote taken and which shall be made available with reasonable promptness following each meeting, but not later than the next regularly scheduled meeting. Unless otherwise provided by law, the minutes of an executive session shall be made available as soon as publication of the minutes would not defeat the purpose of the executive session.
 - (v) Every matter which comes before the Assembly of Delegates shall be put to a vote, the results of which shall be recorded. When requested by any member the vote shall be by roll call and the vote of each member shall be recorded in

the journal.

- (vi) Assembly of Delegates shall be provided the Manual of Governance and Administrative Code at the beginning of each session, and such documents shall be reviewed so as to provide procedures to be followed and continuity in service.
- (vii) A proposed ordinance may be introduced by any member of the Assembly of Delegates, or by the board of county manager, at any regular or special meeting of the Assembly of Delegates. After an ordinance has been introduced the clerk of the Assembly of Delegates shall promptly cause the proposed ordinance to be published together with a notice stating the time and place at which a public hearing will be held on consideration of the proposal
 - a. Public Hearing - The public hearing on any proposed ordinance shall follow the required publication by at least one week. At the public hearing copies of the proposed ordinance shall be available for distribution to interested persons and all persons present shall be given the opportunity to be heard.
 - b. Action by Assembly of Delegates - The Delegates may adopt, with or without amendment, or reject, any proposed ordinance following the public hearing.
 - c. Publication of Adopted Ordinance - As soon as practicable following adoption of any ordinance it shall be printed and published.
 - d. Time of Taking Effect - Except as otherwise provided by this charter, every adopted ordinance shall take effect on the thirty-first day following its adoption, unless a later date is specified in the ordinance.
 - e. Published, Defined - As used in this section the term "Published" means:
 - i. That at least a brief summary of the proposed ordinance or adopted ordinance has been published, along with public notice that a public hearing is to be held, in local newspapers;
 - ii. That copies of the proposed ordinance or adopted ordinance, have been made available to representatives of the communications media;
 - iii. That copies of the proposed ordinance or adopted ordinance have been distributed to the clerks of every municipality in the county for posting on municipal bulletin boards.
 - iv. That a reasonable number of copies of the proposed ordinance have been printed for free distribution to any interested person requesting the same, or in the case of an adopted ordinance, for sale, at a cost not to exceed the actual cost thereof to persons requesting the same.

Section 2 - 9. Emergency Ordinances.

The Assembly of Delegates, in appropriate circumstance to meet a public emergency affecting life, health or property, may adopt emergency ordinances. No emergency ordinance

shall be used to grant, renew or extend a franchise; or to regulate the rate charged for any service. Emergency ordinances shall be submitted in the same manner as other proposed ordinances, but, every emergency measure shall be plainly designated as such and shall contain a preamble, which shall be separately voted upon, which declares that an emergency exists and which describes the emergency in clear and specific terms.

The affirmative vote of Delegates representing two-thirds of the population of Barnstable county shall be necessary to adopt any emergency ordinance.

Every emergency ordinance shall automatically stand repealed on the sixty-first day following its adoption.

Section 2 - 10. Filling of Vacancies.

If a vacancy shall occur in the office of Assembly of Delegates with more than six months remaining of the term for which delegates are elected, a successor shall be chosen in accordance with the following procedure:

- (i) The clerk of the assembly of delegates shall cause a notice of vacancy to be sent to the clerk of the municipalities in which the vacancy exists. The clerk of said municipalities shall, forthwith, cause such notice to be posted on the municipal bulletin boards. Any voter, a resident of the vacant district for at least one year, desiring to be considered to fill such vacancy shall, in writing, so advise the remaining Assembly of Delegates. The Assembly of Delegates or screening committee shall make provision for the interview, in public sessions, of all persons who have indicated such interest. Not more than twenty-one days following the date of the notice sent by the clerk of the assembly of delegates, the board of selectmen or town council shall, by a majority vote, choose one person from the vacant district to fill such vacancy. The clerk of the assembly of delegates shall administer the oath of office to the person thus chosen who shall serve for the balance of the unexpired term.

Section 2 – 11 – Excessive Absence

In the event a delegate of the assembly fails to attend regular meetings of the assembly, committee meetings, and fails to represent district within which the delegate was elected for a significant period of time, to be established by ordinance, without filing a reasonable excuse with the clerk of the assembly, the assembly of delegates shall notify the board of selectmen or in the case of Barnstable, its town council in the district that the delegate represents.

SECTION 2-7: ACCESS TO INFORMATION

(a) In General - The Assembly of Delegates may make investigations into the affairs of the county and into the conduct and performance of any county agency. b) Information Requests

- The board may require a member of an appointed multiple-member body or a county employee appear before the board to give any information that the board may require in relation to the municipal services, functions, powers or duties which are within the scope of responsibility of that person.

ARTICLE 3
EXECUTIVE BRANCH

(A) County Manager.

(i) Qualifications, appointment, term.

The county manager shall be qualified by administrative and executive experience and ability to serve as the chief executive of the county. He/she shall be appointed by a majority vote of the Assembly of Delegates and shall serve for an indefinite term. He/she may be removed by a majority vote of the board subject to due notice and a public hearing. Such notice shall be in writing and shall be accompanied by a written bill of particular charges and complaints and public hearing on these charges shall be no less than fifteen nor more than thirty days after personal service of notice and charges.

At the time of his appointment the manager need not be a resident of the county but after his/her appointment he/she may reside outside the county only with permission of the board.

(ii) Salary.

The salary of the county manager shall be fixed by the Assembly of Delegates; such salary shall be reasonable and commensurate with the fact that the position of county manager is and shall be a full-time position. The salary of the county manager may not be lowered during his tenure in office.

(iii) Vacancies.

The office of county manager shall be deemed vacant if: the incumbent moves his/her residence from the county without board permission; or he/she is by physical or mental illness or other casualty unable to continue to serve as county manager. The Assembly of Delegates may appoint the deputy manager or any department head to serve as acting county manager until a successor has been appointed. During the temporary absence or temporary disability of the county manager the deputy manager or a department head designated by the manager if there be no deputy manager, shall serve as acting county manager.

(iv) Duties.

The executive power of county shall be exercised by the county manager. The county manager shall:

- (a) Report annually to the Assembly of Delegates, the Finance Advisory Board and to the people, on the state of the county, the work of the previous year, and he/she shall also recommend to the board whatever action or programs he deems necessary for the improvement of the county and the welfare of its residents. He/she may from time to time at his discretion recommend any course of action or programs he/she deems necessary or desirable for the county to undertake;
- (b) Prepare and submit to the Assembly for its consideration and adoption an annual operating budget, and a capital budget, establish the schedules and procedures to

- be followed by all county departments, offices and agencies in connection therewith, and supervise and administer all phases of the budgetary process.
- (c) Enforce the county charter, the county's laws and all General Laws applicable thereto;
 - (d) Supervise the care and custody of all county property, institutions and agencies;
 - (e) Through the county treasurer, have oversight on the collection of revenues, audit and control all disbursements and expenditures and shall prepare a complete account of all expenditures;
 - (f) Sign all contracts, bonds or other instruments requiring the consent of the county;
 - (g) Organize the work of county departments subject to the administrative code adopted by the Assembly. He/she shall further review their administration and operation and make recommendations pertaining thereto to the board;
 - (h) Review, analyze and forecast trends of county services and finances and programs of all boards, commissions, agencies and other county bodies, and report and recommend thereon to the Assembly.
 - (i) Develop, install and maintain centralized budgeting, personnel and purchasing procedures as may be authorized.
 - (j) Negotiate contracts for the county subject to Assembly and where appropriate, advisory board approval and make recommendations concerning the nature and location of county improvements and execute improvements determined by the Assembly;
 - (k) Assure that all terms and conditions imposed in favor of the county or its inhabitants in any statute, franchise or other contract, are faithfully kept and performed;
 - (l) Serve as ex-officio nonvoting member of all appointive bodies in county government.

(v) Powers.

The county manager:

- (a) Shall supervise, direct and control all county administrative departments;
- (b) Shall appoint the deputy manager, if that position is created by the Assembly of Delegates, the heads of all county departments and divisions created within such departments, and all other administrative officers and county personnel the manner of whose appointment is not prescribed elsewhere in this section;
- (c) May, at his/her discretion, remove or suspend any official in the unclassified service of the county over whose office the county manager has power of appointment;
- (d) May at his/her discretion, but subject to any pertinent provisions of the General Laws and civil service regulations delegate any department head powers of appointment and removal of their departmental employees. If the county manager does not so delegate his/her power he may appoint and remove, subject to civil service regulations, all employees whose positions have been created.
- (e) May require and examine the accounts, records and operations of any agency of county government;
- (f) May, at his/her discretion, order any agency under his jurisdiction to undertake any task for any other agency on a temporary basis if he deems it necessary for the proper and efficient administration to do so.

Petition

(Amended version to the Barnstable Home Rule Charter re-submitted by ordinance of
Barnstable Delegate Patrick Princi originally submitted 2/3/16 now amended at a regular
meeting of the Assembly of Delegates 5/4/16)