

CRC
agenda item # 4, b.

certificate the clerk of the assembly of delegates shall administer the oath of office to such person and shall enter such person name on the official list of assembly of delegates. If, at the expiration of thirty days following the issuance of notice by the clerk of the assembly of delegates that a vacancy from that municipality exists, no certificate has been received, the assembly of delegates may vote to fill such vacancy by electing any registered voter resident of the affected municipality for one year or more 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 the town 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 in the town that the delegate represents, or in the case of Barnstable, its town council. The board of selectmen, upon majority vote, may declare the seat vacant. Upon the declaration that the seat is vacant, the procedures of section 2 - 10 shall be followed.

ARTICLE 3 -- EXECUTIVE BRANCH

Section 3 - 1. Board of Regional Commissioners.

(a) , Composition, Term of Office - The executive powers of the Cape Cod regional government shall be exercised by a board of regional commissioners consisting of three members. Regional commissioners shall be elected for terms of four years each, so arranged that nearly an equal number of such terms as is possible shall be elected at each biennial state election. The provisions of section one hundred fifty-eight of chapter fifty-four of the General Laws shall apply to such elections. The regional commissioners shall have all of the same powers and duties conferred or imposed by law to county commissioners.

(b) Compensation - The assembly of delegates shall by ordinance, establish an annual salary for the members of the board of regional commissioners. The salary shall be reasonable and commensurate with the duties of the office and may not be lowered for any member during a term of office. No ordinance changing the salary for members of the board of regional commissioners shall be effective unless it has been adopted during the first fifteen months of the term for which commissioners are elected and it provides the new rate of compensation is to be effective upon the reorganization of the board of regional commissioners following an election for that office.

(c) Organization - The board of regional commissioners shall meet to organize on the first business day of January and shall choose a chairperson and a vice-chairperson to serve for a term of one year.

(d) Exercise of Powers - The board of regional commissioners shall conduct all of their official business with at least two members of the board present, provided proper notice has been given to the absent member. A vote of two members of the board of regional commissioners shall be sufficient to exercise any power residing in the board of regional commissioners.

Section 3 - 2. Executive Powers.

The executive powers of the Cape Cod regional government shall be vested solely in the board of regional commissioners and may be exercised whether directly by such board, or through the several regional agencies under its direction and supervision. The board of regional commissioners shall cause this charter, the laws and the ordinances and orders for the governmental and administration of the Cape Cod regional government to be enforced.

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

Section 3 - 3. Powers and Duties.

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

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

Section 3 - 4. Delegation by Regional Commissioners.

The board of regional commissioners may authorize the administrator or any subordinate officer or employee of the Cape Cod regional government to exercise any power, function or duty assigned by this charter to the board of regional commissioners provided, however, that all acts which are performed under any such designation shall be deemed to be the acts of the board of regional commissioners.

Section 3 - 5. Appointments by Board of Regional Commissioners.

The board of regional commissioners shall appoint and in appropriate circumstances may remove, subject to the provision of any collective bargaining agreements as may be applicable, all Cape Cod regional government officers, department heads, members of multiple member bodies and all Cape Cod regional government employees for which no other method of selection is provided by this charter.

Section 3 - 6. Temporary Appointments to Cape Cod Regional Government Office.

Whenever any vacancy in a Cape Cod regional government office whether temporary or permanent and the needs of the Cape Cod regional government require that such office be filled,

the board of regional commissioners may designate the head of some other Cape Cod regional government office or agency or a Cape Cod regional government officer or employee to perform the duties of the office on a temporary or acting basis until such time as the incumbent resume the duties of the office or the position has been filled in the manner provided by this charter, or by Cape Cod regional government ordinance.

Section 3 - 7. Communications: Special Meetings.

(a) Communication to Assembly of Delegates - Annually, at the first regular business meeting of the assembly of delegates held in each calendar year the board of regional commissioners shall in person, or in writing, submit to the assembly of delegates a report on the state of the Cape Cod regional government including an indication of such plans and proposals for changes in Cape Cod regional government programs and services as the board of regional commissioners intends to propose during the ensuing year. The board of regional commissioners shall, from time to time throughout the year, in person, or in writing, submit to the assembly of delegates specific proposals to be considered for adoption by the assembly of delegates as the board of regional commissioners deems to be necessary or desirable.

(b) Special Meetings of the Assembly of Delegates - The board of regional commissioners may at any time and for any purpose call a special meeting of the assembly of delegates 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 assembly of delegates. Except in cases of special emergency, of which the board of regional commissioners 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 Board of Regional Commissioners, Exception

Every order, ordinance, resolution or other vote of the assembly of delegates pertaining to the business and affairs of the Cape Cod regional government (but not including matters relating to the internal affairs of the assembly of delegates or resolutions merely stating an opinion of the assembly of delegates) shall forthwith following its adoption be presented to the board of regional commissioners. If the board of regional commissioners approves of such measure, the signature of a majority of the members of the board of regional commissioners 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 board of regional commissioners disapproves of such measure, the board of regional commissioners shall within ten days following the date the approved copy of the measure is filed in its office return the measure to the assembly of delegates with specific reasons for such disapproval, in writing, attached thereto.

The assembly of delegates shall upon receipt of notice of disapproval from the board of regional commissioners forthwith reconsider the measure. If the assembly of delegates shall, notwithstanding the objections of the board of regional commissioners, 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 board of regional commissioners has not signed nor returned a measure adopted by the assembly of delegates to the assembly of delegates 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 board of regional commissioners. If the assembly of delegates has not acted upon a message of disapproval filed with it by the board of regional commissioners within fourteen days of such filing the measure shall be deemed to have been rejected by the assembly of delegates at the expiration of such period.

Section 3 - 9. Vacancy in Office of Board of Regional Commissioners.

If a vacancy occurs in the office of member of the board of regional commissioners during the term for which a member is chosen, the assembly of delegates 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 of board of regional commissioners occurs, the assembly of delegates shall act to temporarily fill such vacancy by electing some suitable person, not a resident of the same municipality as either of the other members of the board of regional commissioners who remain in office, and 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 a member of the board of regional commissioners 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 assembly of delegates from being chosen to serve as temporary member of the regional commissioners or from being a candidate for the office of regional commissioner.

Whenever a member of the assembly of delegates becomes the temporary regional commissioner pursuant to this provision, a vacancy shall be deemed to exist in the assembly of delegates from the municipality such person had represented.

Section 3 - 10. Cape Cod Regional Government Administrator, Qualifications, Term of Office; Compensation.

(a) Appointment, Qualifications, Term of Office. - The chief administrative office of the Cape Cod regional government shall be an administrator, who shall be appointed by a majority vote of the board of regional commissioners to serve for an indefinite term. The administrator shall be a person especially fitted by education, training and experience in public administration to perform the duties of the office. The administrator shall devote full time to the office and shall not be actively engaged in any other business, occupation or profession while serving as administrator.

(b) Compensation - The board of regional commissioners shall fix the compensation of the administrator within the sum appropriate 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 administrator shall exercise a general supervision and direction over all Cape Cod regional government agencies, unless otherwise provided by law. Each Cape Cod regional government agency shall furnish to the administrator, forthwith when so requested, any information, materials or otherwise as the administrator may request and as the needs of that office and the interest of the Cape Cod regional government may require.

Section 3 - 11. Cape Cod Regional Government Administrator, Powers and Duties.

The 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 administrator shall include, but are not limited to, the following:

(a) To prepare and submit to the board of regional commissioners for its 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 Cape Cod regional government departments, offices and agencies in connection with their budget 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 Cape Cod regional government 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 Cape Cod regional government agencies, including, but not limited to purchasing, budgeting and personnel administration.
- (e) To be responsible for recommending personnel actions to the board of regional commissioners including the appointment and removal of officers and employees appointed by it.
- (f) To keep the board of regional commissioners, the assembly of delegates, and the public fully informed as to the financial and administrative condition of the Cape Cod regional government by filing reports with the board of regional commissioners, at least semi-annually, summarizing such condition.
- (g) To make at any time such recommendations to the board of regional commissioners for actions required to be taken by it as the administrator deems necessary for the improvement of the Cape Cod regional government and for the welfare of its residents.
- (h) To review and make recommendations to the board of regional commissioners concerning all contracts, bonds or other instruments requiring the consent of the Cape Cod regional government.
- (h) To review, analyze and forecast trends of Cape Cod regional government services, programs and finances and make such recommendations to the board of regional commissioners, department heads and other personnel affected as the administrator shall deem necessary, desirable or expedient.
- (i) To inquire at any time into the conduct of office or performance of duty of any Cape Cod regional government officer, department head or employee.
- (j) To require any Cape Cod regional government 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.
- (k) To perform any other duties as may be required to be performed by the administrator by this charter, by Cape Cod regional government ordinance or by other vote of the board of regional commissioners.

Section 3 - 13. Delegation of Authority.

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

Section 3 - 14. Acting Cape Cod Regional Government Administrator.

- (a) Vacancy - Any vacancy in the office of administrator shall be filled as soon as possible by the board of regional commissioners but pending such appointment the board of regional commissioners shall designate a qualified Cape Cod regional government officer, department head or employee to perform the duties of the administrator on an acting basis, or, it may appoint a qualified retired officer, department head or employee to serve as acting administrator. The appointment of an acting 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.
- (b) Powers and Duties - The powers of a temporary or acting 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 Cape Cod regional government office or employment, but no appointments or designations of a permanent nature shall be made.

Section 3 - 15. Removal and Suspension.

The board of regional commissioners may, by a majority vote of the full board of regional commissioners, terminate and remove, or suspend, the administrator from office in accordance with the following procedure:

(a) The board of regional commissioners shall adopt a preliminary resolution of removal by the affirmative vote of a majority of all its members which must state the reason or reasons for removal. This preliminary resolution may suspend the administrator for a period not to exceed ninety days. A copy of the resolution shall be delivered to the administrator forthwith.

(b) Within five days after receipt of the preliminary resolution the administrator may request a public hearing by filing a written request for such hearing with the regional clerk. This hearing shall be held at a meeting of the board of regional commissioners not later than thirty days after the request is filed not earlier than twenty days. The administrator may file a written statement responding to the reasons stated in the resolution of removal with the board of regional commissioners provided the same is received at the office of the regional clerk at least forty-eight hours in advance of the public hearing.

(c) The board of regional commissioners may adopt a final resolution of removal, which may be made effective immediately, by the affirmative vote of a majority of all of its members not less than twenty nor more than thirty days following the date of delivery of a copy of the preliminary resolution to the administrator, if the administrator has not requested a public hearing; or, within ten (10) days following the close of the public hearing if the 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 administrator shall, at the expiration of said time, forthwith resume the duties of the office.

The 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 board of regional commissioners.

ARTICLE 4 -- ADMINISTRATIVE ORGANIZATION

Section 4 - 1. Elected Officers.

(a) In General - Notwithstanding direct election by the voters, the officers named in this section shall be subject to the call of the board of regional commissioners at all reasonable times for consultation, discussion and for the coordination of the business of the Cape Cod regional government.

(b) Vacancies - In the event a vacancy shall occur in any office filed by the voters under this section, the board of regional commissioners, subject to the approval of the assembly of delegates, shall appoint a suitable person to serve until the next biennial state election at which time the office shall be filled by the voters for the regular term of years.

(c) Sheriff - There shall be a sheriff elected as provided by law. The sheriff shall have the general care and superintendence of all jails and house of correction. The sheriff shall have all of the powers and duties which are given to sheriffs by General Laws and such additional powers and duties as may be provided by Cape Cod regional government ordinance or Administrative Code.

(d) Registry of Deeds. There shall be a register of deeds elected as provided by law. The register of deeds shall have general charge and superintendence of the Barnstable County registry of deeds and all of the books, records, deeds and other papers belonging thereto. The