

HOUSE No. 1819

The Commonwealth of Massachusetts

PRESENTED BY:

Smitty Pignatelli and Adam G. Hinds

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act modifying the Sherwood Forest Road maintenance district in the town of Becket.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Smitty Pignatelli

4th Berkshire

Adam G. Hinds

Berkshire, Hampshire, Franklin and Hampden

HOUSE No. 1819

By Representative Pignatelli of Lee and Senator Hinds, a joint petition (accompanied by bill, House, No. 1819) of Smitty Pignatelli and Adam G. Hinds (by vote of the town) relative to the Sherwood Forest Road maintenance district in the town of Becket. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act modifying the Sherwood Forest Road maintenance district in the town of Becket.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 4 of chapter 380 of the acts of 1982 is hereby amended by striking
2 out subdivision E and inserting in place thereof the following subdivision:-

3 E. The election of a clerk, treasurer, and a prudential committee. If the district shall so
4 elect, 1 person may serve as both clerk and treasurer. The prudential committee shall consist of
5 not less than 3 nor more than 7 persons with not less than a majority of such number as actually
6 fixed by the by-laws to be residents of and proprietors of the district and such remaining number
7 of members, if any, as the district shall determine in its by-laws, to be elected from among
8 persons who are proprietors of the district as of the date next preceding the district election,
9 when the record of assessed ownership of real estate shall be fixed by law. The clerk, treasurer
10 and prudential committee members shall serve from the date of the initial meeting and until the
11 date of election and qualification of their successors at or following the first annual meeting of
12 the district, and thereafter as provided from time to time in the district by-laws; provided,

13 however, that such interval between election of said officers and committee members shall not
14 be greater than 2 years. Neither the clerk nor the treasurer shall be a member of the prudential
15 committee.

16 SECTION 2. Said chapter 380 is hereby further amended by striking out section 6 and
17 inserting in place thereof the following section:-

18 Section 6. A. Annual meetings of the district shall be held on the first Saturday in June
19 or at such other time that the district shall establish from time to time in its by-laws, but in no
20 event shall such annual meeting occur more than 60 days after the date set by the town of Becket
21 for its annual town meeting. Annual meetings and other special meetings of the district shall be
22 called by a warrant under the hands of the prudential committee, notice of which shall be given
23 at least 14 days before such meeting. The warrant shall be directed to a constable of the town or
24 to some other town official who shall forthwith give notice of such meeting in the manner
25 prescribed by the by-laws, or, if no provision therefore shall exist in said by-laws, by a vote of
26 the district, or by posting in 2 or more public places within said district and at the Becket town
27 hall, or by advertising in a newspaper published in the town in which the district is located, if
28 any, otherwise in a newspaper published in the county. The warrant for all district meetings shall
29 state the time and place of holding the meeting and the subjects to be acted upon. The prudential
30 committee shall insert in the warrant for the annual meeting all subjects the insertion of which
31 shall be requested of them in writing by 10 or more proprietors of the district and the warrant for
32 every special district meeting all subjects the insertion of which shall be requested of them in
33 writing by 20 proprietors of the district or by 10 per cent of the total number of proprietors of
34 said district, whichever is less. The prudential committee shall call a special district meeting at
35 its own request or upon the request in writing of 40 proprietors or 20 per cent of the total number

36 of proprietors of the district, whichever is less, such meeting to be held not later than 30 days
37 after the receipt of such request, and shall insert in the warrant therefor all subjects the insertion
38 of which shall be requested by said petition. No action shall be valid unless the subject matter
39 thereof is contained in the warrant. Two or more district meetings for distinct purposes may be
40 called by the same warrant. At every district meeting a moderator shall be elected, and shall
41 have the powers of the moderator of a town meeting.

42 B. Persons who are proprietors as certified by the board of assessors of the town of
43 Becket at least 30 days prior to the district meeting shall be entitled to vote at district meetings
44 and are referred to in this act as “proprietors.” Membership in the district shall consist of the
45 proprietors, from time to time, of 1 or more separately assessed parcels of lands lying within the
46 district boundaries as set forth in section 1. For the purposes of this act, “proprietor” shall be
47 deemed to include not only natural persons, but also other entities empowered to own real estate
48 in the commonwealth, including but not limited to corporations, partnerships, and realty trusts.
49 “Proprietor” shall also include a mortgagee of record in possession of any 1 or more separately
50 assessed parcels and persons or entities who jointly own 1 or more separately assessed parcels.
51 Persons or entities that jointly own 1 or more separately assessed parcels within the district shall
52 collectively constitute a proprietor for all purposes hereunder.

53 C. The registrar of voters of the town of Becket shall prepare a list of the persons who
54 are registered to vote and reside in the district. Any person on this list of registered voters, which
55 shall be known as the list of resident voters of the district, shall be permitted to vote at annual
56 and special district meetings for so long as they are both registered to vote in the town of Becket
57 and residing in the district. If a person is no longer registered to vote in the town of Becket or no
58 longer resides in the district, they shall be removed from the list of resident voters of the district.

59 A person who qualifies to vote as a proprietor of the district and as a voter on the list of resident
60 voters of the district shall be entitled to only 1 vote. The prudential committee shall maintain the
61 list of resident voters of the district in a manner accessible to the general public at all reasonable
62 times and it shall be available for inspection at the annual meeting and any special meeting of the
63 district. The registrar of voters of the town of Becket shall likewise maintain list of resident
64 voters of the district.

65 D. Voting by proprietors shall be governed by the requirements of this section. Persons
66 or entities owning 1 or more separately assessed parcels of land within the district shall be
67 entitled to cast 1 vote for each separately assessed property on any matter or issue to be voted
68 upon at any such meeting, notwithstanding the total number of parcels owned by such person,
69 persons or entities. Joint owners and entity proprietors shall designate, in writing to the clerk
70 prior to the commencement of the meeting, 1 person who is authorized to vote on behalf of the
71 proprietor at such meeting and such person shall be presumed qualified and authorized to
72 represent the proprietor if such person shall be listed as a record owner of such parcel or parcels
73 or if such person shall, as evidenced by any public record maintained under the laws of the
74 commonwealth, be listed as a partner, trustee, agent, officer or employee of a proprietor. A
75 person owning 1 or more parcels together with his or her spouse shall not be required to furnish a
76 written designation from said spouse and either shall be presumed to be qualified to vote but only
77 1 vote for each property owned may be made. The authority of a person to cast a proxy vote on
78 behalf of a proprietor shall likewise be determined by the clerk. All proxies must be tendered in
79 writing prior to the commencement of a district meeting and shall clearly set forth the name and
80 address of the proprietor entering the proxy, the name and address of the person who is to
81 exercise the proxy, the signature of the proprietor granting the same and the date of execution.

82 The district may, if it so elects, adopt in its by-laws requirements regarding the form of proxy,
83 the duration of a proxy, and other requirements for the form of voting.

84 E. After a period of not less than 2 years from the institution of said proxy voting, the
85 district may also, if it so elects, change the by-laws to institute a system of absentee balloting or
86 any other system of balloting instead of proxy voting, if three-fifths of the proprietors as defined
87 above in subdivisions B and D of this section choose at an annual meeting of the district or at a
88 special meeting convened for this purpose, duly publicized and noticed in accordance with all
89 applicable laws and procedures of the commonwealth.

90 SECTION 3. Said chapter 380 is hereby further amended by striking out section 8 and
91 inserting in place thereof the following section:-

92 Section 8. The board of assessors of the town of Becket shall, at least 30 days before the
93 annual district election, make and provide a correct digital alphabetical list of with addresses of
94 and lot numbers of proprietors of the district reflected in their records as of January 1st of that
95 year and from records maintained by the assessors pursuant to chapter 59 and related provisions
96 of the General Laws. A copy of such list shall be maintained in a manner accessible to the
97 proprietors and the general public at all reasonable times by the prudential committee and the
98 district clerk and shall be available for inspection at the annual meeting and any special meeting
99 of the district. The board of assessors shall likewise maintain a list of proprietors by separate list
100 or by special designation on their list of all assessed parcels.

101 SECTION 4. Said chapter 380 is hereby further amended by striking out section 21 and
102 inserting in place thereof the following section:-

103 Section 21. The district, at a meeting called therefor, may annex adjacent territory and its
104 inhabitants, if a majority of the votes of said territory petition define the limits thereof, or may,
105 on the petition of any person with the assent of the town containing such district, exclude said
106 person or said person's estate therefrom; provided, however, that such exclusion shall be granted
107 by the district without assent of the town if the estate of the petitioner is so situated as to be
108 unable to benefit from the listed streets and ways within the district or so situated as to be more
109 accessible to a street or way under the jurisdiction or control of the governmental entity other
110 than the district; and provided, further, that such exclusion shall not be granted by the district if
111 the estate of the petitioner is so situated as to be able to benefit from any listed street or way
112 which is repaired or maintained by the district in such a manner by the district to afford year-
113 round access to the estate of the petitioner; and provided, further, that no estate shall be subject
114 to any tax assessed on account of the repair and maintenance of roads under this act if, in the
115 judgment of the prudential committee, after a hearing, due notice of which shall be given, such
116 estate is so situated that it can receive no benefit from the repair and maintenance provided in
117 said district. The petition for exclusion or exemption from taxation shall be filed with the
118 prudential committee of the district not later than the date set for the filing of petitions for the
119 insertion of articles in the warrant of the district meeting or at which the petition is to be acted
120 upon, and shall state the petitioner's reason for seeking exclusion or exemption from taxation.
121 The prudential committee shall cause an appropriate article to be inserted in the warrant for said
122 meeting, shall examine the reasons stated and shall report its findings, with recommendations to
123 said meeting. Any such petitioner, aggrieved by the action of the prudential committee, or by the
124 action of the proprietors of the district on their petition, may appeal to the superior court sitting
125 in equity within the county in which the district is located for a remedy. Upon such appeal, said

126 court shall, if the reason set forth by the petitioner is found to lie within the intent of this section,
127 grant such exclusion. The grant of exclusion or exemption from taxation shall exempt the
128 petitioner and estate of the petitioner of any tax levied by reason of any appropriation made by
129 the district after the filing of the petition as provided herein. Reinstatement in the district by any
130 property which has already been exempted may be authorized by a petition submitted to the
131 prudential committee for its approval.

132 SECTION 5. Notwithstanding any general or special law to the contrary, only persons
133 who are registered to vote in the town of Becket as of the effective date of this act and reside in
134 the Sherwood Forest Road Maintenance District as of the effective date of this act shall be added
135 to the list of resident voters of the district pursuant to subdivision C of section 6 of chapter 380
136 of the acts of 1982.

137 SECTION 6. This act shall take effect upon its passage.