

SENATE No. 982

The Commonwealth of Massachusetts

PRESENTED BY:

Daniel A. Wolf, (BY REQUEST)

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 passage of the accompanying bill:

An Act to amend the Barnstable County home rule charter by adding a recall provision .

PETITION OF:

NAME:

Ronald Beaty

DISTRICT/ADDRESS:

245 Parker Road

West Barnstable, MA 02668

SENATE No. 982

By Mr. Wolf (by request), a petition (accompanied by bill, Senate, No. 982) of Ronald Beaty for legislation to amend the Barnstable County home rule charter by adding a recall provision. Municipalities and Regional Government.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to amend the Barnstable County home rule charter by adding a recall provision .

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

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

3 The following section amends, by insertion, Article 7 of Chapter 163 of the Acts of 1988
4 Section 7-7. Recall of County Officers

5 (1) Application – Any person who holds an elected county office, with more than six
6 months

7 remaining of the term of office at the time of the filing of the application, may be recalled
8 from

9 the office by the voters in the manner provided in this section. 6

10 (2) Recall Petitions – If the officer is elected from the county at large, one hundred and
11 fifty or

12 more voters may file with the county clerk an affidavit containing the name of the officer
13 whose

14 recall is sought and a statement of the grounds for recall; if the officer is elected from any

15 municipality into which the county is divided the signatures on such petitions shall
16 contain the

17 names of at least twenty-five voters from the said municipality. The petitions relating to
18 an
19 officer elected from the county at large shall contain the names of at least twenty-five
20 voters in
21 each of any six municipalities within the county. When submitted to the county clerk the
22 signatures shall bear the certification of the registrars of voters of the municipality in
23 which
24 collected that they are the names of voters in said municipality.

25 Within seven days following receipt the county clerk shall certify such petitions with
26 regard to
27 the sufficiency and validity and shall thereupon deliver to the ten persons first named on
28 such
29 petitions, petition blanks demanding said recall, printed forms of which the county clerk
30 shall
31 keep available. The blanks may be completed by printing or typewriting; they shall be
32 addressed to the assembly of delegates; they shall contain the names of the ten persons to
33 whom they are issued and the grounds for recall as stated in the affidavit; they shall
34 demand the
35 election of a successor to the office; they shall be dated and signed by the county clerk.
36 The
37 recall petitions shall be returned to the office of the county clerk within twenty days
38 following the
39 date they are issued, signed by at least fifteen percent of the total number of persons
40 registered
41 to vote in the county as of the date of the most recent state election if the officer is elected
42 at
43 large and by fifteen percent of the total number of persons registered to vote in the
44 municipality
45 as of the date of the most recent state election if the officer is elected from a municipality.

46 The county clerk shall within three days following such filing, submit the petitions to the
47 board
48 of registrars of voters in the several municipalities from which collected which boards of
49 registrars of voters shall within five days thereafter certify thereon the number of
50 signatures
51 which are the names of voters.

52 (3) Recall Elections – The county clerk shall review the petitions as certified by the
53 registrars of
54 voters of the several municipalities and if the county clerk determines that collectively
55 the
56 petitions are sufficient, the county clerk shall forthwith submit the same with a certificate
57 so
58 stating to the assembly of delegates. Upon its receipt of the certified petition, the
59 assembly of
60 delegates shall forthwith give notice, in writing, of said petition to the officer whose
61 recall is
62 sought. If said officer does not resign from office within five days following delivery of
63 the said
64 notice, the assembly of delegates shall order a special election to be held not less than
65 ninety nor
66 more than one hundred twenty days after the date of the certification of the county clerk
67 that the
68 petition is sufficient; provided, however, if a regular biennial state election is to be held
69 within
70 one hundred fifty days of such certification the recall election shall be held in conjunction
71 therewith and no special election shall be held. If a vacancy occurs in the office after a
72 recall
73 election has been ordered, the election shall nevertheless proceed as provided in this
74 section, but only the ballots for candidates need be counted.

75 (4) Nomination of Candidates – An officer sought to be recalled may not be a candidate
76 to be
77 elected to the same office if the vote on the recall is in the affirmative. The nomination of
78 other
79 candidates, the publication of the warrant for the recall election, and the conduct of the
80 same
81 shall be in conformity with the provisions of law relating to county elections generally,
82 unless
83 otherwise provided in this section.

84 (5) Propositions on the Ballot – Ballots used at the recall election shall state the
85 proposition in
86 the order indicated:
87 For the recall of (name of officer)
88 Against the recall of (name of officer)
89 Adjacent to each proposition shall be a place to vote for either of said propositions. After
90 the
91 said proposition shall appear the words "candidates" and the names of candidates
92 arranged by a
93 lottery drawn by the county clerk. If a majority of the votes cast is in favor of the recall,
94 and
95 provided at least twenty five percent of the total number of voters as of the date of the
96 most
97 recent biennial state election have participated at such recall election, the officer shall be
98 deemed
99 to be recalled and the ballots for candidates shall then be counted and the candidate
100 receiving
101 the highest number of votes shall be declared elected.

102 (6) Officeholder – The incumbent shall continue to hold office and perform the duties
103 until the

104 recall election. If not then recalled, the officer shall continue in office for the remainder
105 of the

106 unexpired term, subject to recall as provided in section (7) below.

107 If the officer is recalled, the office shall be deemed vacant upon the certification of the
108 election

109 results. The candidate who receives the highest number of votes shall serve for the
110 balance of

111 the unexpired term.

112 (7) Repeat of Recall Petition – No recall shall be filed against an officer within six
113 months after

114 taking office, or in the case of an officer subjected to a recall election and not recalled
115 thereby,

116 until at least six months after the election at which the recall was submitted to the voters.