

**SENATE . . . . . No. 983**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**James E. Timilty**

*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 relative to the creation of the fire prevention regulations appeals board.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James E. Timilty	Bristol and Norfolk
Bruce J. Ayers	1st Norfolk

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT RELATIVE TO THE CREATION OF THE FIRE PREVENTION REGULATIONS APPEALS BOARD.

*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. Chapter 22D of the General Laws, as so appearing, is hereby amended by adding  
2 the following new section:-

3 “(5)(A) There is hereby established a Fire Prevention Regulations Appeals Board. The Board  
4 shall consist of the thirteen members of the Board of Fire Prevention Regulations, established pursuant to  
5 section 4.

6 The Governor shall from time to time designate a member of said board as Chairman. The State  
7 Fire Marshal, and heads of fire departments serving on this board shall receive no compensation for their  
8 services on the board. All other members of said board shall each be paid fifty dollars for each day while  
9 in actual performance of his duties but such pay shall not exceed two thousand five hundred dollars in any  
10 fiscal year for each eligible member plus all expenses necessarily incurred by him in connection with his  
11 official duties as such member of the Appeals Board.

12 The board may, subject to appropriation, with the approval of the State Fire Marshal, employ  
13 such clerical, technical, and other assistants as may be required by such board.

14 (B) Whoever is aggrieved by any act, rule, order, decision, requirement, or direction, by any state  
15 or local Official charged with the enforcement of the state fire code, relative to the fire protection  
16 requirements relating to buildings or structures, may within forty-five days after the service of notice  
17 thereof, appeal from said act, rule, order, decision, requirement, or direction to said appeals board.

18 Appeals hereunder shall be on a form as provided by the appeals board and shall be accompanied  
19 by such fee as said appeals board may determine. The state, city, or town officer in charge of the records  
20 and all other persons in possession or control of such records papers and documents relative to an appeal,  
21 shall forthwith, upon request of the appeals board, transmit such papers and documents to said appeals  
22 board.

23 An appeal shall stay all proceedings in the furtherance of the action or failure to act which is the  
24 subject of the appeal, unless said enforcement authority presents evidence that a stay would cause  
25 imminent peril of life or property.

26 The chairman of the appeals board shall designate any three members of the appeals board to hold  
27 hearings under this section and to hear testimony and take evidence. The appeals board shall not be bound  
28 by the strict rules of evidence prevailing in courts of law or equity.

29 The chairman shall fix the time and place for each hearing and such hearing shall take place not  
30 later than sixty days after the filing of such appeal, unless such time is extended by agreement with the  
31 appellant. Any such party may appear in person or by agent or attorney at the hearing.

32 Decisions on appeal shall be made by the three-member appeals board conducting the public  
33 hearing. Every decision shall require the concurrence of at least two of the three members and the appeals  
34 board shall state in writing its findings of fact, conclusions and reasons for its decision and indicate the  
35 vote of each member participating in the decision.

36           The appeals board shall issue a decision or order reversing, affirming, or modifying, in whole or  
37 in part, such interpretation, order or decision or postponing the application thereof, within forty-five days  
38 after such hearing, unless such time is extended by agreement with the appellant.

39           The appeals board may grant a variance from any provision of the state fire code and related rules  
40 and regulations, in any particular case, and may determine the suitability of alternate materials and  
41 methods of compliance and may provide reasonable interpretations of the provisions of said code  
42 consistent with its purpose.

43           SECTION 2. This act shall be effective January 1, 2012.