SENATE DOCKET, NO. 324 FILED ON: 1/19/2011

SENATE . . . . . No. 1244

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:

An Act establishing the Fire Prevention Regulations Appeals Board.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James E. Timilty	☐ *[District]* ☐
George T. Ross	*2nd Bristol*

SENATE DOCKET, NO. 324 FILED ON: 1/19/2011

SENATE . . . . . No. 1244

By Mr. Timilty, a petition (accompanied by bill, Senate, No. 1244) of James E. Timilty and George T. Ross for legislation to establish the Fire Prevention Regulations Appeals Board. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *2570* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act establishing 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:

SECTION 1. Chapter 22D of the General Laws is hereby amended by adding the following section:-

Section 5. (a) There is hereby established a fire prevention regulations appeals board, hereinafter referred to as the appeals board. The appeals board shall consist of the 14 members of the board of fire prevention regulations, established pursuant to section 4.

The governor shall, from time to time, designate a member of the appeals board as chairman.

The appeals board may, subject to appropriation and the approval of the state fire marshal, employ such clerical, technical and other assistants as may be required by the appeals board.

(b) Whoever is aggrieved by any act, rule, order, decision, requirement of, or direction by, any state or local official charged with the enforcement of the state fire code relative to the fire protection requirements for buildings or structures, may appeal therefrom to the appeals board within 45 days following the service of notice of such act, rule, order, decision, requirement or direction. Appeals filed pursuant to this section shall be made on a form as prescribed or approved by the appeals board and shall be accompanied by such reasonable filing

17 fee as established by the appeals board. The keeper of the records, and any other person in
18 possession or control of records related to an appeal, for the commonwealth, a city or a town
19 shall, upon request of the appeals board, forthwith transmit such records to the appeals board.

20 An appeal shall stay all proceedings in the furtherance of the action or failure
21 to act which is the subject of the appeal, unless the state or local agency or person charged with
22 the administration or enforcement of the state fire code, or any of its rules and regulations
23 presents evidence that a stay would cause imminent peril of life or property.

24 The chairman of the appeals board shall designate 3 members of the appeals
25 board to hold public hearings, hear testimony and take evidence. The appeals board shall not be
26 bound by the strict rules of evidence prevailing in courts of law or equity. The chairman shall fix
27 the time and place for hearings and a hearing shall take place not later than 60 days following the
28 filing of an appeal, unless such time is extended by agreement with the appellant. The chairman
29 shall give not less than 10 days notice of the time and place of said hearing to all interested
30 parties. Any party may appear in person, by agent or by attorney at the hearing.

31 Decisions on appeal shall be made by the 3-member appeals board conducting
32 the hearing. Every decision shall require the concurrence of at least 2 of the 3 members and the
33 appeals board shall state, in writing, its findings of fact, conclusions and reasons for decision and
34 indicate the vote of each member participating in the decision.

35 The appeals board shall issue a decision or order reversing, affirming or
36 modifying, in whole or in part, such interpretation, order or decision, or a postponement of the
37 application thereof, within 45 days following the hearing unless such time is extended by
38 agreement with the appellant.

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

43 A record of all appeals board decisions and of votes thereunder, properly
44 indexed, shall be maintained in the office of the department of fire services and shall be open to
45 public inspection at all times during regular business hours.

46 SECTION 2. This act shall take effect on January 1, 2012.