

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 adoption 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

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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 The following section amends, by insertion, Article 7 of Chapter 163 of the Acts of 1988
2 Section 7-7. Recall of County Officers
3 (1) Application – Any person who holds an elected county office, with more than six
4 months
5 remaining of the term of office at the time of the filing of the application, may be recalled
6 from
7 the office by the voters in the manner provided in this section. 6
8 (2) Recall Petitions – If the officer is elected from the county at large, one hundred and
9 fifty or
10 more voters may file with the county clerk an affidavit containing the name of the officer
11 whose
12 recall is sought and a statement of the grounds for recall; if the officer is elected from any
13 municipality into which the county is divided the signatures on such petitions shall
14 contain the
15 names of at least twenty-five voters from the said municipality. The petitions relating to
16 an

17 officer elected from the county at large shall contain the names of at least twenty-five
18 voters in

19 each of any six municipalities within the county. When submitted to the county clerk the
20 signatures shall bear the certification of the registrars of voters of the municipality in
21 which

22 collected that they are the names of voters in said municipality.

23 Within seven days following receipt the county clerk shall certify such petitions with
24 regard to

25 the sufficiency and validity and shall thereupon deliver to the ten persons first named on
26 such

27 petitions, petition blanks demanding said recall, printed forms of which the county clerk
28 shall

29 keep available. The blanks may be completed by printing or typewriting; they shall be
30 addressed to the assembly of delegates; they shall contain the names of the ten persons to
31 whom they are issued and the grounds for recall as stated in the affidavit; they shall
32 demand the

33 election of a successor to the office; they shall be dated and signed by the county clerk.
34 The

35 recall petitions shall be returned to the office of the county clerk within twenty days
36 following the

37 date they are issued, signed by at least fifteen percent of the total number of persons
38 registered

39 to vote in the county as of the date of the most recent state election if the officer is elected
40 at

41 large and by fifteen percent of the total number of persons registered to vote in the
42 municipality

43 as of the date of the most recent state election if the officer is elected from a municipality.

44 The county clerk shall within three days following such filing, submit the petitions to the
45 board

46 of registrars of voters in the several municipalities from which collected which boards of

47 registrars of voters shall within five days thereafter certify thereon the number of
48 signatures

49 which are the names of voters.

50 (3) Recall Elections – The county clerk shall review the petitions as certified by the
51 registrars of

52 voters of the several municipalities and if the county clerk determines that collectively
53 the

54 petitions are sufficient, the county clerk shall forthwith submit the same with a certificate
55 so

56 stating to the assembly of delegates. Upon its receipt of the certified petition, the
57 assembly of

58 delegates shall forthwith give notice, in writing, of said petition to the officer whose
59 recall is

60 sought. If said officer does not resign from office within five days following delivery of
61 the said

62 notice, the assembly of delegates shall order a special election to be held not less than
63 ninety nor

64 more than one hundred twenty days after the date of the certification of the county clerk
65 that the

66 petition is sufficient; provided, however, if a regular biennial state election is to be held
67 within

68 one hundred fifty days of such certification the recall election shall be held in conjunction

69 therewith and no special election shall be held. If a vacancy occurs in the office after a
70 recall

71 election has been ordered, the election shall nevertheless proceed as provided in this
72 section, but only the ballots for candidates need be counted.

73 (4) Nomination of Candidates – An officer sought to be recalled may not be a candidate
74 to be

75 elected to the same office if the vote on the recall is in the affirmative. The nomination of
76 other

77 candidates, the publication of the warrant for the recall election, and the conduct of the
78 same

79 shall be in conformity with the provisions of law relating to county elections generally,
80 unless

81 otherwise provided in this section.

82 (5) Propositions on the Ballot – Ballots used at the recall election shall state the
83 proposition in

84 the order indicated:

85 For the recall of (name of officer)

86 Against the recall of (name of officer)

87 Adjacent to each proposition shall be a place to vote for either of said propositions. After
88 the

89 said proposition shall appear the words "candidates" and the names of candidates
90 arranged by a

91 lottery drawn by the county clerk. If a majority of the votes cast is in favor of the recall,
92 and

93 provided at least twenty five percent of the total number of voters as of the date of the
94 most

95 recent biennial state election have participated at such recall election, the officer shall be
96 deemed

97 to be recalled and the ballots for candidates shall then be counted and the candidate
98 receiving

99 the highest number of votes shall be declared elected.

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

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

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

105 If the officer is recalled, the office shall be deemed vacant upon the certification of the
106 election

107 results. The candidate who receives the highest number of votes shall serve for the
108 balance of
109 the unexpired term.

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

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

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