

HOUSE No. 3875

The Commonwealth of Massachusetts

PRESENTED BY:

Christopher M. Markey

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 further regulating the appointment and removal of certain personnel in Dartmouth Fire District Number Two.

PETITION OF:

NAME:

Christopher M. Markey

DISTRICT/ADDRESS:

9th Bristol

HOUSE No. 3875

By Mr. Markey of Dartmouth, a petition (subject to Joint Rule 12) of Christopher M. Markey relative to the appointment of a fire chief in Dartmouth fire district No. 2 . Public Service.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act further regulating the appointment and removal of certain personnel in Dartmouth Fire District Number Two.

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. (a) Notwithstanding any general or special law to the contrary, the
2 Dartmouth fire district No. 2, hereinafter referred to as the district, shall be headed by an officer
3 to be known as the chief of the fire department. The chief shall be appointed by the prudential
4 committee of the district for a term up to but not more than 3 years; provided, that the chief may
5 be reappointed for another such term as often as the prudential committee, in its discretion
6 desires; and provided further, that any such reappointment may only occur in the last year of the
7 chief’s current term. The chief shall receive such salary as may be determined through the
8 execution of a contract with the prudential committee for the term of the appointment subject to
9 appropriation by the district meeting.

10 (b) The prudential committee may suspend or remove the chief for just cause at any time
11 after a hearing; provided, that the failure to reappoint the chief shall not constitute such a
12 removal and shall not require such a hearing. The prudential committee may appoint a hearing

13 officer for any such hearing, who shall make factual findings that are binding upon the prudential
14 committee, but who shall not make any decision with respect to what, if any, discipline is
15 merited by those findings. Should the chief choose to appeal a suspension or removal, any such
16 appeal shall be made in writing, within 10 business days, to the chair of the prudential committee
17 and shall be subject to mandatory, binding arbitration. Upon the timely receipt of any such
18 written appeal, the chair of the prudential committee and the appealing individual may agree
19 upon a different arbitrator. There shall be no hearing for, and no appeal of, any lesser discipline.

20 (c) The chief shall hire all members of the fire department. The chief shall appoint a
21 deputy and any other officers the chief deems necessary. The chief may suspend or remove any
22 subordinate officers or members for just cause at any time after a hearing. Any such subordinate
23 officer or member may appeal a removal to the prudential committee. There shall be no appeal
24 of any lesser discipline. The prudential committee may appoint a hearing officer for any such
25 hearing. The hearing officer shall make factual findings that are binding upon the prudential
26 committee, but who shall not make any decision with respect to factual findings that are binding
27 upon the prudential committee, but who shall not make any decision with respect to what, if any,
28 discipline is merited by those findings. There shall be no appeal from the prudential committee's
29 decision.

30 (d) Sections 42 and 43 of chapter 48 of the General Laws shall apply to the chief, except
31 as provided in this act.

32 SECTION 2. (a) Notwithstanding any general or special law to the contrary, the treasurer
33 of the district shall be appointed by the prudential committee of the district for a term up to but
34 not more than 3 years; provided, that the treasurer may be reappointed for another such term as

35 often as the prudential committee, in its discretion, desires; and provided, further that any such
36 appointment may only occur in the last year of the treasurer's current term. The treasurer shall
37 receive such salary as may be determined through the execution of a contract with the prudential
38 committee for the term of the appointment, subject to appropriation by the district meeting. The
39 prudential committee may suspend, terminate or otherwise discipline the treasurer pursuant to
40 the terms set forth in the employment contract.

41 (b) Notwithstanding any general or special law to the contrary, there shall be no auditors
42 of the district and any and all powers and duties of such officers shall be held and exercised by a
43 qualified professional auditor selected by the prudential committee.

44 (c) Notwithstanding any general or special law to the contrary, the clerk of the district
45 shall be appointed by the prudential committee of the district for a term up to but not more than 3
46 years; provided, that the clerk may be reappointed for another such term as often as the
47 prudential committee, in its discretion, desires; and provided, further that any such
48 reappointment may only occur in the last year of the clerk's current term. The clerk shall receive
49 such salary as may be determined through the execution of a contract with the prudential
50 committee for the term of the appointment, subject to appropriation by the district meeting. The
51 prudential committee may suspend, terminate or otherwise discipline the clerk pursuant to the
52 terms set forth in the employment contract. The prudential committee may appoint a single
53 individual to the positions of both treasurer and clerk of the district.