

# SENATE NO. 1183

## **AN ACT** RELATIVE TO THE BARNSTABLE COUNTY CHARTER

*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 the provisions of any general or special law to the contrary, all  
2 functions, duties and responsibilities for the operation and management of the jail and house of  
3 correction, including the department of public safety, but not including the fire training academy, in  
4 Barnstable county are hereby transferred to the commonwealth, subject to the provisions of this act.
- 5 (b) Pursuant to this act Cape Cod regional government, known as Barnstable county, is hereby  
6 established within the geographical boundaries of Barnstable county. Notwithstanding the provisions  
7 of any general or special law to the contrary, pursuant to this act, all powers and duties of the county  
8 government of Barnstable are transferred to the Cape Cod regional government. Nothing in this act  
9 shall affect the existing county boundaries.
- 10 (c) All powers and duties of Barnstable county described in chapter 163 of the Acts of 1988  
11 (Barnstable County Home Rule Charter) and chapter 716 of the Acts of 1989 and chapter 2 of the Acts  
12 of 1990 (Cape Cod Commission Act) are preserved, transferred to, and shall be retained by Cape Cod  
13 regional government. Nothing in this act shall be construed to alter the powers and duties and

14 organizational structure as described in chapter 163 of the Acts of 1988 and chapter 716 of the Acts of  
15 1989 and chapter 2 of the Acts of 1990, except as may be otherwise provided in this act. Any and all  
16 regional planning activities or functions established for Barnstable county pursuant to the provisions of  
17 chapter 716 of the Acts of 1989 and chapter 2 of the Acts of 1990 shall be retained by the Cape Cod  
18 commission. All powers and duties of Barnstable county under any existing regional service  
19 agreements or special acts or laws are hereby transferred to the Cape Cod regional government.  
20 Nothing in this act shall be construed to create a new unit within the Barnstable county retirement  
21 system and there shall be no break in service as a result of this transfer.

22 (d) Notwithstanding the provisions of any general or special law to the contrary, pursuant to this act  
23 Cape Cod regional government shall retain the powers and duties of counties under chapter 34,  
24 chapters 81 to 88, inclusive, and chapter 140 of the General Laws. All petitions, hearings and other  
25 procedures duly brought before, and all prosecutions and legal and other proceedings duly begun by  
26 Barnstable county and the Cape Cod commission, which arise from or relate to the exercise of its  
27 powers or the performance of duties, and which are pending or incomplete immediately prior to the  
28 effective date of this act, shall continue unabated and remain in full force and effect notwithstanding  
29 the passage of this act, and shall thereafter be completed in accordance with this act. All orders,  
30 actions, guidelines, standards, criteria, designations, procedures, bylaws, regulations, conditions,  
31 modifications, and decisions duly made and all licenses, permits, authorities, permissions, certificates,  
32 approvals, and endorsements, duly granted, by Barnstable county and the Cape Cod commission,  
33 which arise from or relate to the exercise of its powers or the performance of duties, and which are in  
34 effect immediately prior to the effective date of this act, shall continue in full force and effect and the  
35 provisions thereof shall thereafter be enforced until superseded, revised, rescinded or canceled in  
36 accordance with this act and any other applicable law.

37 (e) The Cape Cod regional government may apply for and receive any state and federal funds or  
38 grants; may apply for and receive any municipal or private grants or loans; and may accept and expend  
39 such funds received in the same manner as permitted to do under the charter and Massachusetts  
40 general laws.

41 (f) The authority granted in chapter thirty-five of the General Laws to county officials to levy and  
42 collect a county tax, to borrow money in anticipation of taxes and other revenues, to pay bills, for the  
43 supervision of county finances by the state government shall all be applicable to the Cape Cod regional  
44 government. The Cape Cod regional government shall, for the purposes of chapter thirty-five, be  
45 deemed to be the county government and the powers authorized to be exercised by county officers or  
46 agencies under said chapter thirty-five shall be exercised by the regional officer or agency performing  
47 the same or substantially similar powers and duties.

48 (g) The Cape Cod regional government shall for all purposes be deemed to be the lawful successor to  
49 Barnstable County with respect to the authority granted to Barnstable county by section 2 of chapter  
50 163 of the acts of 1988, and by sections 11 and 12 of chapter 64D of the General Laws to levy and  
51 collect an additional tax upon deeds, instruments and writings and to retain said funds to meet its  
52 expenses.

53 (h) Notwithstanding the provisions of section thirty-one of chapter thirty-five of the General Laws, or  
54 any other general or special law to the contrary, the Cape Cod regional government may establish and  
55 maintain from year-to-year the following reserve accounts: statutory reserve account, workmen's  
56 compensation reserve account, receipts reserved for appropriations account, stabilization fund, and a  
57 capital improvements stabilization fund.

58 (i) Notwithstanding any provision to the contrary, the Cape Cod regional government shall have the  
59 authority to authorize revolving funds in accordance with General Laws chapter 44, 53E and enterprise

60 funds in accordance with General Laws chapter 44, 53F½.

61 (j) Notwithstanding the provisions of subsection (a) of section 28B of chapter 35 of the General Laws  
62 or any other general or special law to the contrary, the advisory board for county expenditures to serve  
63 in conjunction with the Cape Cod regional government shall consist of the persons elected from each  
64 town to serve as members of the regional assembly of delegates.

65 (k) Notwithstanding any general or special law to the contrary, pursuant to this act any political  
66 subdivision of the commonwealth may enter into agreement with the Cape Cod regional government  
67 to perform jointly or for the other, or in cooperation with other entities, any service, activity or  
68 undertaking which such political subdivision is authorized by law to perform. For the term of such  
69 agreement and subject to the terms thereof, said Cape Cod regional government shall be authorized to  
70 perform such service, activity or undertaking. For the purposes of federal programs, including but not  
71 limited to grant eligibility under the home investment partnerships program, the Cape Cod regional  
72 government shall be considered a unit of general local government with equivalent rights and  
73 privileges of a county in those states in which counties are recognized.

74 (l) The Cape Cod regional government shall for all purposes be deemed to be the lawful successor to  
75 Barnstable county. All property both real and personal held by Barnstable county at the time this act  
76 becomes effective shall become the property of the Cape Cod regional government. Notwithstanding  
77 the foregoing, the personal property in the care and possession of the Sheriff's Department of  
78 Barnstable County shall remain under the control of said department or its corporate successor.

79 (m) All records, property and equipment whatsoever of any agency or part thereof, the powers of  
80 which are assigned in whole or in part to another county agency, shall be transferred forthwith to the  
81 Cape Cod regional government. Notwithstanding the foregoing, the records and equipment in the care  
82 and possession of the Sheriff's Department of Barnstable County shall remain under the control of said

83 department or its corporate successor.

84 (n) All valid liabilities and debts of Barnstable county pertaining to the functions cited in subsection  
85 (a) which are in force on June thirtieth, two thousand and four are henceforth obligations of the  
86 commonwealth.

87 All valid leases and contracts of Barnstable county pertaining to the functions cited in said subsection  
88 (a) which are in force on June thirtieth two thousand and four are henceforth obligations of the  
89 commonwealth and the commonwealth shall have authority to exercise all rights and enjoy all interests  
90 conferred upon the county by said leases and contracts except as may be otherwise provided in this act.

91 (o) Notwithstanding any general or special law to the contrary, pursuant to this act the sheriff of  
92 Barnstable county shall become an employee of the commonwealth under the secretary of public  
93 safety. The sheriff shall remain an elected official under the general direction of the executive office  
94 of public safety.

95 (p) Notwithstanding any general or special law to the contrary, pursuant to this act, the commonwealth  
96 shall assume all financial control and responsibility over the Barnstable county department of public  
97 safety and the Barnstable county jail and house of correction, including the funding provided by the  
98 county known as the maintenance of effort.

99 (q) All revenues collected from the operation of the functions cited in subsection (a) shall become  
100 revenues of the commonwealth on and after the effective date of this act, subject to the provisions of  
101 this act. All revenues collected from the operation of the functions cited in said subsection (a) before  
102 the effective date of this act which have not been expended or encumbered, shall be transferred to the  
103 commonwealth, subject to the provisions of this act.

104 (r) Notwithstanding the provisions of any general or special law or rule or regulation to the contrary,  
105 pursuant to this act the Barnstable county sheriff, all deputies, jailers, superintendents, keepers,

106 officers, assistants and other employees of the sheriff, including employees working in the department  
107 of public safety, employed on the effective date of this act in the discharge of their responsibilities set  
108 forth in section twenty-four of chapter thirty-seven and in section sixteen of chapter one hundred and  
109 twenty-six of the General Laws, transferred by this act to the commonwealth, shall be transferred with  
110 no impairment of employment rights held immediately before the effective date of this act without  
111 interruption of service, without impairment of seniority, retirement or other rights of employees,  
112 without reduction compensation or salary grade and without change in union representation.

113 Any collective bargaining agreement in effect immediately before said effective date of the transfer  
114 shall continue in effect and the terms and conditions of employment therein shall continue as if the  
115 employees had not been so transferred. Nothing in this subsection shall be construed to confer upon  
116 any employee any right not held immediately before the date of said transfer, or to prohibit any  
117 reduction of salary grade, transfer, reassignment, suspension, discharge, layoff or abolition of position  
118 not prohibited before such date.

119 All demands, notices, citations, writs, precepts, and all other notices given by the sheriff, deputies,  
120 jailers, superintendents, keepers, officers, assistants or other employees of the sheriff, as the case may  
121 be, before the effective date of this act shall be valid and effective for all purposes unless otherwise  
122 revoked, suspended, rescinded, canceled or terminated in accordance with law.

123 Any enforcement activity imposed by the sheriff, any deputies, jailers, superintendents, keepers,  
124 officers, assistants or other employees of the sheriff, before the effective date of this act shall be valid,  
125 effective and continuing in force according to the terms thereof for all purposes, unless superseded,  
126 revised, rescinded or canceled in accordance with law.

127 All petitions, hearings, appeals, suits and other proceedings duly brought against, and all petitions,  
128 hearings, appeals, suits, prosecutions and other legal proceedings begun by the sheriff, deputies,

129 jailers, superintendents, keepers, officers, assistants or other employees of the sheriff, as the case may  
130 be, which are pending immediately before the effective date of this act, shall continue unabated and  
131 remain in force notwithstanding the passage of this act.

132 All records maintained by the sheriff, deputies, jailers, superintendents, keepers, officers, assistants  
133 and other employees of the sheriff before the effective date of this act shall continue to enjoy the same  
134 status in any court or administrative proceeding, whether pending on the effective date of this act or  
135 commenced thereafter, as they would have enjoyed in the absence of the passage of this act.

136 (s) In the case of employees of the Barnstable county jail or house of correction in the custody and  
137 control of the sheriff of Barnstable county, the employer, as defined in section one of chapter one  
138 hundred and fifty E of the General Laws, shall mean the sheriff of Barnstable county or any individual  
139 who is designated to represent the sheriff and act in his interest in dealing with employees.

140 (t) Employees of the Barnstable county jail and house of correction and department of public safety  
141 shall become a part of the state retirement system and are subject to the health insurance plans, rules  
142 and regulations of said system. Employees of the Cape Cod regional government shall remain a part  
143 of the Barnstable County retirement system and are subject to the health insurance plans, rules and  
144 regulations of the Cape Cod regional government. The Cape Cod regional government shall be a  
145 member of the Barnstable county retirement system as successor to Barnstable county. The unfunded  
146 pension liability for employees of the Barnstable county jail and house of correction and department of  
147 public safety shall remain a part of the Barnstable county retirement system.

148 The powers, duties and responsibilities of Barnstable county with respect to group health insurance  
149 under chapter thirty-two B of the General Laws are hereby transferred to the Cape Cod regional  
150 government.

151 (u) Notwithstanding the provisions of any general or special law or rule to the contrary, except as

152 provided for in this act, all other county employees employed on the effective date of this act shall be  
153 transferred to the Cape Cod regional government with no impairment of employment rights held  
154 immediately before the effective date of this act, without interruption of service, without impairment  
155 of seniority, retirement or other rights of employees, and without reduction of pension benefits,  
156 compensation or salary grade. Any collective bargaining agreement in effect immediately before said  
157 effective date of the transfer shall continue in effect and the terms and conditions of employment  
158 therein shall continue as if the employees had not been so transferred. Nothing in this subsection shall  
159 be construed to confer upon any employee any right not held immediately before the date of said  
160 transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge,  
161 layoff, or abolition of position not prohibited before such date.

162 (v) Notwithstanding the provisions of any general or special law to the contrary, pursuant to this act  
163 the director of finance for the Cape Cod regional government shall assume all functions, duties and  
164 responsibilities of the county treasurer and shall serve in the same capacity as the county treasurer with  
165 respect to the retirement system and for all other purposes as described in the General Laws.

166 (w) Notwithstanding any special or general law to the contrary, pursuant to this act, and all subsequent  
167 fiscal years, Cape Cod Regional Government may impose a regional assessment up to one hundred  
168 and two and one-half percent of the amount of the county tax assessed under the provisions of chapter  
169 thirty-five of the General Laws. An assessment in excess of said one hundred and two and one-half  
170 percent may be imposed in any year with the concurrence of a majority of the voters voting in an  
171 annual or special election of the towns located within the geographical confines of Barnstable county.  
172 The regional assessment may be reduced or increased pursuant to the action of the assembly of  
173 delegates subject to the same formula and limits of the former county tax.

174 (x) The commonwealth shall not assess the towns of Barnstable county for the transfer of former

175 county functions either directly, through a reduction in local aid, or by any other means. This section  
176 shall not be construed as a prohibition of the imposition by the Barnstable County Sheriff's  
177 Department of a fee to cities and towns within Barnstable County for public safety services.

178 (y) Notwithstanding any special or general law to the contrary, pursuant to this act the deeds excise tax  
179 allocated in accordance with chapter 193, Acts of 1989, sections 2, 3 and 11 of the act, shall be  
180 appropriated to the Cape Cod regional government. This section shall not effect that portion of the  
181 deeds excise tax designated for the benefit of the Sheriff's Department of Barnstable County.

182 (z) Notwithstanding any special or general law to the contrary, pursuant to this act the Cape Cod  
183 commission shall be funded in accordance with the procedures established by chapter 163 of the Acts  
184 of 1988 and section 18 of chapter 716 of the Acts of 1989 and chapter 2 of the Acts of 1990.