

SENATE No.

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:

James E. Timilty

DISTRICT/ADDRESS:

Bristol and 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 the
2 following new section:-

3

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

7

8 The Governor shall from time to time designate a member of said board as Chairman. The State Fire
9 Marshal, and heads of fire departments serving on this board shall receive no compensation for their
10 services on the board. All other members of said board shall each be paid fifty dollars for each day while
11 in actual performance of his duties but such pay shall not exceed two thousand five hundred dollars in any

12 fiscal year for each eligible member plus all expenses necessarily incurred by him in connection with his
13 official duties as such member of the Appeals Board.

14

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

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

22

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

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

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

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35 The chairman shall fix the time and place for each hearing and such hearing shall take place not later than
36 sixty days after the filing of such appeal, unless such time is extended by agreement with the appellant.

37 Any such party may appear in person or by agent or attorney at the hearing.

38

39 Decisions on appeal shall be made by the three-member appeals board conducting the public hearing.

40 Every decision shall require the concurrence of at least two of the three members and the appeals board
41 shall state in writing its findings of fact, conclusions and reasons for its decision and indicate the vote of
42 each member participating in the decision.

43

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

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

52

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

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