

By Mr. Hermann of North Andover, petition of Joseph N. Hermann, Nicholas J. Costello and another for legislation to provide for the establishment of a charter for Essex County. Counties.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Nine.

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A CHARTER FOR ESSEX COUNTY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

PREAMBLE

1 We the people of Essex County, Massachusetts, a body cor-
2 porate and politic, under the Constitution and General Laws of
3 the Commonwealth of Massachusetts, do adopt this Charter as
4 our instrument of county government.

CHAPTER ONE

General Provisions

1 Section 1. *Form of Government*

2 1-1-1 The form of government established by this charter is a
3 "council of government," and it shall be known as the "county
4 executive officer" plan. It shall be governed by a county council
5 and an appointed county executive officer, and by such other
6 officers and employees as may be established by this charter or
7 by ordinance adopted pursuant to General Law, Special Act, or
8 this charter.

9 1-1-2 The Charter shall be known as "The Essex County
10 Charter."

11 Section 2. *Construction of County Charter*

12 1-2-1 The grant of powers under this charter is intended to be
13 as broad as possible, consistent with the Constitution of the

14 Commonwealth, and the General Laws relating to local
15 government.

16 1-2-2 The grant of powers shall be construed as liberally as
17 possible in regard to the county's right to reorganize its own form
18 of government, to reorganize its structure, and to alter, create or
19 eliminate its agencies, subject to the general mandate of
20 performing services whether they be performed by the agency
21 previously established or by a new agency or other department
22 of county government.

23 1-2-3 Based on the need to develop effective services to meet
24 problems which cross city or town boundaries and which cannot
25 be met effectively on an individual municipal basis, this charter
26 shall be construed as intending to give Essex County the power
27 to establish programs and to perform such services as the
28 Constitution of the Commonwealth of Massachusetts and the
29 General Laws permit.

30 Section 3. *Intergovernmental Relations*

31 1-3-1 The county may exercise any of its powers and perform
32 any of its functions, and may participate in the financing thereof,
33 jointly or in cooperation, by contract or other agreement, with
34 any other state, county, municipality, or with any civil division
35 or agency of the Commonwealth of Massachusetts or of the
36 United States Government.

37 Section 4. *Powers of the County*

38 1-4-1 The adoption of this charter by the voters of Essex
39 County shall serve to empower the county to:

40 (a) Exercise all powers of county government in such manner
41 as the county council may determine;

42 (b) Organize and regulate its internal affairs; create, alter, or
43 eliminate offices, positions and employments and define func-
44 tions, powers and duties thereof; establish qualifications for
45 persons holding offices, positions and employments; and provide
46 for the manner of their appointment and removal and for their
47 term, tenure and compensation.

48 (c) Adopt, amend, enforce, and repeal ordinances and
49 resolutions notwithstanding the effect of any referendum
50 conducted prior to the county's adoption of its charter.

51 (d) Construct, acquire, operate and maintain public improve-
52 ments, projects or other enterprises for any public purposes

53 subject to such referendum as may otherwise be required by
54 general law.

55 (e) Exercise powers of eminent domain, borrowing and
56 taxation as provided by general law and this charter.

57 (f) Sue and be sued; have a corporate seal; contract and be
58 contracted with; buy, sell, lease, hold and dispose of real and
59 personal property; appropriate and expend monies for county
60 purposes.

61 Section 5. *Contracts with Local Government*

62 1-5-1 The county, its departments and officers may contract
63 with other states or counties to provide services to the county or
64 to one or more municipalities within the county.

65 1-5-2 All such contracts shall be prepared by the county execu-
66 tive officer and be approved by the county council.

67 Section 6. *Contracts with the Private Sector*

68 1-6-1 The county, its departments and officers may contract
69 with any organization in the private sector to provide services to
70 the county or to one or more municipalities within the county.

71 1-6-2 All such contracts shall be prepared by the county execu-
72 tive officer and be approved by the county council.

CHAPTER TWO

The County Council

1 Section 1. *Legislative Body: Name and Composition*

2 2-1-1 The legislative body shall consist of a county council
3 composed of thirty-four members. Each city or town in the county
4 shall have one county councilor.

5 2-1-2 The councilor of a city shall be the mayor or a person
6 designated by the mayor who shall serve at the pleasure of the
7 mayor, or his successor.

8 2-1-3 The councilor of a town shall be the chairman of the
9 board of selectmen or a person designated by the board of
10 selectmen, who shall serve at the pleasure of the board of
11 selectmen.

12 2-1-4 Notwithstanding the preceding parts of this section, any
13 city or town may, as a local option, by charter, ordinance, or by-
14 law, choose the councilor by election, for a term not to exceed
15 three years.

16 2-1-5 Said charter, ordinance, or by-law provision shall
17 establish the term of office, and how any vacancy arising in said
18 office shall be filled, in the event it becomes vacant prior to the
19 end of the term.

20 2-1-6 Each councilor shall serve until a successor has been
21 qualified and sworn.

22 Section 2. *Judge of Qualifications*

23 2-2-1 The council shall be the judge of the election and
24 qualifications of its members and of the grounds for forfeiture of
25 their office and for that purpose shall have power to subpoena
26 witnesses, administer oaths, and require the production of
27 evidence.

28 Section 3. *Legislative Body: Voting*

29 2-3-1 Except as otherwise provided in 2-5-2, all voting shall be
30 weighted according to population.

31 (a) Population for each municipality shall be according to the
32 most recent decennial Federal census.

33 (b) Each city or town shall have a vote which corresponds to
34 that municipality's population as a percentage of the total county
35 population.

36 Section 4. *Meetings*

37 2-4-1 The council shall provide by ordinance for the manner,
38 time, and place of holding all regular meetings and for the
39 procedure for calling special meetings.

40 2-4-2 The council shall hold at least one regular meeting in
41 each calendar quarter.

42 Section 5. *Presiding Officer*

43 2-5-1 At its organizational meeting each January the council
44 shall select one of its members to serve as chairperson and one
45 to serve as vice-chairperson of the year. The chairperson shall
46 preside over council meetings during his tenure, and in his absence
47 the vice-chairperson shall preside.

48 2-5-2 The election of chairperson and vice-chairperson shall be
49 by a majority (non-weighted) vote, with each councilor present
50 entitled to cast one vote.

51 Section 6. *Clerk of the Board*

52 2-6-1 The council may appoint a clerk of the council who shall
53 serve at its pleasure.

54 2-6-2 The clerk shall keep the records and minutes of the
55 council and perform such other duties as the council may, by
56 ordinance, establish.

57 Section 7. *Policy Leadership*

58 2-7-1 The council shall serve as the chief goal-setting and
59 policy-making agency of the county. The council shall cause the
60 policies of the county to be regularly published, and copies shall
61 be distributed to the office of the chief executive of each city and
62 town within the county.

63 2-7-2 In addition to the power of adopting ordinances for the
64 county, the council shall have the power to enact rules and
65 regulations establishing county policies, not otherwise governed
66 by general law, or charter, provided, however, that if an
67 appropriation shall be necessary to implement such action, the
68 vote of the council shall be effective only when such appropriation
69 has been authorized.

70 Section 8. *Administration*

71 2-8-1 The council shall delegate the responsibility for the
72 administration of the county's business to the county executive
73 officer. As such, the council shall not administer the day-to-day
74 affairs of the county. It shall regularly direct the county executive
75 officer to carry out county administrative duties.

76 Section 9. *Powers and Duties*

77 2-9-1 The county council shall have and exercise any and all
78 legislative and investigative functions heretofore assigned by
79 general law and special act to the county commissioners, and shall
80 have and exercise any and all powers as are now or may hereafter
81 be assigned by general law to the county advisory board.

82 2-9-2 The council shall:

83 (a) appoint, suspend or remove the county executive officer
84 and at least once each year review and appraise the officer's
85 performance.

86 (b) appoint or remove for cause members of county boards and
87 commissions.

88 (c) approve the annual operating and capital improvement
89 budgets, prior to the beginning of the next fiscal year.

90 (d) provide for the number, powers and duties of all appointed
91 county officers and employees.

92 (e) act upon all tax and revenue measures and upon all bond
93 issues, which shall require at least two-thirds of the potential votes
94 of the county council.

95 (f) advise and consent to all appointments made by the county
96 executive officer for which confirmation is required by this
97 charter.

98 (g) approve all contracts presented by the county executive
99 officer.

100 (h) pass whatever ordinances and resolutions it deems
101 necessary and proper for the good governance of the county, in
102 accordance with this chapter.

103 (i) establish by ordinance the compensation of all county
104 officers and employees.

105 (j) provide for publication of the powers, duties, procedures
106 and rules of operation of all county offices and departments and
107 for public access to such publications.

108 (k) take such measures as may be necessary to implement this
109 charter.

110 2-9-3 The council may:

111 (a) require periodic or special reports of expenditures and costs
112 of operation, examine all records and accounts and inquire into
113 the conduct of any office, commission, or department of the
114 county.

115 (b) require the attendance of any county officer or employee
116 at any meeting of the council for the purpose of information,
117 advice and assistance.

118 (c) place advisory questions or proposed charter amendments
119 on the November state ballot, provided that any such question
120 or charter amendment shall have been previously submitted to the
121 Secretary of State of the Commonwealth prior to the first Wednes-
122 day in the month of August preceding the November election at
123 which the question is to be placed on the ballot.

124 Section 10. *Prohibitions*

125 2-10-1 No member of the county council during the term of
126 office or for two years thereafter shall be eligible for appointment
127 to any county office, position or employment carrying
128 compensation except for reimbursement of authorized expenses.

129 2-10-2 Except for the purposes of investigation authorized by
130 this charter, the council or its members shall deal with county

131 officers and employees who are subject to the direction and
132 supervision of the county executive officer solely through the
133 county executive officer, and neither the council nor its members
134 shall give orders to any such officer or employee, either publicly
135 or privately.

CHAPTER THREE

The County Executive Officer

1 Section 1. *Appointments*

2 3-1-1 The county council (hereinafter "the council"), by
3 majority vote, shall appoint a county executive officer for an
4 indefinite term to serve at its pleasure.

5 3-1-2 In selecting a county executive officer, the council shall
6 search for candidates by placing an advertisement in the Inter-
7 national City Management Association Newsletter or similar pro-
8 fessional publication and in at least two newspapers having
9 statewide circulation.

10 3-1-3 No person who has held either elective or appointive
11 office within the government of Essex County during the
12 preceding twelve months shall be eligible for the position of county
13 executive officer.

14 Section 2. *Qualifications*

15 3-2-1 The county executive officer shall be appointed on the
16 basis of educational, executive and administrative qualifications
17 and experience. The educational qualifications shall consist of at
18 least a bachelor's degree, preferably in public administration,
19 granted by an accredited degree-granting college or university.
20 The professional experience shall include at least five years of
21 prior full time, compensated executive service in public or business
22 administration. Alternatively, two years or more of professional
23 experience and a master's degree in an appropriate discipline shall
24 qualify any applicant. Additionally, ten years of employment in
25 the public sector, five of which shall be full-time compensated
26 public service, shall qualify any applicant.

27 Section 3. *Duties*

28 3-3-1 The county executive officer shall be the chief
29 administrative officer of the county and shall be responsible for

30 administering and coordinating all appointed employees,
31 activities and departments placed by general law, this charter or
32 county ordinance under the control of the council and of the
33 county executive officer.

34 3-3-2 He shall devote his full working time to the duties of his
35 office; he shall not become a candidate for, or hold, any elective
36 office during his term of appointment; and he shall not engage
37 in any business or consulting activity during his term. He shall:

38 (a) attend all meetings of the council, except when excused, and
39 he shall have the right to speak but not to vote.

40 (b) assemble, prepare and present to the council all annual
41 operating budgets and be responsible for the development and
42 annual revision of the capital improvements budget and program.

43 (c) be responsible for seeing that the budget is administered and
44 expended as adopted by the council and in accordance with
45 general law, this charter, and county ordinance.

46 (d) keep the council informed regarding all departmental
47 operations, fiscal affairs, general problems, and administrative
48 actions, and to this end shall submit quarterly reports to the
49 council.

50 (e) keep the council informed regarding the availability of state
51 and federal funds and how such funds might relate to unmet short-
52 range and long-range needs.

53 (f) solicit and prepare applications for grants.

54 (g) be responsible for the day-to-day administration of the
55 county personnel code.

56 (h) be responsible for the purchasing of all county departments.

57 (i) make recommendations to the board regarding vacancies in
58 offices and committees or commissions to be filled by the council.

59 (j) be responsible for the enforcement of county planning
60 decisions.

61 (k) develop, keep, and annually update a full and complete
62 inventory of all property of the county, both real and personal.

63 (l) negotiate collective bargaining contracts on behalf of the
64 council, unless the council shall have designated another
65 negotiator.

66 (m) perform such other duties as may be required by this
67 charter, county ordinance, or vote of the board.

68 Section 4. *Responsibilities for Appointments*

69 3-4-1 Subject to the approval of the council, the county
70 executive officer shall have the power to appoint on the basis of
71 merit and fitness alone, the following officers, each for a term of
72 four years: a director of finance, a director of planning, a director
73 of engineering, and a director of purchasing.

74 3-4-2 Subject to the approval of the council, the county
75 executive officer shall also have the power to appoint, on the basis
76 of merit and fitness alone, the directors of any departments which
77 may be subsequently created.

78 3-4-3 The county executive officer shall also appoint, on the
79 basis of merit and fitness alone, and, except as may otherwise be
80 provided by general law, this charter, personnel code, or collective
81 bargaining agreements, may suspend or remove for just cause: (a)
82 all county employees and part-time employees, in consultation
83 with the appointed county officers to whom said employees
84 report; (b) all employees of appointed county multi-member
85 bodies; and (c) all other full-time, part-time, or seasonal
86 employees who report to appointed county officers. All such
87 appointments and removals shall be subjected to disapproval by
88 majority vote of the council taken within 14 days.

89 Section 5. *Responsibilities in Personnel Administration*

90 3-5-1 The county executive officer shall administer and enforce
91 collective bargaining contracts, and such personnel rules and
92 regulations as may be provided by personnel code.

93 3-5-2 After consultation with the council, the county executive
94 officer shall from time to time propose, and the council shall
95 finally adopt, with or without amendment, a personnel code
96 relating to all county positions, except those covered by collective
97 bargaining contracts.

98 3-5-3 The personnel code shall provide for:

99 (a) the classification of county positions, based on duties,
100 responsibilities, and authority of each position, with adequate
101 provision for reclassification of any position whenever warranted
102 by changed circumstances.

103 (b) salary and pay plan for all positions.

104 (c) methods of determining the merit and fitness of candidates
105 for appointment and promotion.

106 (d) policies and procedures regulating reduction in force and
107 removal of employees.

108 (e) hours of work, attendance regulations, and provisions for
109 sick, vacation, military, and other leave.

110 (f) policies and procedures governing persons holding provi-
111 sional organizations.

112 (g) policies regarding in-service training programs.

113 (h) grievance procedures, including procedures for the hearing
114 of such grievances.

115 (i) such other practices and procedures as may be necessary for
116 the administration of the county personnel system.

117 Section 6. *Responsibilities for Administrative Reorganization*

118 3-6-1 The county executive officer may, with the approval of
119 the council, establish, reorganize, consolidate, or abolish any
120 department or position placed by this charter under his direction
121 and supervision, except as otherwise provided by general law or
122 this charter.

123 3-6-2 The creation of any new full-time, compensated position
124 shall require the approval of the council and shall not become
125 effective until the position has been funded by a vote of the
126 council.

127 Section 7. *Responsibilities for Disbursements*

128 3-7-1 Warrants for the payment of county funds, prepared and
129 signed by the director of finance in accordance with general law
130 procedures, shall be submitted to the county executive officer, and
131 his approval thereof shall be sufficient authorization for payment
132 by the director of finance, provided, however, that the council
133 shall approve all payments on capital improvement projects and
134 all warrants in the county executive officer's absence or in the
135 event of a vacancy in the office.

136 Section 8. *Evaluation*

137 3-8-1 The council shall annually evaluate the performance of
138 the county executive officer. The council shall adopt a written set
139 of procedures and criteria which shall form the basis for the
140 evaluation.

141 3-8-2 A copy of the evaluation shall be provided to the county
142 executive officer.

143 Section 9. *Removal*

144 3-9-1 The council may initiate the removal of the county
145 executive officer by adopting a resolution to that effect, stating

146 the reasons therefor. The vote initiating removal shall be taken
147 at a regular scheduled public meeting and in open session.

148 3-9-2 The adoption of said resolution shall serve to suspend the
149 county executive officer for a period of not more than forty-five
150 days, during which the salary shall continue to be paid. A copy
151 of such resolution shall be delivered forthwith to the county
152 executive officer in person, or sent by registered mail to his place
153 of residence.

154 3-9-3 Within five days following the receipt of such resolution,
155 the county executive officer may file a written request for a public
156 hearing. If such a hearing is requested, the council shall schedule
157 it within two weeks, and it shall be held in a public place. At least
158 seven days prior to the public hearing, the council shall advertise
159 the hearing in a newspaper of local circulation and shall cause
160 identical notices citing the purpose, location, time, and date to
161 be posted in all county buildings and in five other places of public
162 access within the county.

163 3-9-4 The council chairperson shall preside at any such
164 hearing.

165 3-9-5 At any such hearing, the reasons for the removal shall
166 first be read aloud. The county executive officer shall then have
167 the right to respond, either personally or through counsel. The
168 council and the county executive officer shall have the right to
169 call witnesses and to subpoena any and all county records.

170 3-9-6 Final removal of any county executive officer shall be
171 effected by a majority vote of the council at a public meeting of
172 the body held within seven days of such public hearing, if
173 requested. If no hearing has been requested, final removal may
174 be effected by majority vote at a meeting of the council held not
175 earlier than fourteen days after the vote initiating the removal.
176 The salary of the county executive officer shall continue to be paid
177 for a period of sixty days after the vote effecting his removal from
178 office.

179 3-9-7 The county executive officer shall provide the council
180 with at least ninety days notice of an intended resignation,
181 provided, however, that the body may, at its discretion, shorten
182 or waive such requirement.

183 Section 10. *Filling Vacancy*

184 3-10-1 When a vacancy arises in the office of the county execu-
185 tive officer, the council shall advertise the vacancy as soon as
186 possible. The council shall fill the vacancy as soon as possible but,
187 in any case, within six months.

188 Section 11. *Acting County Executive Officer*

189 3-11-1 The council shall designate, within 10 days, a county
190 officer or employee or other person to exercise the rights and
191 perform the duties of the county executive officer during any
192 vacancy caused by the temporary absence, or suspension, or
193 removal, resignation or death of the county executive officer. The
194 appointment shall be for a period not to exceed ninety days, and
195 it may be renewed twice, in the case of suspension, removal,
196 resignation, or death for an additional period not to exceed ninety
197 days.

198 3-11-2 The person appointed acting county executive officer
199 shall be ineligible for appointment as county executive officer,
200 unless said person shall have held the title deputy county executive
201 officer.

CHAPTER FOUR

Elected and Appointed Officers

1 Section 1. *County Sheriff: Election, Term and Powers*

2 4-1-1 There shall be a sheriff, who shall be elected from the
3 county at large, as provided in Sect. 159 of M.G.L. Chap. 54. The
4 term shall be six (6) years, beginning with the first Wednesday
5 of January following his election, and until his successor is
6 qualified.

7 4-1-2 The sheriff shall have and exercise all the powers, duties,
8 responsibilities and authority as provided by common law, the
9 general laws, and judicial case law. The sheriff shall be the chief
10 law enforcement officer of the county, and shall have, in addition
11 to his other powers and authority, the power and authority of a
12 chief of police as provided by the general laws. The sheriff shall
13 be the superintendent and keeper of the houses of correction and
14 jails and any other facilities deemed necessary for the performance
15 of his office.

16 4-1-3 Upon a vacancy in the office of sheriff for any reason,
17 the office shall be filled as provided by Sect. 142 of M.G.L. Chap.
18 54.

19 4-1-4 The sheriff shall appoint a special sheriff, who shall have
20 the authority of a deputy sheriff. If, for any reason, the sheriff
21 is unable to perform his official duties they shall be performed
22 by the special sheriff. During a vacancy in the office of sheriff,
23 the special sheriff shall perform all the duties of the sheriff, and
24 the deputies of the former sheriff shall continue to exercise the
25 powers of deputy sheriffs.

26 4-1-5 The sheriff may appoint deputies to serve at his pleasure.
27 A deputy sheriff shall have all the powers, duties, responsibilities,
28 and authority as provided by common law, the general laws or
29 judicial decision. Additionally, a deputy sheriff shall have the
30 powers and authority of any police officer.

31 4-1-6 No chapter, section, or clause of this charter shall conflict
32 with the powers, duties, responsibilities or authority of the sheriff
33 as provided by common law, general law or judicial decision.

34 Section 2. *Registers of Deeds*

35 4-2-1 There shall be two registers of deeds, one for the North
36 District and one for the South District, as provided by General
37 Law.

38 4-2-2 The registers shall be elected by the voters of their
39 respective districts, for a term of six years.

40 4-2-3 The registers shall be subject to the authority of the
41 county executive officer and shall have and exercise all the powers,
42 duties and responsibilities as are now conferred on the office by
43 General Law.

44 Section 3. *Department of Finance*

45 4-3-1 There shall be a department of finance, the head of which
46 shall be a director of finance, who shall be appointed by the county
47 executive officer, with the approval of the county council, for a
48 term of four years.

49 Section 4. *Powers and Duties*

50 4-4-1 The director of finance shall be subject to the authority
51 of the county executive officer. He shall:

52 (a) have charge of the administration of all the financial affairs
53 of the county, except as otherwise provided in this charter.

54 (b) receive and have custody of all public funds belonging to
55 or handled by the county.

56 (c) collect all monies, assessments, fees and other revenues of
57 the county or for whose collection the county is responsible,
58 except as otherwise provided by general law.

59 (d) deposit and invest all funds coming into his hands in such
60 depositories as may be designated by resolution of the county
61 council. If no such resolution is adopted, then as designated by
62 the county executive officer, subject to the requirements of general
63 law.

64 (e) be responsible for disbursements in accordance with general
65 law and this charter.

66 (f) have the custody and management of any funds provided
67 for the payment or redemption of county debts.

68 (g) submit to the county council quarterly a complete financial
69 statement containing a general balance sheet for the county, and
70 at such other times as may be required by the county council or
71 county executive officer.

72 (h) perform all the duties required by general law to be
73 performed by county treasurers, unless such duties shall have been
74 assigned by this charter to some other county department or
75 officer.

76 Section 5. *Department of Engineering*

77 4-5-1 There shall be a department of engineering, the head of
78 which shall be the county engineer, who shall be appointed by
79 the county executive officer for a term of four years, with the
80 approval of the county council.

81 4-5-2 The county engineer shall be subject to the authority of
82 the county executive officer and shall have and exercise all the
83 powers, duties and responsibilities now or hereafter conferred by
84 general law, this charter, or county code.

85 Section 6. *Department of Planning*

86 4-6-1 There shall be a department of planning, the head of
87 which shall be a director of planning, who shall be appointed by
88 the county executive officer for a term of four years, with the
89 approval of the county council.

90 4-6-2 The director of planning shall be subject to the authority
91 of the county executive officer and shall have and exercise all the
92 powers, duties, and responsibilities conferred by this charter or
93 county code.

94 Section 7. *Department of Purchasing*

95 4-7-1 There shall be a department of purchasing, the head of
96 which shall be the director of purchasing, who shall be appointed
97 by the county executive officer for a term of four years, with the
98 approval of the county council.

99 4-7-2 The director of purchasing shall be subject to the
100 authority of the county executive officer and shall have and
101 exercise all the powers, duties and responsibilities now or hereafter
102 conferred by general law, this charter, or county code.

103 Section 8. *Essex Agricultural and Technical Institute*

104 4-8-1 Until such time as the Essex Agricultural and Technical
105 Institute shall be conveyed by law to the Board of Regents of
106 Higher Education of the Commonwealth, the Institute shall
107 continue to function under a board of trustees as now provided
108 by law.

109 4-8-2 The three trustee positions hitherto occupied by the
110 county commissioners of Essex County shall be filled by the
111 appointment, by the county council, of three Essex County
112 residents, each for a term of four years.

113 4-8-3 No member of the county council shall be eligible for
114 appointment as trustee of the Essex Agricultural and Technical
115 Institute.

CHAPTER FIVE

Regional Councils

1 Section 1. *Purpose*

2 5-1-1 It is the purpose of this chapter to encourage and facilitate
3 intermunicipal cooperation by permitting the establishment of
4 regional councils.

5 5-1-2 The county council may establish one or more regional
6 councils to promote cooperation between two or more
7 municipalities.

8 5-1-3 The county council shall, by ordinance or administrative
9 code, adopt procedures governing the establishment of regional
10 councils. Such ordinance or administrative code shall provide for
11 the appointment of delegates, and the term of office that each shall
12 serve.

13 Section 2. *Establishment of Regional Councils*

14 5-2-1 In establishing regional council boundaries and

15 determining those functions to be undertaken by such councils,
16 the county council shall take into consideration the following
17 criteria.

18 5-2-2 The extent to which the proposed area constitutes a
19 region with common concerns and a capacity for local initiative,
20 leadership, and decision-making.

21 5-2-3 The availability of council resources which may be shared
22 with the regional council.

23 5-2-4 Population density, distribution, and growth within a
24 proposed regional council area to ensure that its boundaries reflect
25 the most effective territory for effective collaborative action.

26 Section 3. *Regional Councils: Powers and Functions*

27 5-3-1 A regional area council may exercise any power and
28 perform any functions within the council area expressly
29 authorized by the county council.

30 5-3-2 Each regional council shall: (a) make an annual report
31 of its activities to the county council which shall be made available
32 to the public; (b) hold an annual meeting in the regional council
33 area at which it will report on its activities and make copies of
34 said annual report available; and (c) maintain complete financial
35 records which shall be subject to audit by the Commonwealth and
36 the county.

37 Section 4. *Regional Councils: Finances*

38 5-4-1 Each regional council shall be financed by contributions
39 apportioned between members, as shall be determined by the
40 county council.

41 5-4-2 Any regional council may apply for, and accept, grants
42 from the Federal government and from the Commonwealth of
43 Massachusetts.

CHAPTER SIX

Transitional and Other Provisions

1 Section 1. *Charter Amendments*

2 6-1-1 This charter may be revised or amended in accordance
3 with the procedures made available under the laws of the
4 Commonwealth of Massachusetts, specifically M.G.L. Chap.
5 34A.

6 6-1-2 This charter may also be amended by the voters at any
7 regular state election, provided that the amendments shall first

8 have been adopted by a two-thirds vote of the council, and shall
9 have been submitted to the Secretary of State of the Common-
10 wealth, in accordance with clause (c) of Section 2-9-3.

11 Section 2. *Severability*

12 6-2-1 The provisions of this charter are severable. If any
13 provision of this charter is held invalid, the other provisions shall
14 not be affected thereby. If the application of this charter, or any
15 of its provisions, to any person or circumstance is held invalid,
16 the application of this charter and its provisions to other persons
17 and circumstances shall not be affected thereby.

18 Section 3. *Specific Provision to Prevail*

19 6-3-1 To the extent that any specific provision of this charter
20 may conflict with any other provision expressed in general terms
21 herein, the specific provision shall prevail.

22 Section 4. *Rules and Regulations*

23 6-4-1 A copy of all rules and regulations adopted by the county
24 council shall be placed on file in the office of the chief executive
25 and the clerk of each city and town. A copy shall be made available
26 to any person requesting such information. No rule or regulation
27 adopted by the county council shall become effective until seven
28 days after its adoption.

29 Section 5. *Continuation of Existing Laws*

30 6-5-1 All General Laws relating to counties, special laws,
31 resolutions, orders, and rules and regulations of or pertaining to
32 the county that are in force when this charter takes effect, and
33 not specifically or by implication repealed herein, shall continue
34 in full force and effect until amended or repealed, or rescinded
35 by due course of law, or until they expire by their own limitations.

36 6-5-2 The provisions of the following statutes are hereby made
37 inapplicable to Essex County:

38 (a) Section 4 of M.G.L. Chap. 34 providing for the election of
39 three county commissioners;

40 (b) Sections 5 and 5A of M.G.L. Chap. 34, as amended,
41 establishing the salary of the County Commissioners of Essex
42 County;

43 (c) Section 9 of M.G.L. Chap. 34 establishing the date and place
44 of meetings of the County Commissioners;

45 (d) Section 1 of M.G.L. Chap. 35 providing for the election of
46 the County Treasurer for a term of six years;

47 (e) Section 2 of M.G.L. Chap. 35 providing that the Treasurer
48 may appoint an Assistant;

49 (f) Section 11 of M.G.L. Chap. 35 requiring signatures by a
50 majority of the county commissioners of payments to be made
51 by the Treasurer;

52 (g) Section 38 of M.G.L. 262, which sets the fees of the
53 Registers;

54 (h) Section 1 of M.G.L. Chap. 587 of the Acts of 1912, which
55 provides that the County Commissioners of Essex County shall
56 serve as Trustees of the Essex Agricultural and Technical Institute.

57 Section 6. *Continuation of Government*

58 6-6-1 Until superseded under this chapter, the organization of
59 the county agencies and the powers and duties exercised by each
60 such agency, shall continue as established prior to the adoption
61 of said charter.

62 Section 7. *Transfer of Records and Property*

63 6-7-1 All records, property, and equipment whatsoever of any
64 county agency, or part thereof, the powers and duties of which
65 are assigned in whole or in part to another agency or level of
66 government pursuant to this charter, shall be transferred
67 forthwith to such agency or level of government when such agency
68 shall have been established hereunder.

69 Section 8. *Continuation of Personnel*

70 6-8-1 Any person holding a county office or a position in the
71 administrative service of the county, or any person holding part-
72 time or full-time employment under the county, shall retain such
73 office, position or employment, and shall continue to perform the
74 duties of such office, position or employment until provision shall
75 have been made for the performance of those duties by another
76 person or agency; provided, however, no person in the permanent,
77 part-time or full-time service of the county shall forfeit his/her
78 pay grade, or time in service of the county or retirement benefits.
79 And, as far as is practicable, all such persons shall be retained
80 in a capacity as similar to the capacity in which they were serving
81 at the time this charter becomes effective.

82 Section 9. *Effect on Obligations, Taxes, Etc.*

83 6-9-1 All official bonds, obligations, contracts, and other
84 instruments entered into or executed by or to the county before
85 the effective date of this charter, and all taxes, special assessments,

86 fines, penalties, forfeitures, incurred or imposed, due or owing to
87 the county, shall be enforced and collected, and all writs,
88 prosecutions, actions, and causes of action, except as otherwise
89 provided herein, shall continue without abatement and remain
90 unaffected by this charter; and no legal act done by or in favor
91 of the county shall be rendered invalid by reason of the adoption
92 of this charter.

93 Section 10. *County Agency Established by Special Laws*

94 6-10-1 Until such time as the Commonwealth shall have
95 assumed the cost, management and operations of the school,
96 nothing in this charter, except clause 4-8-2, shall be construed so
97 as to alter in any manner the provisions of Chap. 587 of the Acts
98 of 1912 and Chap. 419 of the Acts of 1962, which establish and
99 govern the operation of Essex Agricultural and Technical
100 Institute.

101 Section 11. *County Commissioners*

102 6-11-1 The County Commissioners in office on the date that
103 this charter becomes effective shall serve out their terms as *ex*
104 *officio* (voting) members of the county council.

105 6-11-2 During the time that they serve as *ex officio* members,
106 each county commissioner shall have a vote which corresponds
107 to one percent of the total county population.

108 6-11-3 The terms of the County Commissioners, as Trustees of
109 the Essex Technical and Agricultural Institute, shall continue to
110 their normal expiration. As the term of each incumbent expires,
111 or in case of a vacancy, the position of Trustee of the Essex
112 Technical and Agricultural Institute shall be filled by a resident
113 of Essex County, chosen by the County Council, for a term of
114 four years.

115 Section 12. *Initial Search for County Executive Officer*

116 6-12-1 The provisions of 3-1-3 shall be inapplicable to the initial
117 search for a county administrative officer, and any qualified
118 employee of the county shall be eligible for appointment as the
119 first county executive officer appointed under this charter.

120 Section 13. *Treasurer*

121 6-13-1 The Treasurer in office on the effective date of this
122 charter shall serve out his term, under the title Director of Finance.
123 Upon the expiration of such term, the incumbent shall be
124 appointed as Director of Finance for a four year term. Upon the

125 expiration of such term, the incumbent shall be eligible for
126 reappointment as Director of Finance.

127 Section 14. *Mandates*

128 6-14-1 The County Council shall consider, pass upon, and
129 finally adopt the following measures, which shall be submitted to
130 the General Court as proposed special acts:

131 (a) A measure requesting the Commonwealth to assume the cost
132 and the operation of the correctional institutions in Essex County,
133 on terms favorable to the people of the county, while maintaining
134 the powers, duties and responsibilities of the Sheriff, as now
135 provided by law;

136 (b) A measure requesting the Commonwealth, acting through
137 the Board of Regents of Higher Education, to assume the cost,
138 management, and operation of the Essex Agricultural and
139 Technical Institute, on terms favorable to the people of Essex
140 County;

141 (c) A measure seeking to authorize the government of Essex
142 County to fix the amount of fees, stamp taxes or charges to be
143 levied by the Registers of Deeds, for services rendered to the public
144 by their offices.

145 Section 15. *Definitions*

146 6-15-1 Unless another meaning is clearly apparent, from the
147 manner in which the word is used, the following words as used
148 in this charter shall have the following meanings:

149 (a) He/His. The words "he" or "his" or any other use of a
150 masculine noun or pronoun shall include the feminine.

151 Section 16. *Effective Date*

152 6-16-1 This charter shall be partially in effect on January 1,
153 1991, to authorize and enable the County Council to initiate a
154 search for a county executive officer. The charter shall be in full
155 effect on July 1, 1991.