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To accompany the petition of Franklin N. Cunningham for legislation to provide for judicial review of proceedings of boards of appeal under certain provisions of law relating to city charters. Cities.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Fifty-Four.

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AN ACT TO PROVIDE FOR JUDICIAL REVIEW OF PROCEEDINGS OF BOARDS OF APPEAL UNDER CERTAIN PROVISIONS OF LAW RELATING TO CITY CHARTERS.

*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 9 of chapter 43 of the General Laws, as  
2 amended by section 5 of chapter 459 of the acts of  
3 1948, is hereby further amended by striking out the  
4 third sentence thereof and inserting in place thereof  
5 the following sentence and paragraphs: — The board  
6 shall submit notice of its decision forthwith to the  
7 city council.

8 Any person aggrieved by the decision of the board  
9 under this section may appeal to the Superior Court  
10 sitting in equity, for the county in which the city is  
11 located; provided, that such appeal is filed in said  
12 court within ten days after such decision is rendered.  
13 It shall hear all pertinent evidence and determine the  
14 facts and, upon the facts as so determined, annul such  
15 decision if found to be erroneous in law or not war-  
16 ranted by the evidence, or make such other decree as  
17 justice and equity may require. The foregoing rem-  
18 edy shall be exclusive, but the parties shall have all  
19 rights of appeal and exception as in other equity cases.

20 No costs shall be allowed against the board unless

21 the court finds that it acted with gross negligence or  
22 in bad faith., —

23 so that the section as amended shall read as follows: —

24 *Section 9.* Within seventy days after the petition  
25 has been filed with him by the petitioners the city  
26 clerk shall, except as provided in section ten, transmit  
27 a certified copy thereof to the city council, except that  
28 the signatures upon the petition need not be copied  
29 but in place thereof the city clerk shall state the num-  
30 ber of signatures of registered voters thereon, certified  
31 as such by the registrars of voters. If any question  
32 arises as to the validity or sufficiency of the petition  
33 or of the signatures thereon, any registered voter of  
34 the city may appeal for a determination of said ques-  
35 tion to the applicable board referred to in section  
36 twelve of chapter fifty-three, by filing a notice of such  
37 appeal with the city council and with the clerk of the  
38 board of registrars of voters within eighty days after  
39 the date the petition was filed with the city clerk by  
40 the petitioners, and the board so appealed to shall  
41 within thirty days render a decision thereon. The  
42 board shall submit notice of its decision forthwith to  
43 the city council.

44 Any person aggrieved by the decision of the board  
45 under this section may appeal to the superior court  
46 sitting in equity, for the county in which the city is  
47 located; provided, that such appeal is filed in said  
48 court within ten days after such decision is rendered.  
49 It shall hear all pertinent evidence and determine the  
50 facts and, upon the facts as so determined, annul such  
51 decision if found to be erroneous in law or not war-  
52 ranted by the evidence, or make such other decree as  
53 justice and equity may require. The foregoing rem-  
54 edy shall be exclusive, but the parties shall have all  
55 rights of appeal and exception as in other equity cases.

56 No costs shall be allowed against the board unless  
57 the court finds that it acted with gross negligence or  
58 in bad faith.

59 Within ten days after the expiration of said period  
60 of eighty days, if no appeal has been taken, or after

61 receipt of a decision on any appeal in favor of the  
62 validity or sufficiency of such petition or signatures,  
63 as the case may be, the city council shall, unless the  
64 number of valid signatures certified to it is found to  
65 be less than the number required by section seven,  
66 transmit such certified copy to the city clerk. If said  
67 certified copy is so transmitted to the city clerk at  
68 least thirty days before the regular city election, the  
69 question proposed by the petition shall be submitted  
70 upon the official ballot to a vote of the registered  
71 voters of the city at said regular city election, other-  
72 wise it shall be submitted at the regular city election  
73 next following the aforesaid election.

