

ACTS, 1985. – Chap. 807.

the city or town of principal garaging of said motor vehicle of such failure to provide and maintain said policy or bond or deposit. Further, such notice shall include the name and address of the owner of the motor vehicle and the address of the principal place of garaging.

State law enforcement personnel or the police of the city or town in which such motor vehicle is so garaged shall, upon receipt of said notice from the registrar seize the registration plates in use on said motor vehicle and return them forthwith, unless the owner shall present a notice of reinstatement from the insurer or evidence of a new motor vehicle insurance policy dated at least two days prior to the effective date of revocation pursuant to section 34H.

Approved January 10, 1986.

Chapter 807. AN ACT ESTABLISHING PROCEDURES FOR THE ADOPTION OF HOME RULE CHARTERS BY COUNTIES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for counties to study and adopt home rule charters, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

The General Laws are hereby amended by inserting after chapter 34 the following chapter:-

**CHAPTER 34A.
COUNTY CHARTER PROCEDURES.**

Section 1. This chapter may be cited as the "County Charter Procedures Act". As used in this chapter, the terms "board of registrars of voters", "city council", and "board of selectmen" shall include any local authority of different designation performing like duties.

Section 2. Every county, except Barnstable county, shall have the power to adopt a charter or to amend an existing charter in accordance with procedures prescribed by this chapter. This chapter shall not limit any charter adoption or amendment procedures allowed by prior law or the Constitution of the Commonwealth of Massachusetts.

Section 3. (A.) Whenever authorized by resolution of the county commissioners or by the advisory board on county expenditures, or on petition of the registered voters of any county, except in Barnstable county an election shall be held in the county upon the question, "Shall a charter study commission be created to study the present governmental structure of ... county to consider and make findings concerning the form of government and make recommendations thereon?"

(B.) A petition calling for such an election must be signed by at least five per cent of the number of registered voters residing in said county at the preceding state election. The petition shall be filed with the state secretary not later than the last Tuesday in February in the year which

ACTS, 1985. – Chap. 807.

the question is to appear on the state election ballot. Such petition may consist of a number of separate sheets, but each sheet shall be in substantially the form prescribed therefore in section fourteen and shall be signed in accordance with the instructions contained therein. The state secretary shall furnish forms for such petition to any registered voter of the county requesting the same; no sooner than six months prior to the date by which the petition is to be filed with the state secretary. The signature contained on said petition shall be certified by the board of registrars of voters of the cities and towns in the county prior to the filing of said petition with the state secretary. Such certification shall be performed in the manner prescribed for the certification of signatures on nominating petitions, under section seven of chapter fifty-three. Any petition or separate sheet of a petition submitted for certification shall be processed and returned to the person who submitted it within ten days after the submission. Objections to the sufficiency and validity of the signatures on any such petition as certified by the boards of registrars of voters shall be made in the same manner as provided by law for objections to nominations for county offices. Upon the filing with the state secretary of a petition under section three, the state secretary shall furnish a receipt for the same to the person or persons filing the petition, and within thirty days after the filing of any such petition which contains the necessary number of certified signatures, the state secretary shall notify the city council of each city in such county and the board of selectmen of each town in such county that the question of the adoption or revision of a charter under this chapter is to be submitted to the voters of such county; provided, however, that no election of the charter commission may be held on the nineteen hundred and eighty-six state election on petition of the registered voters as provided in subsection A of section three and subsection B of section three and shall be inapplicable in the year nineteen hundred and eighty-six.

(C.) When a resolution or petition for the creation of a charter study commission has been duly filed with the county commissioners no other resolution or petition and no other proceedings for the adoption of any other charter or form of government available to the county may be filed unless the voters shall decide the aforesaid question in the negative or until the charter study commission created by the voters shall have been discharged.

section 4. (A.) At the same election as the public question is submitted, fifteen members of a charter study commission shall be elected by the county's registered voters. The voting instructions shall state that the voter may vote on the question and that, regardless of how and whether he voted on the charter question, he may vote for members of the charter study commission who shall serve if the question is determined in the affirmative.

(B.) The ballots to be used in such county at such election shall be prepared and furnished by the state secretary in accordance with the requirements of this chapter and of chapter fifty-four. The charter commission candidates shall appear on the ballot as the last candidates to be elected. The question in subsection (A) of section three shall be the first question on the ballot and shall be designated by the letter "A".

ACTS, 1985. – Chap. 807.

(C.) Said election shall be a statewide general election.

Section 5. (A.) Candidates for the charter commission shall be persons who are registered voters of such county in which they are a candidate.

(B.) The signatures of three hundred registered voters residing in such county shall be required to nominate at-large charter commission members, and signatures of one hundred and fifty registered voters residing in the district shall be required to nominate district charter commission members. Nominating papers containing required number of signatures shall be filed with the state secretary not later than the tenth Tuesday prior to the election in which charter commission members are to be chosen. Nominations for charter commission members shall be governed by the provisions of chapter fifty-three which are applicable to nominations for state office, except that no party or political designations shall be used and that the eight-word statements provided for in section forty-five of chapter fifty-three shall not be used. The clerk of each city and town in such county shall furnish to each candidate for charter commission upon request one copy of the list of registered voters of such city or town and one copy of the list of residents provided for in section six of chapter fifty-one.

Section 6. (A.) A charter commission shall consist of fifteen registered voters of such county elected by official ballot, without party or political designation, at an election held in accordance with relevant provisions of general law and this chapter. In addition, each county commissioner, or his designee, and the chairman of the county advisory board, or his designee, shall be non-elected members of the charter commission. In order to take into account widely differing population sizes of counties, charter commission members shall be elected at large or individually by district or both as follows: where the inhabitants of a county number less than fifty thousand persons, the election of all charter commission members in such county shall be at large; where the inhabitants of a county number at least fifty thousand but less than two hundred thousand persons, five charter commission members shall be elected at large and ten shall be elected by district; where the inhabitants of a county number two hundred thousand persons or more, the election of all charter commission members shall be by district.

The boundaries of the districts, for the purposes of electing charter commission members, shall be determined by the state secretary; not later than June first of the year in which members are to be elected, by dividing the county into districts of contiguous territory so that each representative shall represent an equal number of inhabitants, as nearly as may be.

Such districts shall also be so formed that no town containing less than six thousand inhabitants shall be divided.

(B.) For the purpose of this section, population shall be determined from the latest federal or state census. The names of the at-large candidates and the names of the candidates from each district nominated in accordance with section five shall be placed on such ballot in alphabetical order, preceded by the instruction in subsection A of section four.

(C.) The provisions of chapter fifty-four regarding votes on

ACTS, 1985. – Chap. 807.

amendments to the constitution shall govern the canvassing and counting of votes on the question and the custody and disposition of ballots and related records.

(D.) The secretary shall provide a thirty day comment and review period prior to a final determination of district boundaries.

Section 7. The commission member who received the highest number of votes shall convene the first meeting of the charter commission as soon as possible but in no event later than fifteen days after certification of the results of the state election by the governor and governor's council. If said member does not act, the state secretary shall designate another member of the charter commission to convene the first meeting. At that meeting the charter commission shall promptly organize by the election from among its members of a chairman, a vice chairman, a treasurer and a clerk and shall file a notice of such organization with the secretary of the commonwealth. If no notice of organization is received by the state secretary within twenty-four days after the organizational meeting he shall designate a charter commission for such purpose. A charter commission shall continue to exist until thirty days after the election at which its charter adoption or revision proposal, if any, is required to be submitted to the voters under this chapter or until thirty days after submission to the state secretary of a final report recommending no new charter or revision.

If any member dies, resigns or ceases to be a registered voter of such county or the district of such county from which such member was elected, such vacancy shall be filled by the unsuccessful candidate who received the greatest number of votes in the election of said charter commission member. If the vacancy cannot be filled in this manner, the remaining members of the charter commission shall fill the vacancy. The commission may continue to act notwithstanding the existence of any vacancy. Members shall serve without compensation but shall be reimbursed from the commission's account for expenses lawfully incurred by them in the performance of their duties.

Section 8. It shall be the function and duty of the charter commission to study the form of government of the county, to compare it with other forms available under the laws of this state, to determine whether or not in its judgment the government of the county could be strengthened, made more clearly responsive or accountable to the people or whether its operation could be more economical or efficient, under a changed form of government.

Section 9. (A.) A charter commission may adopt rules governing the conduct of its meetings and proceedings and may employ such legal, research, clerical or other employees, who shall not be subject to the provisions of chapter thirty-one, or consultants as its account may permit. In addition to funds made available by a county the charter commission account may receive funds from any other source, public or private, provided, however, that no contribution of more than five dollars shall be accepted from any source other than the county unless the name and address of the person or agency making the contribution, the amount of the contribution and the conditions or stipulations as to its

ACTS, 1985. – Chap. 807.

receipt or use, if any, are disclosed in writing filed with the office of the county commissioners. The consent of a charter commission to any such condition or stipulation shall not be binding upon the county. Within thirty days after submission of its final report the charter commission shall file with the office of the county commissioners a complete account of all its receipts and expenditures for public inspection. Any balance remaining in its account shall be credited to such county's surplus revenue account.

(B.) Each such county shall provide its charter commission, free of charge, with suitable office space, and each county, and each city and town within the county shall provide the county charter commission free of charge, with reasonable access to facilities for holding public hearings.

The board of commissioners and the advisory board on county expenditures shall, upon request of the county charter commission contribute reasonable clerical and other assistance to such commission, to supplement the resources of the commission provided for in this chapter, and each county and each city and town within the county, shall permit the charter commission to consult with and obtain advice and information from county, city, or town officers and employees during ordinary working hours.

Within twenty days after the election of a charter commission the county treasurer shall credit to the account of the charter commission, with or without appropriation, the sum of thirty-five thousand dollars, provided, however that, in no event shall a county or its treasurer provide said commission with more than one-tenth of one per cent of the total county budget unless said appropriation has been approved by the advisory board on county expenditures.

If payment is to be made after the annual tax levy of the county, it shall be provided by transfer from available funds, or by exercise of emergency borrowing powers without, however, any reference of the question to the registered voters of the county. In any other county, such sum shall be levied against the cities and towns in the county in proportion to their respective borrowing limits, as determined under the provisions of chapter forty-four. Such levies shall be met in the manner provided in subsection (b) of section eight of chapter forty-three B. A county through its advisory board on county expenditures may appropriate additional funds for its charter commission provided the aggregate contribution to the charter commission does not exceed five times the initial contribution required under this section.

Section 10. (A.) In any county in which a charter commission has been established under this chapter, the members of the advisory board on county expenditures shall have the right to participate in the deliberations of the charter commission, but without the right to vote; except the chairman of the advisory board on county expenditures as provided in section six, on commission recommendations or to endorse or dissent from any report of the commission by virtue of their official advisory role, although this shall in no way be deemed to inhibit their comments as individuals after release of the charter commission report, or as an elected member of a charter commission.

(B.) The secretary of administration or his designee shall serve

ACTS, 1985. – Chap. 807.

ex-officio as nonvoting advisor on all charter commissions established under this chapter. It shall be his duty to collect, evaluate and transmit to each commission such information, advice, plans, and policies as he may deem pertinent to county government and its relationship to the state and municipal government. He shall meet with the commission as frequently as the commission shall request in order to assist the commission in determining the best form to recommend for the county's government.

Section 11. (A.) The charter commission shall hold public hearings, sponsor public forums and otherwise provide for the widest possible dissemination of information and the stimulation of public discussion respecting the purposes and progress of its work.

(B.) The charter commission shall report its findings and recommendations to the citizens of the county on or before the eighteenth calendar month next following the date of its election in the form of a final report which it shall file with the county clerk who shall distribute it to all elected county and municipal officials, all members of the counties' legislative delegation, and the state secretary.

In addition there shall be printed and made available at cost to the public at large a number of copies equal to at least one-tenth of one per cent of the county's registered voters as of forty days before the most recent primary or general election.

The commission shall publish in two newspapers of known general circulation within said county on two successive weeks the full text of the proposed charter, together with a summary of its finding and recommendations, a summary of the provisions of the plan, if any, which it recommends for approval, and an analysis of and commentary on such plans.

Section 12. (A.) The charter study commission may report and recommend:

(i) That a referendum be held to submit to the voters of the county the question of adopting one of the optional forms of the government set forth in sections seventeen, eighteen, and nineteen of this chapter that the commission has designated; or (ii) That the charter commission shall petition the legislature for the enactment of a special charter, the text of which shall be appended to the charter commission's report; or (iii) That the form of government of the county remain unchanged.

The commission may also draft and submit to the commissioners whatever recommendations it deems appropriate for the efficient administration of the county. Such recommendations may include a model administrative code. Such recommendations may be adopted by the commissioners in whole or in part whether or not a new charter is recommended by the commission or approved by the voters.

(B.) If the charter commission shall vote to recommend adoption of one of the optional forms set forth in sections seventeen, eighteen, and nineteen of this chapter, it shall also consider and make findings with respect to each of the three subjects set forth below, and determine which plan would provide the best representation of the people of the county. The final report shall set forth said findings and determinations in detail.

ACTS, 1985. – Chap. 807.

(i) Commissioners, number and term. The commission shall make recommendations as to changes if any in the number and terms of service of the county commissioners.

(ii) The commission shall recommend either a continuation of the present system of nonconcurrent terms or the adoption of a new system of concurrent terms.

(iii) Constituencies. The commission can recommend that the commissioners be elected at large or that they be elected by districts.

Section 13. (A.) If the charter commission shall have recommended the adoption of one of the optional forms of government authorized by this chapter; the charter commission shall notify the state secretary by the first Wednesday in August to place the following referendum question on the election ballot.

"Shall the (designate the caption of section _____ of the County Charter Procedures Act) be adopted for county, with the provision for a board of commissioners of _____ members elected for (concurrent or non-concurrent as the case may be) terms and elected (at large, or from districts)?"

The commission may specify that the question be submitted at a general election occurring not less than sixty days or more than two hundred and forty days next following such filing of the report. At such election, the referendum question shall appear on the ballot in the same manner as other public questions are printed on the ballot. The attorney general shall prepare the summary to accompany such question.

(B.) If the charter commission shall have proposed a special charter, it shall be the duty of the commission to petition the legislature forthwith for a special law or laws, pursuant to the state constitution and in the manner provided by general enabling legislation thereunder, to carry out the recommendations of the charter commission.

Upon enactment of such enabling legislation, the special charter shall be submitted to the voters of the petitioning county for adoption in a manner provided in subsection (A), or as may otherwise be appropriate. No special charter shall become operative unless approved by a majority of all votes cast on the question.

section 14. The charter may be revised or amended in the same manner as provided for in its original adoption by section three.

(a) A petition for the adoption or revision of a charter shall: conform with the requirements of subsection (c) and shall have a sentence in substantially the following form at the top of each page.

Each of the undersigned requests that the county revise its present charter or adopt a new charter, and each of the undersigned certifies that he is a registered voter of said county whose residence addresses at the times set forth below were as shown below, and that he has not signed this petition more than once.

(b) A petition suggesting a charter amendment under this section shall conform with the requirements of subsection (c) and shall have a sentence in substantially the following form at the top of each page.

Each of the undersigned requests that the charter commission propose the charter amendments attached hereto to the voters of the county.

Each of the undersigned certifies that he is a registered voter of said

ACTS, 1985. - Chap. 807.

county whose residence addresses at the times set forth below were as shown below, and that he has not signed this petition more than once.

(c) All petitions shall require the following information to be furnished by each signer in accordance with the following instructions which shall be printed on each page:

Name*	Present Address (Street and Number)	Registered Address (Street and Number January 1, 19 **)
_____	_____	_____
_____	_____	_____
_____	_____	_____

Instructions:

*Written signature to voter to be supplied; provided that a registered voter prevented from writing by physical disability may authorize another person to write his signature and address.

**If a voter was registered later than this date, the registered address on such later date shall be used.

If a petition is expected to be filed on or after July fifteenth of any year, the registered address on the preceding January first shall be used. If a petition is expected to be filed before July fifteenth of any year, the registered address on the second preceding January first shall be used.

No petition shall contain or be accompanied by any indication of party or political designation.

(A) Duplicate certificates shall be prepared setting forth any charter amendments approved, and shall be signed by the state secretary. One such certificate shall be deposited in the office of the state secretary and another shall be recorded in the records of the county and deposited among its archives. All courts may take judicial notice of the charter and charter amendments of the county.

The executive body of the county shall, at intervals of not greater than ten years, cause the charter of said county as revised or amended to be reprinted for distribution to such registered voters of said county as may apply therefor at the office of the executive body of the county. Acts of the general court which are included in such charter may be referred to by appropriate subject headings and statutory citations instead of being set forth at length. Copies of said document may be sold at a price not to exceed the cost of paper, printing and binding thereof, plus mailing charges if any, as determined by the county executive body.

(B) A new charter or charter revision approved by a majority of the voters of the county voting thereon shall take effect on the day specified in such charter or revision, and any proposed amendment to be approved shall take effect upon the date specified therein. If two or more charter adoption, revision or amendment proposals are submitted to the voters in the alternative and are approved, only the alternative proposal receiving

ACTS, 1985. – Chap. 807.

the highest number of affirmative votes shall take effect. If two or more charter adoption, revision or amendment proposals containing conflicting provisions are submitted to the voters, but not as alternatives, and are approved, all such proposals shall take effect, but the proposal receiving the highest number of affirmative votes shall be construed to prevent all conflicting provisions containing in other proposals from taking effect.

Section 15. Upon adoption by the registered voters of any county, except Barnstable county: of any optional form of government set forth in this chapter, the county shall thereafter be governed by the plan adopted, by the provisions of this chapter applicable to all optional plans and by all general laws, subject to provisions of this chapter.

(B.) For the purposes of this chapter, a "general law" shall be deemed to be such a law or part thereof, heretofore or hereafter enacted, that:

(i) is not inconsistent with this chapter; and (ii) is by its terms applicable to or available to all counties, or, (iii) is applicable to all counties or to any category or class of counties and deals with one or more of the following subjects: the administration of the judicial system, education, elections, health, county public authorities, taxation, and finance, and welfare.

(C.) Except as it relates to judicial or penal administration, or the administration of the registry of deeds nothing in this chapter shall be construed to prevent counties from abolishing or consolidating agencies the existence of which has heretofore been mandated by general law provided that if such abolition or consolidation shall alter the obligation of the county to continue services theretofore rendered by such abolished or consolidated agency, said alteration must be approved by the general court prior to taking effect.

(D.) The intent of this chapter is to enable a county that has adopted a charter pursuant to this chapter to cause any duty that has been mandated to it by the General Laws to be performed in the most efficient and expeditious manner, and, absent a clear legislative declaration to the contrary, without regard to organizational structural, or personnel provisions contained in prior general law, and further, the intent of this chapter is to encourage a review of the functions which a county provides.

Section 16. (A.) Any county that has adopted a charter pursuant to this chapter may, in accordance with the provisions of such charter, and subject to the provisions of general law and the Constitution of the Commonwealth of Massachusetts.

(i) Organize and regulate its internal affairs; create, alter, abolish offices, positions and employments and define functions, powers and duties thereof; establish qualifications for persons holding offices, positions and employments; and provide for the manner of their appointment and removal and for their term, tenure and compensation.

(ii) Adopt, amend, enforce, and repeal ordinances and resolutions notwithstanding the effect of any referendum conducted prior to the county's adoption of its charter pursuant to this chapter.

(iii) Construct, acquire, operate and maintain public improvements, projects or other enterprises for any public purposes, subject to such

ACTS, 1985. – Chap. 807.

referendum as may otherwise be imposed by law.

(iv) Exercise powers of eminent domain, borrowing and taxation only as provided by general law;

(v) Exercise all powers of county government in such manner as its board of commissioners and advisory board on county expenditures may determine.

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

(vii) Contract with or sign agreements with other governmental units for the provision of joint, coordinated, or cooperative service provision.

(B.) Nothing in this chapter shall be construed to impair or diminish or infringe on the powers and duties of cities and towns under the General Laws. It is the intent of this chapter only to permit cities and towns to employ services and facilities of the county for more effective, efficient and adequate provision of services if and when cities and towns may deem it desirable to do so. Cities and towns are and shall remain the broad repository of local police power in terms of the right and power to legislate for the general health, safety, and welfare of their residents.

(C.) The grant of powers under this act is intended to be as broad as consistent with the construction of the Constitution of the Commonwealth of Massachusetts and the General Laws relating to local government. The grant of powers shall be construed as liberally as possible in regard to the county's right to reorganize its own form of government, to reorganize its structure and to alter and abolish its agencies, subject to the general mandate of performing services whether they be performed by the agency previously established or by a new agency or other department of county government. Based on the need to develop effective services to meet problems which cross city or town boundaries and which cannot be met effectively on an individual basis by the cities and towns, or the state, this chapter shall be construed as intending to give the county power to establish innovative programs and to perform such regional services as the Constitution of the Commonwealth of Massachusetts and the General Laws permit and to establish such other programs and services as may from time to time be permitted.

Section 17. (A.) Form of Government.

(i) The form of government provided in this section shall be known as the "county executive plan," and shall together with sections fifteen, sixteen and twenty of this chapter, govern any county whose voters have adopted it pursuant to this chapter.

(ii) Elected officers; governing body defined; exercise of administrative or executive functions by county executive.

(a) Each county operating under this section shall be governed by an elected board of commissioners and an elected county executive and by such other officers and employees as may be duly appointed pursuant to this act, general law, or ordinance.

(b) In each county operating under this section the term "governing body" of the county shall be construed to include both the commissioners and the county executive. For the purpose of the construction of any

ACTS, 1985. - Chap. 807.

applicable law, any and all administrative or executive functions heretofore assigned by general law to the commissioners shall be exercised by the county executive, and any and all legislative and investigative functions heretofore assigned by general law to the commissioner shall be exercised by the board.

(B.) County Executive.

(i) The county executive shall be a qualified voter of the county residing in the county. He shall be elected from the county at large for a term of four years commencing on January first, next following his election.

(ii) The salary of the county executive shall be fixed by ordinance of the commissioners; such salary shall be reasonable and commensurate with the duties of the office and with the fact that the position of county executive is and shall be a full-time position. The salary of the county executive may not be lowered during his tenure in office.

(iii) The office of county executive shall be deemed vacant if the incumbent moves his residence from the county or he is by physical or mental illness or other casualty unable to continue to serve as county executive. Any vacancy in the office of county executive shall be filled in the manner prescribed by law for the election of county officers at the next general election occurring not less than sixty days after the occurrence of the vacancy. The commissioners may appoint one of their number or the chief administrator to serve as acting county executive until a successor has been elected. During the temporary absence or temporary disability of the county executive the chief administrator shall serve as acting county executive.

(iv) The executive power of the county shall be exercised by the county executive. He shall:

(a) Report annually to the board of commissioners, the advisory board on county expenditures and to the people on the state of the county, and the work of the previous year; he shall also recommend to the board of commissioners whatever action or programs he deems necessary for the improvement of the county and the welfare of its residents. He may from time to time at his discretion recommend any course of action or programs he deems necessary or desirable for the county to undertake;

(b) Prepare and submit to the board of commissioners and advisory board for consideration and adoption an annual operating budget and a capital budget and a capital program, establish the schedules and procedures to be followed by all county departments, offices and agencies in connection therewith, and supervise and administer all phases of the budgetary process;

(c) Enforce the county charter, the county's laws and all general laws applicable thereto;

(d) Supervise the care and custody of all county property, institutions and agencies;

(e) Supervise the collection of revenues, and audit and control all disbursements and expenditures and shall prepare a complete account of all expenditures. He shall also designate the repositories of county funds;

(f) Sign all contracts, bonds or other instruments requiring the consent of county;

ACTS, 1985. – Chap. 807.

(g) Review, analyze and forecast trends of county services and finances and programs of all boards, commissions, agencies and other county bodies, and report and recommend thereon to the board;

(h) Develop, install and maintain centralized budgeting, personnel and purchasing procedures as may be authorized by the administrative code;

(i) Negotiate contracts for the county subject to board and, where appropriate, advisory board approval; make recommendations concerning the nature and location of county improvements and execute improvements determined by the board;

(j) Assure that all terms and conditions, imposed in favor of the county or its inhabitants in any statute, franchise or other contract, are faithfully kept and performed;

(k) Serve as an ex-officio nonvoting member of all appointive bodies in county government;

(v) The county executive:

(a) Shall supervise, direct and control all county administrative departments;

(b) With the advice and consent of the board of commissioners, shall appoint the county-counsel, the administrator, the heads of all departments and any divisions created within such departments, and the members of all county boards, commissions and authorities;

(c) May, at his discretion, remove or suspend any official in the unclassified service of the county over whose office the county executive has power of appointment;

(d) May, at his discretion, but subject to any pertinent provision of the general laws or civil service regulations, delegate to department heads powers of appointment and removal of their departmental employees. If the county executive does not so delegate his power he may appoint and remove, subject to civil service regulations, all employees;

(e) May require reports and examine the accounts, records and operations of any agency of county government;

(f) May, at his discretion, order any agency under his jurisdiction to undertake any task for any other agency on a temporary basis if he deems it necessary for the proper and efficient administration of county government to do so;

(g) Shall approve each ordinance of the board of commissioners by signing it, or may veto any ordinance by returning it to the clerk of the board within ten days of passage with a written statement of his objections to the ordinance. If two-thirds of the full membership of the board, upon reconsideration of the measure, shall vote for it, the executive's veto shall be overridden and the ordinance shall become law without the executive's signature in accordance with the provisions of law.

(C.) Board of Commissioners.

(i) The legislative power of the county shall be vested in the board of commissioners. Such legislative power shall be exercised by ordinance, except for the exercise of the following powers which are required to be or are permitted to be, exercised by resolution:

(a) The conduct of an inquiry; or investigation;

(b) The expression of disapproval of the suspension or dismissal of

ACTS, 1985. – Chap. 807.

officers or employees;

(c) The exercise of the power of advice and consent to actions of the executive;

(d) The override of a veto of the county executive;

(e) The adoption of rules for the board;

(f) The establishment of times and places for board meetings;

(g) The establishment of the board as a committee of the whole and the delegation of any number of its members as an ad hoc committee;

(h) The declaration of emergencies;

(i) The identification of emergency situations;

(j) The establishment of county personnel policies;

(k) Designation of newspapers; for required advertisements and notices;

(l) The appointment and removal of such officers and employees as the board is permitted by law;

(m) Approval of contracts presented by the county executive;

(o) Actions specified as resolutions; and

(p) The expression of such board policies or opinions as require no formal action by the governing body.

(ii) At its organizational meeting each January the board shall select one of its members to serve as chairman and one as vice-chairman for the year.

(iii) The county executive may be present and participate in the discussions at all board meetings.

(iv) The board of commissioners.

(a) Shall advise and consent to all appointment by the executive for which board confirmation is specified under this article;

(b) Shall pass in accordance with this chapter whatever ordinances and resolutions it deems necessary and proper for the good governance of the county;

(c) Shall appoint a clerk to the board who shall keep the records and minutes of the board, and who shall serve at the pleasure of the board or for such term, not to exceed three years, as may be provided by the commissioners provided, however, that an ordinance providing for the adoption of any such term shall not be enacted between October first of any year and January first of the succeeding year;

(d) May appoint counsel to the board, if such position is created by the administrative code, to serve at the pleasure of the board;

(e) May pass a resolution of disapproval or dismissal;

(f) May override a veto of the county executive by a two-thirds vote of its full membership;

(g) Shall approve the annual operating and capital budgets, prior to presenting the budgets for advisory board appropriation.

(D.) Chief Administrator.

(i) The county executive shall appoint a chief administrator who shall serve at his pleasure. The board shall advise and consent to his nomination but shall not prevent his suspension or dismissal by passage of a resolution of disapproval.

(ii) The chief administrator shall by education, experience and ability be qualified to perform the duties established for him.

ACTS, 1985. – Chap. 807.

He need not be a resident of the county at the time of his appointment, but during his tenure he may live outside the county only with the permission of the county executive.

(iii) The chief administrator shall be responsible only to the executive. He shall, under the direction and supervision of the executive, undertake to assist in the orderly and efficient administration of the county, performing whatever supervisory or administrative duties the executive deems necessary and proper.

Nothing in this section shall be deemed to prohibit the chief administrator's being appointed to head one or more departments on a temporary or permanent basis.

Section 18. (A.) Form of Government.

(i) The form of government provided in this section shall be known as the "county manager plan," and shall, together with sections fifteen, sixteen and twenty of this chapter, govern any county whose voters have adopted it pursuant to this chapter.

(ii) Each county operating under this section shall be governed by an elected board of commissioners and an appointed county manager and by such other officers and employees as may be duly appointed pursuant to this section, the general laws, or ordinance.

(B.) County Manager.

(i) The county manager shall be qualified by administrative and executive experience and ability to serve as the chief executive of the county. He shall be appointed by a majority vote of the commissioners and shall serve for an indefinite term. He may be removed by a majority vote of the board subject to due notice and a public hearing. Such notice shall be in writing and shall be accompanied by a written bill of particular charges and complaints and said public hearing on these charges shall be held no less than fifteen nor more than thirty days after personal service of notice and charges.

At the time of his appointment the manager need not be a resident of the county but after his appointment he may reside outside the county only with permission of the board.

(ii) The salary of the county manager shall be fixed by the commissioners; such salary shall be reasonable and commensurate with the fact that the position of county manager is and shall be a full-time position. The salary of the county manager may not be lowered during his tenure in office.

(iii) The office of county manager shall be deemed vacant if: the incumbent moves his residence from the county without board permission; or he is by physical or mental illness or other casualty unable to continue to serve as county manager. Any vacancy in the office of county manager shall be filled in the manner prescribed by clause (i) of subsection (B) of this section. The commissioners may appoint the deputy manager or any department head to serve as acting county manager until a successor has been appointed. During the temporary absence or temporary disability of the county manager the deputy manager or a department head designated by the manager if there be no deputy manager, shall serve as acting county manager.

(iv) The executive power of county shall be exercised by the county

ACTS, 1985. - Chap. 807.

manager. The county manager shall:

(a) Report annually to the commissioners, the advisory board on county expenditures and to the people, on the state of the county, the work of the previous year, and he shall also recommend to the board whatever action or programs he deems necessary for the improvement of the county and the welfare of its residents. He may from time to time at his discretion recommend any course of action or programs he deems necessary or desirable for the county to undertake;

(b) Prepare and submit to the board for its consideration and adoption an annual operating budget, and a capital budget, establish the schedules and procedures to be followed by all county departments, offices and agencies in connection therewith, and supervise and administer all phases of the budgetary process.

(c) Enforce the county charter, the county's laws and all general laws applicable thereto;

(d) Supervise the care and custody of all county property, institutions and agencies;

(e) Through the county treasurer, have oversight on the collection of revenues, audit and control all disbursements and expenditures and shall prepare a complete account of all expenditures;

(f) Sign all contracts, bonds or other instruments requiring the consent of the county;

(g) Organize the work of county departments subject to the administrative code adopted by the board. He shall further review their administration and operation and make recommendations pertaining thereto to the board;

(h) Review, analyze and forecast trends of county services and finances and programs of all boards, commissions, agencies and other county bodies, and report and recommend thereon to the board;

(i) Develop, install and maintain centralized budgeting, personnel and purchasing procedures as may be authorized.

(j) Negotiate contracts for the county subject to board and where appropriate, advisory board approval and make recommendations concerning the nature and location of county improvements and execute improvements determined by the board;

(k) Assure that all terms and conditions imposed in favor of the county or its inhabitants in any statute, franchise or other contract, are faithfully kept and performed;

(l) Serve, as ex-officio, nonvoting member of all appointive bodies in county government.

(v) The county manager:

(a) Shall supervise, direct and control all county administrative departments;

(b) Shall appoint the deputy manager, if that position is created by the board, the heads of all county departments and divisions created within such departments, and all other administrative officers and county personnel the manner of whose appointment is not prescribed elsewhere in this section;

(c) May, at his discretion, remove or suspend any official in the unclassified service of the county over whose office the county manager

ACTS, 1985. – Chap. 807.

has power of appointment;

(d) May at his discretion, but subject to any pertinent provisions of the general laws and civil service regulations delegate any department head powers of appointment and removal of their departmental employees. If the county manager does not so delegate his power he may appoint and remove, subject to civil service regulations, all employees whose positions have been created.

(e) May require and examine the accounts, records and operations of any agency of county government; and

(f) May, at his discretion, order any agency under his jurisdiction to undertake any task for any other agency on a temporary basis if he deems it necessary for the proper and efficient administration to do so.

(C.) Board of Commissioners.

(i) The legislative power of the county shall be vested in the board of commissioners. Such legislative power shall be exercised by ordinance, except for the exercise of the following powers which are required to be, or are permitted to be, exercised by resolution:

(a) The establishment of a municipal advisory council;

(b) The conduct of an inquiry or investigation;

(c) The expression of disapproval of the suspension or dismissal of officers or employees;

(d) The adoption of rules for the board;

(e) The establishment of times and places for board meetings;

(f) The establishment of the board as a committee of the whole and the delegation of any number of its members as an ad hoc committee.

(g) The declaration of emergencies;

(h) The identification of emergency situations;

(i) The establishment of county personnel policies;

(j) The election, appointment and removal of such officers and employees as the board is permitted by law;

(k) Designation of newspapers; for required advertisements and notices.

(l) Approval of contracts presented by the county manager;

(m) Actions specified as resolutions; and

(n) The expression of such board policies or opinions as require no formal board action.

(ii) At its organizational meeting each January the board shall select one of its members to serve as chairman and one to serve as vice-chairman of the year. The chairman shall preside over board meetings during his tenure, and in his absence the vice-chairman shall preside.

(iii) The county manager may be present at all board meetings and participate in all deliberations, without the right to vote.

(iv) (a) The board shall appoint a county manager under the provisions of this chapter and may create the office of deputy manager;

(b) Shall appoint a clerk to the board who shall serve at its pleasure and keep the records and minutes of the board, and who shall serve at the pleasure of the board or for such term, not to exceed three years, as may be provided by the commissioners; provided, however, that an ordinance providing for the adoption of any such term shall not be

ACTS, 1985. - Chap. 807.

enacted between October first of any year and January first of the succeeding year;

(c) Shall appoint a county counsel, who shall head the county's legal department, and who shall serve at the pleasure of the board or for such term, not to exceed three years, as may be provided by the administrative code; provided, however, that an ordinance providing for the adoption of any such term shall not be enacted between October first of any year and January first of the succeeding year. An administrative code may also establish a term, not to exceed three years, for the position of assistant county counsel;

(d) Shall appoint members of all boards and commissions and other bodies whose manner of appointment is not otherwise specified in this section;

(e) May pass a resolution of disapproval of a suspension or dismissal;

(f) Shall approve the annual operating and capital budgets; prior to presenting them for advisory board appropriation; and

(g) Shall pass in accordance with this chapter whenever ordinances and resolutions it deems necessary and proper for the good governance of the county.

(D.) Deputy Manager.

(i) Subject to creation of such position the county manager may appoint a deputy manager who shall serve at his pleasure; the board may not prevent his suspension or dismissal by passage of a resolution of disapproval.

(ii) The deputy manager shall by education, experience and ability be qualified to perform the duties established for him.

He need not be a resident of the county at the time of his appointment, but during his tenure may live outside the county only with the permission of the manager.

(iii) The deputy manager shall be responsible only to the manager. He shall, under the direction and supervision of the manager, undertake to assist in the orderly and efficient administration of the county, performing whatever supervisory or administrative duties the manager deems necessary and proper.

Nothing in this section shall be deemed to prohibit the deputy manager's being appointed to head one or more departments on a temporary or permanent basis.

Section 19. (A.) Form of Government.

(i) The form of government provided in this article shall be known as the "board chairperson plan," and shall, together with sections fifteen, sixteen and twenty of this chapter govern any county whose voters have adopted it pursuant to this chapter.

(ii) Each county operating under this article shall be governed by an elected board of commissioners and a commissioner board chairperson and by such other officers and employees as may be duly appointed pursuant to this chapter, the general laws or by ordinance.

(B.) Board Chairperson.

(i) The board chairperson shall be a duly elected member of the board of commissioners. He shall be elected by the board commissioners at their organizational meeting for a term of one year, such term to begin

ACTS, 1985. – Chap. 807.

immediately after his election on January first.

(ii) The salary of the board chairperson shall be fixed by ordinance of the board of commissioners, such salary shall be reasonable and commensurate with the duties of the office.

(iii) The office of board chairperson shall be deemed vacant if: the incumbent moves his residence from the county; or he is by physical or mental illness or other casualty unable to continue to serve as board chairperson. Any vacancy in the office of board chairperson shall be filled by the board of commissioners which shall appoint one of their number to serve as board chairperson for the remainder of the unexpired term. During the temporary absence or temporary disability of the board chairperson the vice chairperson shall serve as acting chairperson.

(iv) The executive power of the county shall be exercised by the board chairperson. He shall:

(a) Report annually to the board of commissioners, the advisory board on county expenditures, and to the people of the county on the work of the previous year and he shall also recommend to the board whatever action or programs he deems necessary for the improvement of the county and the welfare of its residents. He may from time to time at his discretion recommend any course of action or programs he deems necessary or desirable for the county to undertake;

(b) Preside over board meetings with the right to vote on all questions;

(c) Serve as spokesman for the board on matters concerning policies and programs;

(d) Serve as representative of the board at ceremonial and civic occasions;

(e) Through the county administrative officer; enforce the county charter, the county's laws and all general laws applicable thereto;

(f) Represent the board in all dealing with the county administrative officer except as otherwise specified herein;

(g) Execute all contracts, bonds or other instruments requiring the consent of the county.

(v) The board chairperson.

(a) Insure adequate supervision, direction and control of all county administrative departments, and care and maintenance of all county properties, institutions and agencies by the administrative officer;

(b) With the advice and consent of the board, appoint all members of boards, and commissions and authorities, and all other officials not serving in the administrative service of the county the manner of whose appointment is not prescribed elsewhere in this section.

(c) Serve as an ex-officio nonvoting member of all appointive bodies in county government;

(d) At his discretion, require from the administrative officer reports and examine the accounts, records and operations of any agency of county government;

(e) At his discretion, remove or suspend anyone occupying one of the offices specified in subclause (b) of clause (v) of subsection (B) of this section.

(C.) Board of Commissioners.

(i) The legislative power of the county shall be vested in the board of

ACTS, 1985. – Chap. 807.

commissioners. Such legislative power shall be exercised by ordinance, except for the exercise of the following powers which are required to be, or are permitted to be, exercised by resolution:

- (a) The establishment of a municipal advisory council;
- (b) The conduct of an inquiry or investigation;
- (c) The expression of disapproval of the suspension or dismissal of officers or employees;
- (d) *The exercise of the power of advice and consent to actions of the chairperson and administrative officer;*
- (e) The adoption of rules for the board;
- (f) The establishment of times and places for board meetings;
- (g) The establishment of the board as a committee of the whole and *the delegation of any number of its members as an ad hoc committee;*
- (h) The declaration of emergencies;
- (i) The identification of emergency situations;
- (j) The establishment of county personnel policies;
- (k) Designation of newspapers; for required advertisement and notices;
- (l) The appointment and removal of such officers and employees as the board is permitted by law;
- (m) Approval of contracts presented by the county administrator;
- (n) Actions specified as resolutions and,
- (o) The expression of such board policies or opinions as require no formal board action.

(D.) Chairperson and vice-chairperson; election.

(i) The board shall elect a chairperson as specified in this section. At its reorganizational meeting each January the board shall select one of its members to serve as vice-chairperson for the year.

(ii) The board of commissioners:

(a) Shall pass in accordance with this chapter whatever ordinances or resolutions it deems necessary and proper for the good governance of the county;

(b) Shall appoint and remove the administrative officer by a majority vote and may create the office of, appoint and remove, a deputy administrative officer by a majority vote.

(c) Shall advise and consent to all appointments by the president and administrative officer for which board confirmation is specified under this section.

(d) Shall appoint a clerk to the board who shall serve at its pleasure and keep the records and minutes of the board and *who shall serve at the pleasure of the board or for such term not to exceed three years as may be provided by the commissioners provided however that an ordinance providing for the adoption of any such term shall not be enacted between October first of any year and January of the succeeding year.*

(e) Shall appoint the county counsel to the county's legal department to serve at the pleasure of the board or for such term not to exceed four years as may be provided by the commissioner, provided, however, that no ordinance providing for the adoption of any such term shall not be enacted between October first of any year and January first of the succeeding year. *The commissioner may also establish a term not to exceed three years for the position of assistant county counsel.*

ACTS, 1985. – Chap. 807.

(f) May pass a resolution of disapproval of a suspension or dismissal.

(g) Shall approve the annual operating and capital budget prior to presenting the budgets for advisory board appropriation.

(E.) Chief Administrator.

(i) The county administrative officer shall serve at the pleasure of the board.

(ii) The chief administrative officer shall by education, experience and ability be qualified to perform the duties established for him. He need not be a resident of the county at the time of his appointment, but during his tenure he may live outside the county only with the permission of the board.

(iii) The administrative officer shall be responsible to the board through the chairperson except as specified below. He shall be responsible for the efficient administration of the county's government. He shall:

(a) Prepare and submit directly to the board for its consideration and adoption an annual operating budget and a capital budget, establish the schedules and procedures to be followed by all county departments, offices and agencies in connection therewith, and supervise and administer all phases of the budgetary process.

(b) Through the treasurer, supervise the collection of revenues, and audit and control disbursements and expenditures and prepare a complete account of all expenditures;

(c) Supervise the care and custody of all county property, institutions and agencies;

(d) Organize the work of county departments, subject to the administrative code adopted by the board. He shall further review their administration and make recommendations pertaining thereto to the board;

(e) Review, analyze and forecast trends of county services and finances and programs of all boards, commissions, agencies and other county bodies, and report and recommend to the board;

(f) Develop, install and maintain centralized budgeting, personnel and purchasing procedures.

(g) Negotiate contracts for the county with the approval of the county commissioners, and, where appropriate the advisory board on county expenditures, and make recommendations concerning the nature and location of county improvements and executive improvements determined by the board; and

(h) Assure that all terms and conditions imposed in favor of the county or its inhabitants in any statute, franchise or other contract are faithfully kept and performed.

(iv) Powers.

The administrative officer shall:

(a) Supervise, direct and control all county administrative departments;

(b) Appoint the heads of all county departments and if so provided in the administrative code of any designated divisions within such departments and the advice and consent of the board of commissioners and appoint all other county personnel the manner of whose appointment

ACTS, 1985. – Chap. 807.

is not prescribed elsewhere in this section;

(c) At his discretion, remove or suspend any official in the unclassified service of the county over whose office the administration officer has power of appointment;

(d) At his discretion, but subject to any pertinent provisions of the General Laws or civil service regulations, delegate to any department head powers of appointment and removal of his departmental employees. If the administrative officer does not so delegate his power he may appoint and remove, subject to civil service regulations, all employees whose positions have been created in accordance with actions of the commissioners and the manner of whose appointment is not specified elsewhere in this section;

(e) At his discretion, require reports and examine the accounts, records and operations of any agency of county government; and

(f) At his discretion, order any agency under his jurisdiction to undertake any task for any other agency on a temporary basis if he deems it necessary for proper and efficient administration to do so.

section 20. Relations between the Legislative and Executive Branches.

A. Separation of Powers.

In any county that shall have adopted a charter under this chapter, the commissioners shall deal with county employees only through the officials responsible for the overall executive management of the county's affairs as designated in sections of this chapter –, through the county executive, the county manager, and the board chairperson respectively. All contact with county employees, all actions and communications concerning the administration of the county's government and provision of services shall be through the aforementioned officials, except as otherwise provided in this chapter. Nothing in this act shall be construed to prohibit the board's inquiry into any act or problem of the county's administration. Any commissioner may require a report on the aspect of the government of the county at any time by making a written request to the head of the executive branch of county government. The board may, by majority vote of the whole number of its members, require the head of the executive branch to appear before the board sitting as a committee of the whole, and to bring before the board such records and reports and such officials and employees of the county as the board shall deem necessary to insure clarification of the matter under study.

The board further may, by majority vote of the whole number of its members, delegate any number of its members as an ad hoc committee to consult with the head of the executive branch to study any matter and to report to the board thereon.

It is the intent of this chapter to confer on the board general legislative and such investigative powers as are germane to the exercise of its legislative powers, but to retain in the head of the executive branch full control over the county administration and over the administration of county services provided for in this chapter.

B. Appointments and dismissal; suspension procedure.

(i) No member of any board of commissioners in a county operating under a charter adopted pursuant to this chapter shall individually or

ACTS, 1985. – Chap. 808.

collectively seek to influence the head of the executive branch to dismiss any person from, or to appoint, or to promote any person to any position in the executive branch of county government, except that the board may, by a resolution of disapproval adopted by a two-thirds vote of the whole number of the board, prevent the dismissal of certain employees under conditions as set forth in clause (ii) of this subsection.

(ii) Suspensions will take effect immediately upon personal service of notice setting forth the order of suspension or dismissal. Dismissal or suspension for a definite term shall occur automatically in thirty calendar days from receipt of notice. But, if the officer or employee requests a public hearing on his dismissal or suspension for a definite term, no action beyond temporary suspension may be taken until the individual to be suspended or dismissed is given a public hearing not less than fifteen nor more than thirty days after personal service of written notice of contemplated action. A copy of such notice shall be filed with the clerk to the board of commissioners immediately upon service of notice to the individual to be suspended or dismissed. In the event that within thirty-five days of receiving such notice, the board shall pass by a two-thirds vote of the whole number of the board, a resolution of disapproval, all proceedings and any suspension or dismissal of the individual shall be voided. In terms of recompense to the individual, a vote of disapproval shall be deemed to negative the suspension or dismissal order and for purposes of pay and civil service standing the action shall be deemed never to have transpired. If, however, the suspension or dismissal order shall allege that the individual against whom action is contemplated or pending has committed a criminal act in the conduct of his public trust, no resolution of the board shall stay proceedings and the matter shall be brought to a public hearing in the manner prescribed above. If at that hearing probable cause for prosecution is found, all evidence shall immediately be forwarded to the county prosecutor for further action. If any suspension or dismissal order is resolved upon hearing in favor of the office or employee, he shall be restored to his original position without record of the action, or prejudice therefrom, and shall receive full compensation retroactive to the date of his suspension.

Section 21. The provisions of this act shall not apply to the county of Barnstable.

Approved January 13, 1986.

Chapter 808. AN ACT PROVIDING FOR THE ENFORCEMENT BY THE COMMISSIONER OF LABOR AND INDUSTRIES OF THE PROCUREMENT OF THE DESIGN SERVICE FOR CERTAIN PUBLIC BUILDING PROJECTS.

Be it enacted, etc., as follows:

Chapter 149 of the General Laws is hereby amended by striking out section 44H, as appearing in the 1984 Official Edition, and inserting in