SENATE DOCKET, NO. 1408 FILED ON: 1/18/2013

SENATE . . . . . No. 1145

The Commonwealth of Massachusetts

PRESENTED BY:

Michael R. Knapik

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act establishing the 104th fighter wing fire department.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Michael R. Knapik	*Second Hampden and Hampshire*
James T. Welch	*Hampden*
Donald F. Humason, Jr.	*4th Hampden*
Michael J. Finn	*6th Hampden*
Christopher G. Fallon	*33rd Middlesex*
Michael D. Brady	*9th Plymouth*
Christine E. Canavan	*10th Plymouth*
Kenneth J. Donnelly	*Fourth Middlesex*
Peter V. Kocot	*1st Hampshire*
Colleen M. Garry	*36th Middlesex*
Paul R. Heroux	*2nd Bristol*

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SENATE . . . . . No. 1145

By Mr. Knapik, a petition (accompanied by bill, Senate, No. 1145) of Michael R. Knapik, James T. Welch, Donald F. Humason, Jr., Michael J. Finn and other members of the General Court for legislation to establish the 104th fighter wing fire department. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *2208* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act establishing the 104th fighter wing fire department.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish the 104th fighter wing fire department, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety.

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

1 SECTION 1. The forty-seventh paragraph of section 7 of chapter 4 of the General Laws,
2 as appearing in the 2010 Official Edition, is hereby amended by inserting after the word
3 "Airport", in line 408, the following words:- members of the 104th fighter wing fire department.

4 SECTION 2. Subsection (g) of section 3 of chapter 32 of the General Laws, as so
5 appearing , is hereby amended by inserting after the word "department;", in line 277, the
6 following words:- members of the 104th fighter wing fire department;.

7 SECTION 3. Section 94 of said chapter 32, as so appearing, is hereby amended by
8 inserting after the word "Airport," in line 13, the following words:- members of the 104th fighter
9 wing fire department.

10 SECTION 4. Section 94A of said chapter 32, as so appearing, is hereby amended by
11 inserting after the word "Airport,", in line 8, the following words:- members of the 104th fighter
12 wing fire department.

13 SECTION 5. Section 94B of said chapter 32, as so appearing, is hereby amended by
14 inserting after the word "Airport,", in line 10, the following words:- members of the 104th
15 fighter wing fire department.

16 SECTION 6. Section 100 of said chapter 32, as so appearing, is hereby amended by
17 adding the following paragraph:-

18 For purposes of this section, the word "firefighter" shall include members of the 104th
19 fighter wing fire department.

20 SECTION 7. Section 100A of said chapter 32, as so appearing, is hereby amended by
21 adding the following subsection:-

22 (i) This section shall apply to members of the 104th fighter wing fire department
23 killed in the line of duty.

24 SECTION 8. Chapter 33 of the General Laws, as so appearing, is hereby amended by
25 adding the following section:-

26 Section 139. (a) As used in this section the following words shall, unless the context
27 clearly requires otherwise, have the following meanings:-

28 "Chief", the chief of the 104th fighter wing fire department.

29 "Department", the 104th fighter wing fire department.

30 "Barnes Air National Guard Base", home of the 104th fighter wing fire department
31 located in Westfield, Massachusetts at the Westfield-Barnes Municipal Airport and used
32 primarily for military purposes.

33 (b) There shall be within the military division a 104th fighter wing fire department. The
34 department shall provide air crash crew and fire protection services on the Barnes Air National
35 Guard Base. The department shall be under the supervision and control of the chief.

36 The chief shall be under the jurisdiction of the authorized representatives of the military
37 of the United States.

38 The 104th fighter wing fire department shall have charge of extinguishing fires on the
39 Barnes Air National Guard Base and the protection of life and property in the event of fire,
40 aircraft mishap or explosion. The 104th fighter wing fire department shall enforce all state and
41 federal fire laws and codes. The department shall purchase, subject to the approval of the chief,

42 adjutant general or their designees, and maintain all apparatus used by the fire department and
43 shall make other necessary expenditures subject to such further limitations as the chief, adjutant
44 general or their designees may prescribe.

45 The fire department shall enter into mutual aid agreements with surrounding cities and
46 towns as necessary. The chief or a designee shall have and exercise all the powers and discharge
47 all the duties conferred or imposed by statue upon engineers in towns except as otherwise
48 provided by chapter 48. The chief may appoint a deputy chief and such officers and firefighters
49 as the chief considers necessary and may remove the same for just cause after a hearing, subject
50 to the provisions of any applicable collective bargaining agreement. The deputy chief, assistant
51 chief, officers and firefighters shall be state employees of the military division and shall not be
52 subject to chapter 31. New employees hired as uniformed firefighters shall be subject to the
53 provisions for firefighters provided in sections 61A and 61B of said chapter 31.

54 Except as otherwise provided herein, the department shall be administered by the chief.
55 The chief may establish rules and regulations for the department's operation and may report
56 annually to superiors on the condition of the department and at such other times as the chief's
57 superiors may request.

58 SECTION 9. The first paragraph of section 111F of chapter 41 of the General Laws, as
59 so appearing, is hereby amended by striking out the last sentence and inserting in place thereof
60 the following sentence:- This section shall also apply to any permanent crash crewman, crash
61 boatman, fire controlman or assistant fire controlman employed at the General Edward Lawrence
62 Logan International Airport, members of the Massachusetts military reservation fire department
63 and members of the 104th fighter wing fire department and, for the purposes of this section, the
64 Massachusetts Port Authority, the Massachusetts military reservation and the Barnes Air
65 National Guard Base shall be fire districts.

66 SECTION 10. Section 59A of chapter 48 of the General Laws, as so appearing, is hereby
67 amended by inserting after the word "department", in line 7, the following words:- the Barnes
68 Air National Guard Base fire district or.

69 SECTION 11. Section 1 of chapter 148 of the General Laws, as so appearing, is hereby
70 amended by inserting after the word "district", in line 7, the following words:- , the 104th fighter
71 wing fire department.

72 SECTION 12. Section 30A of chapter 149 of the General Laws, as so appearing, is
73 hereby amended by inserting after the word "department", in line 29, the following words:
74 members of the 104th fighter wing fire department;

75 SECTION 13. Notwithstanding any general or special law, rule or regulation to the
76 contrary, all incumbent firefighters currently employed at the 104th fighter wing fire department
77 at the Barnes Air National Guard Base may transfer to state employment as non-civil service

78 firefighters in the 104th fighter wing fire department, established under section 139 of chapter 33
79 of the General Laws, subject to the approval of the adjutant general and all other requirements of
80 state law. The transferees shall have preference for these positions, provided they otherwise
81 meet all other conditions for employment.

82 SECTION 14. Notwithstanding any general or special law to the contrary, firefighters of
83 the 104th fighter wing fire department, established under section 139 of chapter 33 of the
84 General Laws, shall be considered public employees under chapter 150E of the General Laws
85 and may organize to negotiate the wages, hours and conditions of their employment. This section
86 shall not apply to the chief, deputy chief and the assistant chief.

87 SECTION 15. Notwithstanding any general or special law to the contrary, for overtime
88 purposes only, firefighters of the 104th fighter wing fire department, established under section
89 139 of chapter 33 of the General Laws, may be classified as so-called "7(k) eligible" under the
90 Fair Labor Standards Act, 29 U.S.C.§ 207(k).

91 SECTION 16. Notwithstanding any general or special law to the contrary, health
92 benefits under chapter 32A of the General Laws for firefighters employed by the 104th fighter
93 wing fire department, established under section 139 of chapter 33 of the General Laws, shall be
94 effective upon appointment to the 104th fighter wing fire department.