SENATE DOCKET, NO. 1993 FILED ON: 6/13/2011

SENATE . . . . . No. 1941

[LOCAL APPROVAL RECEIVED.]

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 providing for the establishment of a fire department in the town of Newbury.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Bruce E. Tarr	☐ *[District]* ☐
Harriett L. Stanley	*2nd Essex*

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SENATE . . . . . No. 1941

[Pin Slip]

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *2516* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act providing for the establishment of a fire department in the town of Newbury.

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

SECTION 1. It is hereby recognized that Protection Fire Co. No. 1 Byfield, Massachusetts and Protection Fire Co. No. 2 have played a unique role in the history of the town of Newbury. The town seeks to preserve the special relationship it has shared with the fire companies in the provision of fire protection services to the town. While the town has centralized fire protection services known generally as the Newbury Fire Department, which is defined as all appointed firefighters in the town of Newbury, under the direction of the town's board of fire engineers, it is further recognized that to best leverage the limited financial and physical resources of the town, the continued relationship of the town with the fire companies will provide important supplementary resources and support to maintain the high level of fire protection services the people of the town of Newbury have come to expect.

SECTION 2. Notwithstanding any general or special law to the contrary, there shall remain in place two fire companies within the jurisdictional limits of the town of Newbury under the operational control of a single board of fire engineers, who shall be appointed annually by the board of selectmen as provided for in section 45 of chapter 48 of the General Laws. The chief engineer shall have the duties and responsibilities of the fire chief for the town of Newbury. Any member of the board of fire engineers of the town may be removed for cause by the board of selectmen at any time after a hearing. Nothing in this act shall grant tenure to any member of the board of fire engineers.

SECTION 3. (a) Except as otherwise provided in subsection (b), the board of fire engineers and the fire chief shall have the duties and responsibilities described in this subsection. The fire chief shall have general charge of extinguishing fires in the town of Newbury and the protection of life and property in case of fire or other emergency. The board of fire engineers and fire chief shall have and exercise all the powers and discharge all the duties conferred or imposed by statute upon engineers in towns and fire chiefs, except as herein provided, and shall appoint 1 or more deputy fire chiefs and such other officers and firefighters as the board of fire engineers consider necessary or appropriate and may remove the same for cause at any time after a hearing. Newly appointed firefighters shall serve a probationary period of 1 year, during which time they shall perform the duties of a firefighter and may be removed at any time after a hearing. In responding to fires and other emergencies, all officers and firefighters appointed by the board of fire engineers shall be considered employees of the town, subject to the authority of the board of fire engineers and the fire chief and any rules and regulations adopted by the board of fire engineers or the fire chief for operation of the department and all applicable General Laws. Notwithstanding any provision that may be contained in any general or special law to the contrary, any elected or appointed official or employee of the town of Newbury shall also be eligible to serve as a member of the board of fire engineers or as a town firefighter, or both. The board of fire engineers shall have full and absolute authority in the administration of the department, shall make all rules and regulations for its operation, shall report to the board of selectmen from time to time as the board of selectmen may require, and shall annually report the condition of the fire department to the town along with board of fire engineers' and the fire chief's recommendations thereto. The board of fire engineers shall determine the compensation of the permanent full-time, permanent part-time and call members of the fire department, subject to the approval of the board of selectmen. The board of fire engineers shall, in the expenditure of money, be subject to such further limitations as the town may, from time to time, prescribe.

(b) The board of selectmen, in consultation with the board of fire engineers, may, at its sole discretion, enter into contracts with Protection Fire Co. No. 1 Byfield, Massachusetts and Protection Fire Co. No. 2 for fire protection apparel, equipment and facilities. Execution of such contracts shall not require the approval of the town meeting. Sections 38A1/2 through 38O of chapter 7 of the General Laws, and chapters 30, 30B, and 149 of the General Laws shall not apply to the contracts.

(c) A contract between the town of Newbury and Protection Fire Co. No. 1, Byfield, Massachusetts or Protection Fire Co. No 2 shall not exceed a period of 10 years; provided, however, that the board of selectmen may extend such contract, or negotiate any new contract, for up to 2 additional periods of up to 10 years each. The financial obligation of the town of Newbury under any such contract shall be subject to annual appropriation.

(d) Upon a majority vote of the entire board of selectmen, and with the approval of town meeting, the town may permanently sever its relationship with either firefighting company and terminate any contracts entered into pursuant to this act upon 60 -days written notice of

58 termination from the board of selectmen, at which time subsection (b) shall no longer be in effect
59 with respect to the firefighting company to which notice was provided in accordance with this
60 section. Failure to enter into a contract, negotiate a new contract, or extend an existing contract
61 for the purposes authorized herein shall not be considered to constitute permanent severance of
62 the relationship of the town with the fire companies as set forth in the preceding clause.

63 SECTION 4. Any individual appointed as a firefighter by the board of fire engineers as
64 of the effective date of this act shall continue in that position until the expiration of the term of
65 appointment of such firefighter, notwithstanding any other provision of this act. Appointments of
66 firefighters shall thereafter be made in accordance with subsection (a) of section 3.

67 SECTION 5. This act shall take effect upon its passage.