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HOUSE . . . . . No. 4325

Substituted by the House, on motion of Mr. Cahill of Lynn, for a bill with the same title (House, No. 4302). March 22, 2018.

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act relative to the financial condition of the city of Lynn.

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. Section 3-10 of article 3 of the charter of the city of Lynn, which is on file in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of the General Laws, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) In General:-Unless otherwise provided by law or this charter, a measure adopted by the city council shall not be effective until approved by the mayor under section 2-7.

SECTION 2. Said section 3-10 of said article 3 of said charter is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) Notice and Public Hearings Required:-Notice of a proposed ordinance or loan order, except those submitted under subsection (b), shall be in accordance with the laws of the commonwealth and rules or regulations promulgated by the attorney general.

SECTION 3. Said section 3-10 of said article 3 of said charter is hereby further amended by striking out subsection (e) and (f) and inserting in place thereof the following subsection:-

(e) Publication, Exceptions--If any measure required to be published in full by subsection (c) exceeds 8 octavo pages of ordinary print, then in lieu of such publication, the measure may be published in a booklet or pamphlet and made available for distribution to any person requesting the measure at the office of the city clerk; provided, however, that notice of that publication and a summary of the contents thereof shall be published as otherwise provided in said subsection (c).

SECTION 4. Section 5-6 of article 5 of said charter is hereby repealed.

SECTION 5. The third sentence of subsection (a) of section 6-11 of article 6 of said charter is hereby amended by striking out the words “director of data processing,” and inserting in place thereof the following words:-“director of the department of information and technology, purchasing agent”.

SECTION 6. Subsection (b) of said section 6-11 of said article 6 of said charter is hereby amended by striking out the words “director of data processing” and inserting in place thereof the following words:- “director of the department of information and technology, purchasing agent”.

SECTION 7. Subsection (f) of section 6-11 of said article 6 of said charter is hereby amended by striking out the words “director of data processing” and inserting in place thereof the following words:-“director of the department of information and technology, purchasing agent”.

SECTION 8. Said charter is hereby further amended by striking out section 8-11 and inserting in place thereof the following section:-

Section 8-11 City Residence Required

Except for the positions of chief financial officer, superintendent of schools, or positions exempted by the law, every person who is appointed to a city office and every person who is employed on a permanent full-time basis by the city who is not a resident of the city at the time of such appointment or employment shall, not later than 6 months following such appointment or employment, establish an ordinary and usual place of residence within the city or such appointment or employment shall be deemed to be vacated or forfeited.

SECTION 9. (a) Notwithstanding any general or special law, city charter provision or local ordinance to the contrary, the city of Lynn, with the approval of the director of accounts in the department of revenue, may borrow sums, approved by the city council and the director of accounts, to achieve a balanced budget for fiscal years 2018 and 2019 provided, however, that the aggregate of such sums shall not exceed $12,000,000, unless the director of accounts finds that up to an additional $2,000,000 is necessary for the city to achieve a balanced budget in fiscal year 2018 or 2019, in which case, the aggregate of sums borrowed shall not exceed $14,000,000. The director of accounts may limit the amount borrowed to less than the amount approved by the city council. Notwithstanding chapter 44A of the General Laws, but subject to section 12 of said chapter 44A, bonds or notes issued for the purposes of this act may be issued, with the approval of the director of accounts, for a term of not more than 10 years and shall be backed by the full faith and credit of the city and the bonds and notes shall be eligible to be issued as qualified bonds or notes. Indebtedness incurred pursuant to this act shall not be included in determining

the statutory limit of indebtedness of the city under section 10 of chapter 44 of the General Laws, but, except as provided in this act, shall otherwise be subject to said chapter 44. Amounts raised to pay indebtedness incurred pursuant to this section shall be subject to section 21C of chapter 59 of the General Laws.

(b) The maturities of each issue of bonds or notes authorized pursuant to this act, including any refunding bonds, may, if approved by the city officers authorized to issue and approve these bonds or notes and by the director of accounts, be arranged so that for each issue the amounts payable in the several years for principal and interest combined are as nearly equal as is practicable in the opinion of the officers authorized to issue and approve the bonds or notes or, in the alternative, in accordance with a schedule providing for a more rapid amortization of principal.

(c) Proceeds of any loan authorized by this act shall be deposited in the general fund of the city of Lynn.

(d) The director of accounts may establish rules and procedures relating to the accounting standards applicable to the city of Lynn for the purposes of this act and otherwise.

SECTION 10. (a) For fiscal year 2018 and any other year in which bonds or notes authorized pursuant to this act remain outstanding, not later than 10 days after the adoption of the city budget of the city of Lynn, or on July 1, whichever occurs first, the chief financial officer shall submit to the director of accounts in the department of revenue a pro forma tax rate recapitulation for the following fiscal year, together with a copy of the adopted budget and such supporting revenue and expenditure information as the director may request. The director shall ascertain whether the city budget for that fiscal year contains reasonable revenues from taxation

and other sources to meet the appropriations and other amounts required to be raised pursuant to section 23 of chapter 59 of the General Laws and the director shall report the findings to the city council and mayor. The tax rate for the year shall not be approved until an annual tax rate recapitulation is submitted to the director of accounts that reflects the actions the city has approved or taken to achieve a balanced budget.

(b) In any year during which bonds or notes authorized pursuant to this act remain outstanding, the commissioner of revenue shall not certify the annual tax rate of the city of Lynn until an audit report for the preceding fiscal year has been received and accepted by the director. The audit report shall be prepared by a certified public accountant in accordance with generally accepted auditing standards and shall include relevant financial statements.

(c) In any year during which bonds or notes authorized pursuant to this act remain outstanding, the city shall submit to the director of accounts quarterly reports presenting a budget to actual comparison of revenues and expenditures. The written reports shall be submitted not later than 30 days after the conclusion of each fiscal quarter and shall be in the form and include the information and detail that the director may prescribe.

(d) In any year during which bonds or notes authorized by this act remain outstanding, the city shall not issue any bond, note or other form of indebtedness without written notification to, and the approval of, the director of accounts.

(e) In any year during which bonds or notes authorized by this act remain outstanding, the city shall submit to the director of accounts a balance sheet and have its free cash certified before setting the annual tax rate.

(f) In any year in which bonds or notes authorized pursuant to this act remain outstanding and in which there is no fiscal stability officer pursuant to section 14, the director of accounts may waive reporting, filing or approval requirements contained in this section if the director determines it is appropriate to effectuate the purposes of this act.

SECTION 11. Within a reasonable period of time after receiving a written request from the mayor of the city of Lynn or a written request from the city council upon majority vote, the chief financial officer shall provide an oral or written assessment, or both, as the mayor or city council may request, of the current and future financial impact of the cost of any proposed appropriation, lease or contract arrangement for a term including more than a fiscal year, collective bargaining agreement or borrowing authorization, including, but not limited to, an assessment of how that cost item would relate to the continuous provision of the existing level of municipal services. To the extent reasonable, this assessment shall include an analysis or other information of a financial nature requested by the mayor or the city council. The assessment and analysis shall be provided by the chief financial officer as a professional opinion.

SECTION 12. (a) Notwithstanding any general or special law, , but subject to section 21C of chapter 59 of the General Laws, the city of Lynn shall establish a special reserve fund for extraordinary and unforeseen expenditures, which shall be called the Supplemental Reserve Fund to Ensure Fiscal Stability. This fund shall be separate and in addition to any amounts appropriated under section 6 of chapter 40 of the General Laws.

(b) Beginning with fiscal year 2019 and for all fiscal years thereafter, before the date when the tax rate is fixed, the board of assessors shall include in the amounts to be raised pursuant to section 23 of chapter 59 of the General Laws for a fiscal year a supplemental reserve

fund sum, as determined under this section, to be certified to the board of assessors by the chief financial officer.

(c) The supplemental reserve fund sum for fiscal year 2019 shall be not less than an amount equal to 0.25 per cent of the gross amount to be raised for the prior fiscal year as appearing on the city's tax rate recapitulation for that prior year. The supplemental reserve fund sum for fiscal year 2020 shall be not less than an amount equal to 0.50 per cent of the gross amount to be raised for the prior fiscal year as appearing on the city's tax rate recapitulation for that prior year, The supplemental reserve fund sum for fiscal year 2021 shall be not less than an amount equal to 0.75 per cent of the gross amount to be raised for the prior fiscal year as appearing on the city's tax rate recapitulation for that prior year, The supplemental reserve fund sum for fiscal year 2022 and for each subsequent fiscal year during which bonds or notes authorized under this act remain outstanding shall be not less than an amount equal to 1 per cent of the gross amount to be raised for the prior fiscal year as appearing on the city's tax rate recapitulation for the prior year. Amounts transferred into the fund shall be transferred without further appropriation.

(d) In each year during which bonds or notes authorized under this act remain outstanding, the amount required to be raised for the Supplemental Reserve Fund to Ensure Fiscal Stability may be reduced by the amount, if any, remaining in the Supplemental Reserve Fund to Ensure Fiscal Stability established for the preceding year after all expenditures have been made from that fund as authorized in this act, and this remaining amount shall be retained in such Supplemental Reserve Fund to Ensure Fiscal Stability provided for the then current fiscal year.

(e) Transfers or expenditures may be made from the Supplemental Reserve Fund to Ensure Fiscal Stability of any fiscal year during that fiscal year only, and only by the city council upon the written request of the mayor. Each such transfer or expenditure request shall be accompanied by a written statement detailing the amount and the reason for the transfer or expenditure. In any year during which bonds or notes authorized under this act remain outstanding, except for such transfers or expenditures as are authorized in this act, there shall not be other transfers or reductions in the amount of this fund; provided, however, that after the end of the fiscal year in which the bonds or notes authorized under this act are paid or completed, any funds remaining in the Supplemental Reserve Fund to Ensure Fiscal Stability shall be available for appropriation.

(f) In any year in which bonds or notes authorized under this act remain outstanding and in which there is no fiscal stability officer pursuant to section 14, the director of accounts may waive in whole or in part the requirements of this section if the director determines it is appropriate to effectuate the purposes of this act.

SECTION 13. (a) For the purposes of this section, the following words shall have the following meaning unless the context clearly requires otherwise:

"Emergency", a major disaster, including, but not limited to, flood, drought, fire, hurricane, earthquake, storm or other catastrophe, whether natural or otherwise, which poses an unexpected and immediate threat to the health and safety of persons or property.

"Official", a permanent, temporary or acting city department head.

(b) No official of the city of Lynn, except in the case of an emergency involving the health and safety of the people or their property, shall knowingly expend or cause to be expended

in any fiscal year any sum in excess of that official's departmental or other governmental unit's appropriation duly made in accordance with the law or commit the city or cause the city to be committed to any obligation for the future payment of money in excess of that appropriation, with the exception of court judgments. An official who intentionally violates this section shall be personally liable to the city for the amounts expended in excess of an appropriation to the extent that the city does not recover these amounts from the person to whom the amounts were paid. The superior court or a single justice of the supreme judicial court shall have jurisdiction to adjudicate claims brought by the city, or the attorney general, under this section and to order relief that the court finds appropriate to prevent further violations of this section. Notwithstanding any general or special law to the contrary, any violation of this section shall be considered sufficient cause for removal by the school department or general government appointing authority pursuant to subsection (d) of section 3-7 of article 3 and section 6-6 of article 6 of the city charter.

SECTION14. (a) Not later than 30 days after the effective date of this act, the secretary of administration and finance shall appoint a fiscal stability officer for the city of Lynn to advise the city government as it manages the city’s fiscal challenges. The stability officer shall:

i. recommend to the mayor, city council and school committee sound fiscal policies;

ii. advise the chief financial officer, assessors, comptroller, treasurer, collector, purchasing agent and employees performing similar duties but with different titles;

iii. provide assistance in all matters related to municipal financial affairs, including those concerning the school department;

iv. assist in development and preparation of all department budgets and spending plans;

v. validate and report on the value of all proposed contracts and obligations with a term more than 1 year, except for contracts executed pursuant to chapter 150E of the General Laws;

vi. provide an overview on the annual budget proposal submitted by the mayor;

vii. provide an overview on the final budget as approved by the city council, including any appropriation necessary to support a collective bargaining agreement executed pursuant to said chapter 150E;

viii. provide an overview on any supplemental budgets submitted to the city council, including any supplemental budget request necessary to support a collective bargaining agreement executed pursuant to said chapter 150E;

ix. be informed of and opine on all budget transfer requests before submission to the city council or school committee, including any budget transfer request necessary to support a collective bargaining agreement executed pursuant to said chapter 150E;

x. decide whether to waive the reporting requirements contained in section 10 or the Supplemental Reserve Fund to Ensure Fiscal Stability requirements contained in section12;

xi. opine on any proposed use of free cash, overlay surplus, or any other 1-time revenues as determined by the stability officer; and

xii. report quarterly to the secretary and to the house and senate committees on ways and means on the progress made towards reducing the city's capital and structural deficits.

(b) If recommended by the fiscal stability officer and the contract cost does not exceed $100,000, the city shall bear the costs of any consultant retained by the city to perform work on its behalf.

(c) Not later than 180 days after the effective date of this act, the mayor shall develop and submit to the city council a 5-year capital plan. Upon submission to the city council, the fiscal stability officer shall provide a written review of the proposed capital plan.

(d) The mayor shall submit annually, along with the mayor's annual budget proposal, a multi-year revenue and expenditure forecast. The forecast shall be reviewed by the fiscal stability officer prior to submission.

(e) After July 1, 2020 and while debt issued pursuant to this act is outstanding, if the secretary of administration and finance, in the secretary's sole discretion, determines that the city has taken the steps necessary to achieve long-term fiscal sustainability and no longer requires active state oversight, the secretary may abolish the position of fiscal stability officer.

SECTION 15. (a) There shall be a Lynn employee and retiree health insurance working group consisting of the following members: 1 member appointed by the mayor who shall have professional experience in the area of health care financing and public employee benefits; 1 member appointed by the mayor, with the approval of the city council president who shall be a retired public employee with professional experience in the area of public health insurance benefits contracts; 1 member appointed by the city council president, who shall have professional experience in health care benefits; and 2 members nominated by the advisory committee established in section 3 of chapter 32B of the General Laws and appointed by the mayor with the approval of the city council president, who shall be members of a city of Lynn collective

bargaining unit. No member shall be an elected official and not more than 2 members shall be members of a city of Lynn collective bargaining unit. The working group shall review and determine the most appropriate manner to negotiate, purchase or otherwise provide quality and affordable health benefits for employees and retirees of the city of Lynn and their families. The working group shall consider the range of benefits that are or should be provided, as well as the current and anticipated future cost of providing those benefits. The working group shall make recommendations that may include, but shall not be limited to: plan design changes, the method of financing health benefit costs, how best to divide costs between the city and its employees and retirees and implementing changes to health insurance benefits pursuant to sections 19 and 21 to 23, inclusive, of said chapter 32B. The recommendations shall be submitted to the mayor and the city council not later than October 1, 2018 and shall be considered for implementation during fiscal year 2020.

(b) Notwithstanding any general or special law to the contrary, the mayor may enter into a contract for the services of the appointed working group member who has professional experience in the area of health care financing and public employee benefits for the duration of the working group's existence.

SECTION 16. Notwithstanding chapter 8 of the acts of 1985, the city of Lynn may consolidate the positions of treasurer and collector at its discretion by ordinance whenever a vacancy shall occur in 1 or both of those positions.

SECTION 17. Notwithstanding any general or special law to the contrary, the city of Lynn is permitted to attribute both salaries and benefits of its custodial and maintenance

personnel that work exclusively in school buildings towards net school spending requirements of chapter 70 of the General Laws.

SECTION 18. (a) The commissioner of the department of public works of the city oof Lynn may establish a charge for municipal solid waste collection, disposal services and recycling in the city of Lynn commencing in January of fiscal year 2018. The charge shall be limited to the costs associated with such collection, services and recycling.

(b) A fee established pursuant to subsection (a) shall initially be limited to $90 per calendar year per residential, commercial, nonprofit or not-for-profit property unit. The fee shall be billed on a bi-annual basis by the city of Lynn. Once established, the commissioner of the department of public works shall have the authority to increase the fee every other year beginning in January 1, 2020; provided, however, that in a single year, the fee shall not be increased by more than 20 per cent of the prior year's fee.

(c) Solid waste collection, disposal services and recycling fees for residential, commercial, nonprofit or not-for-profit property units shall not be collected if the owner or occupant of the property presents a current contract for private rubbish collection for the unit to the department of public works. The contract shall be valid and remain in force for the entire fiscal year. The contract shall state: the term, address, number of units and contract price. If the contract is terminated, the property owner shall notify the city in writing not later than 5 business days after termination and the property owner shall be responsible for the pro rata share of the solid waste collection, disposal services and recycling fee for the remainder of the fiscal year.

(d) Past due fees shall be subject to all collection remedies provided for real estate collection, including interest and demand fees; provided, however, that fees for services rendered

prior to the effective date of this act shall not be subject to such collection remedy. Any fee not paid 30 days from the date of the electronic transmission or mailing of a bill may be placed as a lien on the property in the next real estate bill; provided, that such interest shall be charged at a rate of 8 per cent per annum and such demand fees shall be $30. Such liens shall remain valid to the extent allowed by law.

(e) A residential, commercial, nonprofit or not-for-profit property owner who owns an unoccupied unit shall be eligible to receive a credit for each full 6-month period or longer for which the unit is not occupied. Property owners shall provide documentation to the commissioner of the department of the public works signed under the pains and penalties of perjury, demonstrating that the unit was vacant during the entire 6-month billing period for which a credit is requested. Eligibility shall be determined by the commissioner of the department of public works using a water bill or, in cases where a unit's water meter is not separate from another unit, a letter or billing statement from the electric company. A property owners who makes false representations regarding the vacancy status of a residential dwelling unit shall be fined twice the amount of the single unit fee for each false representation, not to exceed $300.

(f) The commissioner of the department of public works may adopt rules and regulations relating to condominium units which utilize both municipal and private waste and refuse collection based upon the amount of trash and solid waste collected at the condominium complex.

(g) Any person 69 years of age or older residing in an owner-occupied residence shall be entitled to a $40 abatement on the solid waste collection, disposal services and recycling fee.

Such persons 69 years of age or older residing in an owner-occupied dwelling shall present satisfactory evidence demonstrating that he or she qualifies for the abatement to the commissioner of the department of public works. Such satisfactory evidence shall include, but is not limited to, a deed, driver's license, birth certificate and utility bill in the owner-occupier's name. The commissioner of the department of public works may adopt rules and regulations for the administration of processing abatements.

SECTION 19. Notwithstanding any general or special law to the contrary, nothing in this act shall, except where otherwise stated in this act, supersede conflicting provisions of the city's charter or local ordinance.

SECTION 20. This act shall take effect upon its passage.