

HOUSE No. 5152

The Commonwealth of Massachusetts



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To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment House Bill No. 5106, “An Act relative to the governance, structure and care of veterans at the Commonwealth’s veterans’ homes.”

This legislation makes important improvements to the governance, administration, and operation of the Holyoke and Chelsea Soldiers’ Homes primarily by placing direct authority and unified responsibility for the Homes with a newly elevated Secretary of Veterans’ Services. This change in oversight will mitigate the current lines of authority and responsibility that result from shared and conflicting provisions under current law. The legislation also introduces a number of new measures for oversight and support of the functions it now assigns to the Secretary of Veterans’ Services, including a new Office of the Veteran Advocate.

I support the improvements to oversight that the legislation adopts. I am concerned, however, that the legislation as drafted does not provide the appropriate and sufficient time to develop the organizational, administrative, and infrastructure capacity and state funding that will be required for the Department of Veterans’ Services to operate successfully as an independent secretariat, without the legal, administrative, human resources, labor management, fiscal operations and information technology resources that it now obtains as a constituent agency within the Executive Office of Health and Human Services. Likewise, these functions will all

need to be newly created for the Office of the Veteran Advocate, which the legislation creates as fully independent from any other agency or secretariat.

I am therefore proposing that the legislation be amended to adjust the date by which these two entities must be fully staffed and operating independently from approximately November 1, 2022 to March 1, 2023. The amending language proposed below would require the Secretary of Administration and Finance and the Secretary of Health and Human Services to file with the Legislature no later than October 31, 2022 a plan for accomplishing this important organizational work. I also propose a standard additional section that clarifies the manner in which the new Department of Veterans' Services transitions from its current home within the Executive Office of Health and Human Services. These amendments permit critical planning and implementation work to begin immediately while allowing the next administration to make its appointments for these newly constituted offices and the Veterans' Homes Council.

In addition, I will shortly be filing for an appropriation to ensure that the Department of Veterans' Services and the Office of the Veteran Advocate have the fiscal support and resources necessary to carry out their essential missions.

For these reasons, I recommend that H. 5106 be amended by adding the following 5 sections:-

SECTION 82. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations and functions of state government from the department of veterans' services, including the Soldiers' Home in Massachusetts and the Soldiers' Home in Holyoke, as a department under the executive office of health and human services, as transferor agency, to the department of veterans' services under the secretary of veterans' services as transferee agency.

(b) Subject to appropriation, any employees transferred to the transferee agency, including those who immediately before the effective date of this act held permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or did not hold such tenure, or held confidential positions, are hereby transferred to the transferee agency, without interruption of service within the meaning of section 9A of chapter 30, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been

so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either held a permanent appointment in a position classified under chapter 31 of the General Laws or had tenure in a position by reason of section 9A of chapter 30 of the General Laws.

(c) Notwithstanding any general or special law to the contrary, all such employees shall continue to retain their right to bargain collectively pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of chapter 150E. Nothing in this section shall confer upon any employee any right not held immediately before the date of the transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge or layoff not prohibited before such date; nor shall anything in this section prohibit the abolition of any management position within the executive office of technology services and security.

(d) All petitions, requests, investigations, filings and other proceedings appropriately and duly brought before the transferor agency, or pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the transferee agency.

(e) All orders, advisories, findings, rules and regulations duly made and all approvals duly granted by the transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the transferee agency.

(f) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of the transferor agency, shall be transferred to the transferee agency.

(g) All duly existing contracts, leases and obligations of the transferor agency, shall continue in effect but shall be assumed by the transferee agency. No such existing right or remedy of any character shall be lost, impaired or affected by this act.

SECTION 83. The secretary of health and human services and the secretary of administration and finance shall prepare a plan for the efficient transfer of the department of veterans' services, including the Soldiers' Home in Massachusetts and the Soldiers' Home in Holyoke, from the executive office of health and human services to a department operating under the secretary of veterans' services, as provided in section 82. The plan shall be filed not later than October 31, 2022 with the joint committee on veterans and federal affairs and the house and senate committees on ways and means.

SECTION 84. Section 83 shall take effect upon passage.

SECTION 85. Section 41 of chapter 6, as inserted by section 3, and section 79 shall take effect on January 1, 2023.

SECTION 86. Unless otherwise specified, the provisions of this act shall take effect on March 1, 2023.

Respectfully submitted,

Charles D. Baker,
Governor