

HOUSE No. 4386



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February 9, 2024

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 3998, "An act authorizing the town of Holliston to continue the employment of Mark Dellicker as Deputy Fire Chief."

In 1987, a session law-Chapter 415 of the Acts of 1987-eliminated the maximum age and mandatory retirement requirements for most public employees. For firefighters, however, the language provided that "no member in the occupation or position classification of uniformed member of paid fire department ...shall continue in service beyond the last day of the month in which he attains the age of sixty-five unless the personnel administrator ...shall have determined by regulation that age is not a reasonably necessary bona fide occupations qualification" The law further required the Personnel Administrator to conduct a study to determine if age was to remain a bona fide occupational qualification for firefighters. The Personnel Administrator thereafter conducted that study and concluded that, in consideration of the strenuous nature of the work, and the costs of injuries to firefighters and taxpayers, age should remain a bona fide occupational qualification. Today, the mandatory retirement age provisions of the law apply to all uniformed, paid firefighters, including those working on a full- time, call, reserve, or permanent-intermittent basis.

Since 1987, cities and towns have occasionally sought home rule petitions to allow identified firefighters to serve past the age of 65, often to allow for more flexibility in replacing key personnel. In keeping with recommendations of the Department of Fire Services, these home rule petitions generally include provisions: (i) requiring that firefighters working past 65 remain physically and mentally capable of performing their duties; and (ii) permitting cities and towns to

retain physicians to determine such physical and mental capability. Every home rule petition of this kind that I have signed (including, most recently, Chapter 70 of the Acts of 2023) has included these important protections.

I fully support the aims of House Bill 3998, which are to allow Deputy Fire Chief Dellicker to serve until he reaches the age of 70, and to assist the Holliston Fire Department with its transition planning. I applaud Deputy Chief Dellicker's willingness to extend his service. As currently written, however, the bill omits the typical and recommended protections requiring that Deputy Chief Dellicker remain capable of performing the essential duties of the position. I urge that, in keeping with precedent, these standard provisions be included to promote public safety and meet the spirit of Chapter 415 of the Acts of 1987.

For these reasons, I recommend that the bill be amended by striking out the words "no deductions shall be made" and inserting in place thereof the following words:- Mark Dellicker is mentally and physically capable of performing the duties of such position. The select board of the town of Holliston may require Mark Dellicker to be examined by an impartial physician to determine such capability. No deductions shall be made.

Respectfully Submitted

Maura T. Healey,
Governor