

HOUSE No. 4436

The Commonwealth of Massachusetts

PRESENTED BY:

Kenneth I. Gordon and Michael D. Brady

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 adoption of the accompanying bill:

An Act to modernize civil service laws.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>2/9/2024</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Norfolk</i>	<i>2/9/2024</i>

HOUSE No. 4436

By Representative Gordon of Bedford and Senator Brady, a joint petition (subject to Joint Rule 12) of Kenneth I. Gordon and Michael D. Brady for legislation to modernize civil service laws to assist in the recruiting and hiring of municipal public safety employees. Public Service.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

An Act to modernize civil service laws.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to assist in the recruiting and hiring of municipal public safety employees, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public peace and 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. Section 1 of chapter 31 as it appears in the 2020 Official Edition of the
2 General Laws is hereby amended in line 70 by inserting after the phrase “in addition to” the
3 further phrase “, where required by the rules of the administrator,”.Section 1 is further amended
4 in line 94 to insert after the phrase “section six” the further phrase “, six D,”.

5 SECTION 2. Section 6 of chapter 31 as it appears in the 2020 Official Edition of the
6 General Laws is hereby amended by inserting in line 10 the phrase “six D,” between the words
7 “sections” and “twenty-six”.

8 SECTION 3. Chapter 31 of the General Laws is further amended by inserting, after
9 section 6C, a new section 6D, as follows: “Notwithstanding the provisions of any general or

10 special law to the contrary, the administrator may approve the original appointments of a
11 municipal appointing authority sanctioned by sections fifty-nine A, fifty-nine B, or fifty-nine C;
12 provided that the administrator's role in facilitating such alternative original appointments shall
13 not serve as the predicate for any claim asserted against the administrator under chapter one-
14 hundred-fifty-one B of the General Laws.”

15 SECTION 4. Section 59 of chapter 31 as it appears in the 2020 Official Edition of the
16 General Laws is hereby amended by inserting in line 6 the phrase “fifty-nine A or” before the
17 word “sixty”.

18 SECTION 5. Chapter 31 of the General Laws is further amended by inserting, after
19 section fifty-nine, a new section 59A, as follows:- “[1] Notwithstanding the provisions of any
20 general or special law to the contrary, the administrator may authorize an appointing authority to
21 create its own registers of entry-level municipal police and firefighter candidates after the
22 appointing authority has entered into a written agreement with the administrator to adhere in the
23 hiring process to basic merit principles, as defined in section one of this chapter; to commit to
24 recruiting and considering candidates of diverse backgrounds; and upon submission of an anti-
25 nepotism, anti-patronage, and anti-favoritism policy acceptable to the administrator.

26 [2] An appointing authority that has entered into a written agreement with the
27 administrator referenced in Section fifty-nine A [1] may designate candidates to appear on a
28 local public safety register from which candidates may be considered for original appointment to
29 permanent police officer or firefighter. None of the provisions of sections twenty-six or twenty-
30 seven of this chapter shall apply to those candidates designated by the appointing authority to be
31 considered from the local public safety register.

32 [3] A candidate may be appointed as a permanent police officer from a local public safety
33 register without having first passed the entry examination required by section six if they meet the
34 minimum educational attainment and age requirements for appointment set forth in the second
35 paragraph of section fifty-eight and the health and physical fitness standards set forth in section
36 sixty-one A of this chapter, and also satisfy one of the following conditions:

37 [a] future successful completion of a prescribed course of study at a police academy
38 approved by the municipal police training committee pursuant to section ninety-six B of chapter
39 forty-one; or

40 [b] receipt of a passing mark, within the past five years, on: (i) a civil service examination
41 for police officer administered by the administrator; or (ii) a qualifying examination administered
42 by the appointing authority that has been validated by a test-development expert and that tests
43 the knowledge, skills, and abilities to perform the primary or dominant duties of the position; or
44 (iii) any other examination approved by the administrator in consultation with individuals
45 deemed to be subject matter experts in the policing profession; or

46 [c] current service in Massachusetts as a salaried police officer certified by the peace
47 officer standards and training commission; or

48 [d] graduation within the past five years from a police academy approved by the
49 Massachusetts police training committee; or

50 [e] receipt of a waiver from the Massachusetts police training committee excusing the
51 named candidate from further academy training.

52 [4] No individual appointed as a police officer may perform the duties of a sworn police
53 officer prior to completion of the prescribed course of study approved by the Massachusetts
54 police training committee pursuant to section ninety-six B of chapter forty-one or receipt of a
55 waiver of such training requirement from said committee.

56 [5] A candidate may be appointed from a local public safety register as a permanent
57 firefighter without having first passed the entry examination required by section six if they meet
58 the minimum educational attainment and age requirements for appointment set forth in the
59 second paragraph of section fifty-eight and the health and physical fitness standards set forth in
60 section sixty-one A of this chapter, and also satisfy one of the following conditions:

61 [a] prior or proximately anticipated graduation from a fire academy, or anticipated
62 completion within the next twelve months of another prescribed course of study culminating in
63 certification, approved by the Massachusetts fire training council pursuant to section one
64 hundred sixty-five of chapter six.

65 [b] receipt of a passing mark, within the past five years, on: (i) a civil service examination
66 for firefighter administered by the administrator; or (ii) a qualifying examination administered
67 by the appointing authority that has been validated by a test-development expert and that tests
68 the knowledge, skills, and abilities to perform the primary or dominant duties of the position; or
69 (iii) any other examination approved by the administrator in consultation with individuals
70 deemed to be subject matter experts in the firefighting profession; or

71 [c] current service, for a minimum of six months, in Massachusetts as a salaried
72 firefighter; or

73 [d] past service as a salaried firefighter in another jurisdiction together with certification
74 acceptable to the Massachusetts fire training council.

75 [6] In each and every case, whether involving either police or fire position candidacies
76 under this section, no appointment shall be deemed effectual for civil service purposes until
77 notification of same to the administrator in a manner prescribed by the administrator. Nothing in
78 this section regarding the appointment of candidates from a local public safety register shall be
79 construed to apply to any municipal public safety personnel ranked above the entry-level
80 position of police officer or firefighter.

81 [7] Upon investigation and substantiation by the commission of allegations that an
82 appointing authority has violated material terms of the written agreement entered into with the
83 administrator, the commission, in consultation with the administrator, may order modifications,
84 suspension, or termination of the agreement.”

85 SECTION 6. Chapter 31 of the General Laws is further amended by inserting, after
86 section fifty-nine, a new section 59B, as follows:- “Notwithstanding the provisions of any
87 general or special law to the contrary, the administrator may authorize an appointing authority to
88 establish an entry-level police cadet program leading to civil service tenure. The cadet program
89 shall be established by the appointing authority, consonant with basic merit principles and the
90 provisions of section twenty-one-A of chapter one hundred forty-seven, except that a person
91 appointed as a police cadet need not reside in the municipality making the appointment and may
92 be of any age once the person’s eighteenth birthday has transpired. Cadet program requirements
93 shall be approved by both the administrator and the Massachusetts police training committee.

94 A cadet may be appointed to fill a vacancy in a position in the lowest grade of a
95 municipal police force through a cadet appointment without certification from an eligible list. In
96 order to maintain cadet-appointment status, the cadet must pass a qualifying exam and be a
97 member in good standing in the appointing authority-sponsored cadet program for a time period
98 specified by the administrator but not less than twelve months. Upon successful completion of
99 the cadet program and contingent upon graduation from a police academy approved by the
100 Massachusetts police training committee, the appointing authority may effectuate a civil service
101 appointment of said cadet to the permanent police force via notification to the administrator.
102 Such appointee shall then serve the probationary period specified in section sixty-one of this
103 chapter before gaining tenure status. The appointing authority shall report in writing to the
104 administrator any such permanent original appointment.”

105 SECTION 7. Chapter 31 of the General Laws is further amended by inserting, after
106 section fifty-nine, a new section 59C, as follows: “Notwithstanding the provisions of any
107 general or special law to the contrary, any person who has completed not less than two years of
108 service as a fire cadet may, subject to a program established by the head of the fire department,
109 as defined in section one of chapter one hundred forty-eight, on behalf of a municipality
110 accepting of the provisions of this chapter, which program has been approved by both the
111 administrator and the Massachusetts fire training council, be appointed to fill a vacancy in a
112 position in the lowest grade in the civil service fire force of said city or town without
113 certification from an eligible list prepared under this chapter; provided, however, that such
114 person is either on a fire entrance eligible list prepared under this chapter or passes another
115 qualifying examination approved by the administrator.”

116 SECTION 8. Chapter 31 of the General Laws is further amended by inserting, after
117 section 59, a new section 59D, as follows:- “The percentage of candidates appointed to a
118 permanent position from a local public safety service register or a cadet program, pursuant to
119 sections fifty-nine A through fifty-nine C of this chapter, inclusive, shall not exceed, in the
120 aggregate, more than fifty percent of the appointing authority’s overall appointments to the
121 entry-level police and firefighter ranks during the time period established by the written
122 agreement consummated between the administrator and the appointing authority that authorizes
123 the alternative appointment methodologies permitted by this chapter.”

124 SECTION 9. Chapter 31 of the General Laws is further amended by inserting, after
125 section 59, a new section 59E, as follows:- “Sections six D, fifty-nine A, fifty-nine C, and fifty-
126 nine D of chapter thirty-one of the General Laws shall be in effect until January 1, 2035, and
127 shall expire on that date.”

128 SECTION 10. Section 20 of chapter 31 as it appears in the 2020 Official Edition of the
129 General Laws is hereby amended by striking all text after the first sentence.

130 SECTION 11. Section 21 of chapter 31 as it appears in the 2020 Official Edition of the
131 General Laws is hereby amended by striking the last sentence (lines 35 to 38) and substituting
132 therefor the following:- “The administrator shall notify the Massachusetts commission against
133 discrimination when it issues a certification with this limitation.” Section 21 is further amended
134 by inserting the following final paragraph:- “The administrator may limit eligibility to appear on
135 a certification for an original appointment to persons who are fluent in a specified foreign
136 language commonly spoken among the constituency to be served if the appointing authority
137 requests such limitation in its requisition. For public safety departments that have entered into an

138 agreement with the administrator to facilitate alternative pathway appointments under section
139 fifty-nine A of this chapter, at the end of the hiring cycle defined by such agreement, any
140 appointment to a municipal public safety position that resulted in the non-selection of another
141 candidate entitled to a preference under section twenty-six of this chapter, provided that such
142 other candidate would have been appointed but for the limitation of the special certification
143 requiring foreign language fluency, shall be deemed by the local appointing authority to be an
144 appointment pursuant to sections fifty-nine A and fifty-nine D of this chapter if said restriction
145 on the basis of foreign language fluency yielded an appointment of a candidate not entitled to
146 any statutory preference.”

147 SECTION 12. Section 24 of chapter 31 as it appears in the 2020 Official Edition of the
148 General Laws is hereby amended by striking the phrase “, within thirty days,” in line 14 and
149 substituting therefor the phrase “shall forthwith”.

150 SECTION 13. Section 25 of chapter 31 as it appears in the 2020 Official Edition of the
151 General Laws is hereby amended by striking the word “shall” in line 51 and substituting therefor
152 the phrase “may, in the administrator’s discretion,”; and inserting before the final period in line
153 51 the following proviso:- “; provided, however, that the name of a person whose name has been
154 certified to an appointing authority for an entry-level position and is under consideration for
155 appointment shall remain in effect until the hiring process is completed by the appointing
156 authority and any notice of appointment submitted to the administrator.”

157 SECTION 14. Section 27 of chapter 31 is hereby amended by inserting a new first
158 sentence in the first paragraph:-

159 “If the administrator or an appointing authority delegated by the administrator, applying

160 the formula for original appointments set out in the rules of the administrator, certifies
161 from an eligible list the names of persons who are qualified, and willing to accept, an original
162 appointment, the appointing authority, pursuant to the civil service law and rules, may appoint
163 only from among such persons; provided, however, for each such person, if any, who is
164 bypassed, rejected as not being in compliance with applicable entrance requirements, or
165 withdraws from the application process, the appointing authority may appoint from among a
166 group that includes the next highest-ranked person on the certification; and provided further, that
167 the administrator or an appointing authority delegated by the administrator, shall not include the
168 name of any person who has been so bypassed or rejected on any future certification from
169 the same original appointment eligible list unless directed to do so by the commission.”

170 SECTION 15. Section 58 of chapter 31 as it appears in the 2020 Official Edition of the
171 General Laws is hereby, but with an effective date one year after enactment, amended by striking
172 the third paragraph of this section and substituting therefor the following four new paragraphs:-

173 “[1] No applicant for examination for original appointment to the police force or fire
174 force of a city or town shall be required by rule or otherwise to be a resident of such city or town
175 at the time of filing application for such examination.

176 [2] If any person who has resided in a city or town for one year immediately prior to the
177 date of examination for original appointment to the police force or fire force of said city or town
178 has the same standing on the eligible list established as the result of such examination as another
179 person who has not so resided in said city or town, the administrator, when certifying names to
180 the appointing authority for the police force or the fire force of said city or town, shall place the
181 name of the person who has so resided ahead of the name of the person who has not so resided;

182 provided, that upon written request of the appointing authority to the administrator, the
183 administrator shall, when certifying names from said eligible list for original appointment to the
184 police force or fire force of a city or town, place the names of all persons who have resided in
185 said city or town for one year immediately prior to the date of examination ahead of the name of
186 any person who has not so resided; provided further that, any applicant who earned a high school
187 diploma from a public school located within the geographical confines of said city or town or so
188 resided in said city or town when they received a public high school diploma shall have the same
189 claim to preferential placement on the certification as those persons who have resided in said city
190 or town for one year immediately prior to the date of examination.

191 [3] In the case of a municipality with a population of less than seventy-five thousand
192 inhabitants seeking to draw from a regional pool of candidates, the administrator may, upon
193 written request of the hiring authority, when certifying names from said eligible list for original
194 appointment, place the names of all persons who have resided in another municipality within ten
195 miles of the perimeter of the requisitioning municipality ahead of the name of any person who
196 has not so resided in or adjacent to the requisitioning municipality. In the case of a municipality
197 with a population of greater than seventy-five thousand inhabitants, a public safety department
198 appointing authority from that city and its counterpart from any other municipality may jointly
199 petition the administrator to include on the portion of the eligible list of individuals seeking
200 original appointment that are preferred on the basis of residency the names of candidates residing
201 in those specifically-identified municipalities if the city appointing authority is so authorized to
202 petition for expansion of the residency preference by a vote of the legislative body of the hiring
203 municipality. Whenever the residency preference to be applied to eligible lists extends beyond
204 the perimeter of the requisitioning municipality, the administrator shall specify the contours of

205 the preference-eligible geographical zone on the administrator’s website. Thereafter, upon
206 written request of the appointing authority to the administrator, the administrator shall, when
207 certifying names from an eligible list for original appointment to the police or fire force of said
208 municipality, place the names of all persons who satisfy the published criteria for residency
209 preference ahead of the name of any person who does not satisfy said criteria.

210 [4] Notwithstanding the provisions of any general or special law to the contrary, any
211 person who receives an appointment to the police force or fire force of a city or town shall within
212 nine months after his appointment establish his residence within such city or town or at any other
213 place in the commonwealth that is within ten miles of the perimeter of such city or town;
214 provided, however, that a city or town may increase the ten-mile residency limit under a
215 collective bargaining agreement negotiated under chapter one hundred fifty E.”

216 SECTION 16. Section 59 of chapter 31 as it appears in the 2020 Official Edition of the
217 General Laws is hereby amended by replacing the word “four” in lines 12 and 14 with the word
218 “two”. Section 59 is further amended by striking the word “certification” in line 18 and inserting
219 the phrase “appointment and performed the job duties”.

220 SECTION 17. Section 61 of chapter 31 as it appears in the 2020 Official Edition of the
221 General Laws is hereby amended by inserting a new final sentence stating:-

222 “Unless otherwise provided by civil service rule, and with appropriate adjustments to the
223 timing of performance evaluations called for therein, the second paragraph of section thirty-four
224 of this chapter shall apply to persons covered by this section.”

225 SECTION 18. Section 65 of chapter 31 as it appears in the 2020 Official Edition of the
226 General Laws is hereby amended by replacing the word “four” in lines 8 and 10 with the word
227 “two”. Section 65 is further amended by inserting a new seventh and final paragraph stating:-

228 “Unless otherwise provided by civil service rule, and with appropriate adjustments to the
229 timing of performance evaluations called for therein, the second paragraph of section thirty-four
230 of this chapter shall apply to persons covered by this section.”

231 SECTION 19. Section 67 of chapter 31 as it appears in the 2020 Official Edition of the
232 General Laws is hereby amended by striking the word “and” between the word “employee” and
233 the phrase “the seniority” in line 6 and substituting a comma therefor; then inserting at the end of
234 that sentence the phrase “and available demographic data, in aggregate form, regarding the
235 complement of civil service employees in each department.” Section 67 is further amended by
236 inserting the phrase “commission or” before the phrase “attorney general” in line 21. Section 67
237 is further amended by striking the word “one” in line 23 and substituting therefor the word
238 “five”.

239 SECTION 20. Section 75 of chapter 31 as it appears in the 2020 Official Edition of the
240 General Laws is hereby amended by inserting at the end of the first sentence, in line 10, the
241 phrase “, or to furnish information to, or cooperate with, law enforcement authorities.”

242 SECTION 21. Chapter 3 as it appears in the 2020 Official Edition of the General Laws is
243 hereby amended by inserting the following new section after Section 75:-

244 “Section 76. Commission on Recruitment, Hiring and Retention of Municipal Police
245 Officers and Firefighters in Massachusetts.

246 (a) There shall be a permanent commission on recruitment, hiring and retention of
247 municipal police officers and firefighters in Massachusetts to be chaired by the house and senate
248 chairs of the joint committee on public service, and consisting of the following members or their
249 designees: the house and senate chairs of the joint committee on public safety and homeland
250 security; the Secretary of Administration and Finance; the Chief Human Resources Officer for
251 the Commonwealth of Massachusetts; the Chair of the Civil Service Commission; the Attorney
252 General; the Secretary of Public Safety and Security; the Chair of the Massachusetts Peace
253 Officer Standards and Training Commission; the Executive Director of the Municipal Police
254 Training Committee; the President of the Massachusetts Chiefs of Police Association; the
255 President of the Massachusetts Major City Chiefs of Police; the Chair of the Massachusetts Law
256 Enforcement Policy Group; a representative of police officers selected by the Co-Chairs from
257 candidates recommended from a major federation of police officers' union in Massachusetts; the
258 President of the Massachusetts Association of Minority Law Enforcement Officers; the President
259 of the Massachusetts Association of Women in Law Enforcement; the Chair of the
260 Massachusetts Fire Training Council; the State Fire Marshal; the President of the Fire Chiefs
261 Association of Massachusetts; the President of the Professional Firefighters Association of
262 Massachusetts; the Secretary of Veterans Affairs; the President of the Massachusetts Veteran
263 Service Agents; the Commander of the Disabled Veterans of Massachusetts; the Executive
264 Director of the Massachusetts Municipal Association; the President of the Massachusetts
265 Mayors' Association; the Chair of the Massachusetts Municipal Human Resources Association;
266 the Executive Director of the Massachusetts Chapter of the ACLU; the President of the Boston
267 Chapter of the NAACP's New England Conference; and the Chair of the Massachusetts
268 Commission Against Discrimination.

269 (b) The work of the commission shall be directed by a steering committee to be chaired
270 by the house and senate chairs of the joint committee on public service; and consisting of the
271 following members or their designees: the house and senate chairs of the joint committee on
272 public safety and homeland security; the Secretary of Administration and Finance; the Secretary
273 of Public Safety and Security; the Chief Human Resources Officer for the Commonwealth of
274 Massachusetts; and the Chair of the Civil Service Commission. The chair or co-chairs may
275 appoint subcommittees to carry out the mandate of the commission. Members of the commission
276 shall be subject to the provisions of chapter two hundred sixty-eight A as they apply to special
277 state employees and shall receive no compensation for their services.

278 (c) The commission shall be a resource to the Commonwealth and municipalities on
279 issues related to the recruitment, hiring and retention of highly qualified candidates of diverse
280 backgrounds for municipal police officer and firefighter positions across Massachusetts. In
281 support of this objective, the Commission may: (1) obtain, interpret, and apply current research
282 and evaluation data, including information reported pursuant to section sixty-seven of chapter
283 thirty-one of the General Laws, to program initiatives and policy development and identify and
284 advocate for solutions to address gaps in strategies for employment of highly qualified and
285 diverse municipal public safety personnel; and (2) recommend measures to increase, where
286 appropriate, representation within municipal public safety departments of historically under-
287 represented populations, including females and persons of color, and monitor the compliance by
288 municipal public safety departments with any commitments they may have entered into to
289 diversify their workforces.

290 (d) The commission shall be empowered to examine and evaluate the implementation of
291 all reforms related to the recruitment, hiring and retention of municipal police officers and

292 firefighters in Massachusetts made by the Special Legislative Commission to Study and Examine
293 the Civil Service Law, , Hiring Procedures and By-Laws for Municipalities not Subject to the
294 Civil Service Law and State Police Hiring Practices by: (1) studying, reviewing and reporting
295 on: (a) the hiring outcomes of any civil service appointments facilitated by sections fifty-nine A
296 through fifty-nine C of chapter thirty-one; (b) the hiring outcomes of reforms made to civil
297 service residency preference provisions of section fifty-eight of chapter thirty-one; (c) the hiring
298 outcomes of any other civil service reforms implemented including, but not limited to, the
299 increased frequency of civil service examinations and the lowering of examination fees; and (2)
300 making recommendations: (a) to ensure that adopted reforms are being implemented consistent
301 with the intent of the Special Legislative Commission; and (b) for further legislation in
302 furtherance of the commission’s mandate.

303 (e) The commission shall also be empowered to examine and evaluate all aspects of the
304 recruitment, hiring and retention of municipal police officers and firefighters in all municipalities
305 in Massachusetts and make pertinent recommendations to agencies and officers of the
306 commonwealth and local subdivisions of government not governed by chapter thirty-one that
307 advance basic merit principles in the recruitment, hiring and retention of highly qualified police
308 officers and firefighters of diverse backgrounds across Massachusetts.(f) The commission may
309 obtain from all state agencies and municipalities such information and assistance as the
310 commission may require.(g) The commission shall submit a report on its activities and findings,
311 including any recommendations, to the governor, the clerks of the house of representatives and
312 the senate, and the house and senate chairs of the joint committee on public service and joint
313 committee on public safety and homeland security, and shall file at least one report annually.”

314 SECTION 22. Chapter 7 as it appears in the 2020 Official Edition of the General Laws is
315 hereby amended by inserting the following new section 4T after section 4S:- “A position will be
316 established at the Manager level under the supervision of the Director of Diversity and Equal
317 Opportunity with the responsibility to promote diversity and equal opportunity in civil service
318 employment throughout the Commonwealth. The Manager of Civil Service Diversity, Equity
319 and Inclusion will be responsible for overseeing initiatives and address issues involving
320 Diversity, Equity and Inclusion in public safety employment, with a particular focus on civil
321 service municipalities and municipalities that have left the civil service system.”