HOUSE DOCKET, NO. 4921 FILED ON: 2/9/2024

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:
Kenneth I. Gordon	*21st Middlesex*	*2/9/2024*
Michael D. Brady	*Second Plymouth and Norfolk*	*2/9/2024*

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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:

SECTION 1. Section 1 of chapter 31 as it appears in the 2020 Official Edition of the General Laws is hereby amended in line 70 by inserting after the phrase “in addition to” the further phrase “, where required by the rules of the administrator,”.Section 1 is further amended in line 94 to insert after the phrase “section six” the further phrase “, six D,”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"If the administrator or an appointing authority delegated by the administrator, applying

the formula for original appointments set out in the rules of the administrator, certifies from an eligible list the names of persons who are qualified, and willing to accept, an original appointment, the appointing authority, pursuant to the civil service law and rules, may appoint only from among such persons; provided, however, for each such person, if any, who is bypassed, rejected as not being in compliance with applicable entrance requirements, or withdraws from the application process, the appointing authority may appoint from among a group that includes the next highest-ranked person on the certification; and provided further, that the administrator or an appointing authority delegated by the administrator, shall not include the

name of any person who has been so bypassed or rejected on any future certification from the same original appointment eligible list unless directed to do so by the commission."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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