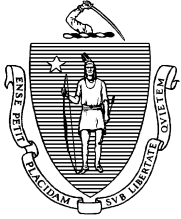


Senate, No. 2896

[Senate, December 24, 2008 – Substituted (in part) by amendment by the Senate (Ways and Means) for Senate, No. 1856]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND SEVEN

AN ACT relative to continuing the fiscal stability of the city of Springfield

*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. Chapter 656 of the acts of 1989 is hereby amended by striking out sections
2 2 and 3 and inserting in place thereof the following 3 sections:-

3 Section 2. (a) Notwithstanding any general or special law or local ordinance to the
4 contrary, there shall be in the city of Springfield a department of administration and finance
5 which shall be responsible for the overall budgetary and financial administration of the city.
6 The department shall be under the charge and control of a chief administrative and financial
7 officer, hereinafter referred to as the CAFO. The CAFO shall report to and be under the
8 direction of the mayor. Nothing in this section shall abrogate the powers and duties of the
9 school committee under any general or special law, except as specifically provided in this
10 section.

11 (b) (1) The mayor shall appoint the CAFO for a term of not more than 3 years, as
12 provided in this subsection. The CAFO shall be appointed solely on the basis of administrative
13 and executive qualifications and shall be a person especially fitted by education, training and
14 experience to perform the duties of the office. The CAFO need not be a resident of the city or
15 the commonwealth when appointed, but shall become a resident of the city within 1 year after
16 such appointment.

17 (2) When the office of CAFO is vacant or it is known that it will become vacant, the
18 mayor shall initiate the selection process by giving notice of his intention to establish a
19 screening committee to review applicants for the position and shall send a copy of the notice to
20 each agency or officer responsible for appointing persons to serve on the screening committee.
21 The mayor shall appoint the screening committee not earlier than 21 days after sending that
22 notice. No screening committee shall be required if the mayor reappoints an incumbent CAFO.

23 (3) The screening committee shall consist of 7 members. The school committee, city
24 council and state secretary of administration and finance shall each appoint 1 person to serve on
25 the screening committee. The mayor shall appoint 4 other members to the screening committee,
26 2 of whom shall be experts in municipal management.

27 (4) The screening committee shall recommend to the mayor the names of not fewer than
28 2 or more than 5 candidates whom it believes to be best suited to perform the duties of CAFO.
29 If the screening committee determines that there are not at least 2 candidates qualified to
30 perform the duties of the CAFO, the screening committee shall report to the mayor that it is
31 unable to complete its assigned task. In that event, the mayor shall direct the screening
32 committee to reopen the search.

33 (5) The mayor shall appoint as the CAFO 1 of the candidates recommended by the
34 screening committee or, if the mayor finds no such candidate to be qualified for the office, shall
35 direct the screening committee to reopen the search.

36 (c) While the process of appointing a CAFO under subsection (b) is proceeding, the
37 mayor may appoint an acting CAFO.

38 (d) If a loan under section 2 of chapter 169 of the acts of 2004 remains outstanding, the
39 appointment, including an acting appointment, or removal of the CAFO shall not take effect
40 until it has been approved in writing by the secretary of administration and finance.

41 (e) The powers and duties of the CAFO shall include the following:

42 (1) coordinating, administering and supervising all financial services and activities;

43 (2) assisting in all matters related to municipal financial affairs;

44 (3) implementing and maintaining uniform systems, controls, and procedures for all
45 financial activities in all departments, including the school department, boards, commissions,
46 agencies or other units of city government the operations of which have a financial impact upon
47 the general fund and enterprise funds of the city, and including but not limited to maintaining all
48 financial and accounting data and records;

49 (4) implementing and maintaining uniform financial data processing capabilities for all
50 departments;

51 (5) supervising all financial data processing activities;

52 (6) implementing and maintaining uniform budget guidelines and procedures;

53 (7) assisting in the development and preparation of all department budgets and spending
54 plans;

55 (8) reviewing all proposed contracts and obligations with a term in excess of 1 year;

- 56 (9) monitoring the expenditure of all funds, including periodic reporting by and to
57 appropriate agencies of the status of accounts;
- 58 (10) reviewing the spending plan for each department; and
- 59 (11) providing for the allotment of funds on a periodic basis as provided for in this act.

60 In all cases where the duty is not expressly charged to any other department or office, it shall be
61 the duty of the CAFO to promote, secure and preserve the financial interests of the city.

62 (f) All department budgets and requests for budget transfers shall be submitted to the
63 CAFO for review and recommendation before submission to mayor, city council or school
64 committee, as appropriate. For each proposed appropriation order, and with respect to any
65 proposed city council vote necessary to effectuate a financial transfer, ordinance revision or
66 special legislation which may require the expenditure of funds or otherwise financially obligate
67 the city for a period in excess of 1 year, or with respect to a vote to authorize a borrowing
68 pursuant to a provision of law other than section 4, 6 or 6A of chapter 44 of the General Laws,
69 the CAFO shall, if it be the case, submit in writing to the mayor and city council a certification
70 that it is the CAFO's professional opinion, after an evaluation of all pertinent financial
71 information reasonably available, that the city's financial resources and revenues are and shall
72 continue to be adequate to support such proposed expenditures or obligations without a
73 detrimental impact on the continuous provision of the existing level of municipal services. If
74 the CAFO fails to provide this certification within 7 days after a request for such certification
75 from the mayor or city council, the appropriation order, financial transfer, ordinance revision,
76 special legislation or borrowing authorization may nonetheless be approved, but the absence of
77 the certification of the CAFO shall be expressly noted in that order or vote.

78 (g) All departments, officers, boards, commissions, agencies and other units of the city,
79 including the school department, shall submit budget requests to the mayor upon the schedule
80 and in the form established by the CAFO.

81 (h) Annually, not later than March 30, the CAFO shall submit a 4-year financial plan
82 and a 5-year capital plan to the mayor and city council that includes all capital needs of the city.

83 (i) The board of assessors, treasurer/collector, budget director, comptroller, director of
84 information technology, director of purchasing, director of human resources, labor relations
85 director, director of capital asset construction and employees performing similar duties but with
86 different titles shall report to and be under the direction of the CAFO. The CAFO shall appoint
87 all such officers and employees with the approval of the mayor. The mayor may also place other
88 positions and departments under the direction of the CAFO.

89 (j) The CAFO shall not assume the duties or responsibilities of the director of internal
90 audit or collector/treasurer and shall not hold an elective office or engage in any other business
91 or occupation.

92 (k) The city shall annually appropriate amounts sufficient for the proper administration
93 of the department, as determined in writing by the secretary of administration and finance. If
94 the city fails to appropriate such amounts, the secretary shall direct the state treasurer to deduct
95 the necessary funds from the city's distribution from the State Lottery Fund and shall expend
96 those funds directly for the benefit of the department.

97 (l) The city of Springfield shall be deemed to have accepted section 37M of chapter 71
98 of the General Laws for the purpose of consolidating the operations of the business and
99 financial services department of the school department with those of the city under the authority
100 of the CAFO. Such acceptance may be revoked but no revocation of acceptance shall be valid

101 or effective in any year during which a loan under section 2 of chapter 169 of the acts of 2004
102 remains outstanding, without the written approval of the secretary of administration and finance.
103 Nothing in this subsection shall abrogate any of the other powers or duties of the school
104 committee under said chapter 71.

105 (n) The CAFO and all employees reporting to and under the direction of the CAFO,
106 including the comptroller and all employees of the office of the comptroller, the director of
107 internal audits and all employees of the director, shall comply with all requests for information
108 by the school committee or its designee. If any such employee or officer refuses to provide or
109 engages in unreasonable delay in providing information, or knowingly or through neglect
110 provides false or misleading information, the school committee may bring to the mayor an
111 administrative complaint against that officer or employee. If the mayor, in consultation with the
112 school committee, finds, after notice and opportunity for hearing, that the officer or employee
113 refused information to the school committee or knowingly or through neglect provided false
114 information, the officer or employee shall be individually and personally subject to a civil fine
115 of \$100 per violation per day until the violation is cured. This fine shall be payable to the
116 general fund of the city. Notwithstanding any general or special law, individual contract or
117 collective bargaining agreement to the contrary, a violation of this subsection shall be just cause
118 for termination.

119 Section 2A. (a) There shall be in the city the office of comptroller. Employees of the
120 office shall be especially fitted by education, training and experience to assist in the
121 performance of the duties of the office.

122 (b) The CAFO shall appoint the comptroller, with the approval of the mayor, solely on
123 the basis of administrative and executive qualifications. The comptroller shall be a person

124 especially fitted by education, training and previous experience to perform the duties of the
125 office and need not be a resident of the city or commonwealth when appointed.

126 (c) The comptroller shall report to and be under the direction of the CAFO, who may
127 remove the comptroller at will.

128 (d) The comptroller shall have the powers and duties of a city auditor under sections 51
129 to 54A, inclusive, of chapter 41 of the General Laws; provided, however, that section 50 of said
130 chapter 41 shall only apply to the comptroller to the extent that it does not conflict with the
131 duties of the director of internal audit under section 3.

132 (e) The comptroller may transfer from the accounts of any department any funding not
133 projected to be necessary due to position vacancies or operating efficiencies developed during a
134 fiscal year. This transfer shall be into a central holding account which shall expire on June 30
135 of each fiscal year. If a vacant position is filled after any such transfer, the comptroller may
136 reverse the portion of the transfer associated with that position to ensure sufficient funding in
137 the relevant department. The comptroller shall have no authority to effect a transfer under this
138 section from the school department if the budget of the school department during any fiscal year
139 is at or below its net school spending level pursuant to chapter 70 of the General Laws. If the
140 school department's budget is above such net school spending level, then the school
141 department shall inform the comptroller of any savings due to operating efficiencies or position
142 vacancies within a fiscal year. The school committee, or its designee, shall meet and confer
143 with the comptroller, or his designee, to discuss ways in which the school department may
144 utilize such savings.

145 (f) Upon majority vote and at the written request of the city council, within a reasonable
146 time period after such a request, the comptroller shall provide an oral or written assessment, or

147 both, as the city council may request, of the current and future financial impact of the cost of
148 any proposed appropriation order, lease arrangement for a term in excess of 1 year, collective
149 bargaining agreement or borrowing authorization, particularly, but not limited to, as such cost
150 item would relate to the continuous provision of the existing level of municipal services. To the
151 extent reasonable, this assessment shall include such analysis or other information of a financial
152 nature as is specifically requested by vote of the city council. The comptroller shall provide this
153 assessment and analysis as the comptroller's professional opinion and the comptroller shall not
154 be obliged to represent the position of the mayor or CAFO.

155 (g) The comptroller may hire, fire, discipline and manage personnel under the
156 comptroller's direction.

157 Section 3. (a) There shall be in the city a director of internal audit. The mayor shall
158 appoint the director with the approval of the city council, for a term of 3 years, and may
159 likewise remove the director.

160 (b) The director shall have the powers and duties of a city auditor under sections 50 to
161 53, inclusive, of chapter 41 of the General Laws and the ordinances of the city. The director
162 may hire, fire, discipline and manage personnel under the director's direction.

163 (c) The director shall examine or cause to be examined the financial and other records of
164 the city and its departments. The director shall conduct or cause to be conducted both financial
165 and performance audits to prevent and detect waste, fraud and abuse and to improve the
166 efficiency, effectiveness and quality of public services provided in and by the city.

167 (d) Annually, not later than March 30, the director shall propose to the city council an
168 audit plan for the following fiscal year which shall be reviewed and accepted by the city
169 council, subject to modification by a majority vote. The audit plan may be filed, considered,

170 modified and approved in an executive session of the city council if public review,
171 consideration, modification or approval would negatively impact the ability of the director to
172 execute the audit plan.

173 (e) All officers and employees of boards, commissions, agencies and other units of city
174 government, including the school department, shall comply with all requests for information or
175 access to systems and records by any employee of the director acting in an official capacity. If
176 any such officer or employee refuses to provide or engages in unreasonable delay in providing
177 information or access, or knowingly or through neglect provides false or misleading
178 information, the director may bring to the CAFO an administrative complaint against that
179 officer or employee. If the CAFO finds, after notice and opportunity for hearing, that the officer
180 or employee refused information or access to the office of the director or knowingly or through
181 neglect provided false information, the officer or employee shall be individually and personally
182 subject to a civil fine of \$100 per violation per day until the violation is cured. This fine shall
183 be payable to the general fund of the city. Notwithstanding any general or special law,
184 individual contract or collective bargaining agreement to the contrary, a violation of this
185 subsection shall be just cause for termination.

186 (f) The director may retain the assistance of audit firms and others in the conduct of the
187 work of the director's office.

188 SECTION 2. Section 2 of chapter 169 of the acts of 2004 is hereby amended by striking
189 out the eighth and ninth sentences and inserting in place thereof the following 2 sentences:-
190 The city shall repay the entire balance of amounts loaned pursuant to this section not later than
191 June 30, 2022. This loan shall not be forgiven in whole or in part, and failure to repay the full

192 value of loans disbursed from the fund to the city shall result in an equally commensurate
193 reduction in local aid payments made by the commonwealth to the city in fiscal year 2023.

194 SECTION 3. (a) There shall be in the city of Springfield a consolidated department of
195 community development which shall be under the direction of the director of community
196 development.

197 (b) The director shall report directly to and be supervised by the mayor. He shall be the
198 chief development officer of the city and shall supervise, manage and coordinate the day-to-day
199 activities of the department and all city departments and employees placed under the his
200 jurisdiction by this section. The director shall coordinate all community development activities
201 of these departments with the community development activities of other departments under the
202 jurisdiction of other city officials, boards and commissions.

203 (c) The department shall include the existing community development department,
204 including its housing, neighborhood and economic development departments, code enforcement
205 department and planning department, as well as the staffing for the redevelopment authority and
206 the industrial development financing authority. The planning board, zoning board of appeals,
207 conservation commission and historical commission of the city shall be under the administrative
208 control of the director of community development.

209 SECTION 4. In any year in which a loan under section 2 of chapter 169 of the acts of
210 2004 remains outstanding, on or before July 1, the CAFO shall submit to the director of
211 accounts a pro forma tax rate recapitulation for the following fiscal year. The director shall
212 ascertain whether the city budget for that fiscal year contains reasonable revenues from taxation
213 and other sources to meet the appropriations and other amounts required by law to be raised
214 under section 23 of chapter 59 of the General Laws and the director shall report his conclusion

215 to the commissioner of revenue. With respect to any such year, upon submission of the annual
216 tax rate recapitulation, the director shall also ascertain whether the city budget for that fiscal
217 year contains reasonable revenues from taxation and other sources to meet the appropriations
218 and other amounts required by law to be raised under said section 23 of said chapter 59 and the
219 director shall report his conclusion to the commissioner. If the commissioner determines that
220 the city budget as presented on the pro forma or annual tax rate recapitulation would not permit
221 certification of the tax rate for the applicable fiscal year, he shall certify this determination in
222 writing and provide notice of the determination with a copy of the certificate to the secretary of
223 administration and finance. Upon such notification, the secretary may recommend to the
224 governor that he submit legislation reviving the finance control board or establishing a receiver
225 for the city.

226 SECTION 5. Notwithstanding chapter 43 of the General Laws or any other general or
227 special law to the contrary, the state secretary shall place upon the ballot for the regular city
228 election in 2009 in the city of Springfield the following question: "Shall the term of office of
229 the mayor of the city of Springfield be 4 years?" If a majority of the votes cast in answer to
230 said question is in the affirmative, the term of office of the mayor of the city of Springfield shall
231 be for 4 years and shall continue until the election and qualification of his successor, beginning
232 with the 2011 regular city election.

233 SECTION 6. There shall be a committee to study the compensation of the mayor of the
234 city of Springfield. The committee shall consist of the state personnel administrator, who shall
235 chair the committee, a representative of the Massachusetts Municipal Association, and a city
236 councillor of said city of Springfield to be appointed by the city council president. The

237 committee shall report in writing to the city council and the secretary of administration and
238 finance not later than July 1, 2009.

239 SECTION 7. Whenever the term “department of finance” appears in any general or
240 special law, or any ordinance, regulation, contract or other document with reference to the city
241 of Springfield, it shall mean the department of administration and finance of the city of
242 Springfield. Whenever the term “chief financial officer” appears in any general or special law
243 or any ordinance, regulation, contract or other document with reference to the city of
244 Springfield, it shall mean the chief administrative and financial officer of the city of Springfield.
245 Whenever the term “auditor” or “city auditor” appears in any general or special law or any
246 ordinance, regulation, contract or other document with reference to the city of Springfield, it
247 shall be taken to mean the comptroller or director of internal audit of the city of Springfield, as
248 the case may be under sections 2A and 3 of chapter 656 of the acts of 1989.

249 SECTION 8. This act shall take effect upon its passage.