

**Major Changes to Civil Service Framework are Enacted into Law
(Prepared for 2025 MMA Connect 351 Conference)**

On November 20, 2024, Governor Healy signed into law Chapter 238 of the Acts of 2024, “An Act relative to strengthening Massachusetts’ economic leadership” (“Act”), which took effect immediately. This comprehensive legislation introduces sweeping amendments to G.L. c. 31, with ramifications for municipalities, public safety agencies, and employment candidates. The full impact of the Act will not be fully realized until the state’s Human Resources Division (“HRD”), the Civil Service Commission, and/or the courts interpret these changes. Revisions to HRD’s existing Personnel Administration Rules may be required in order to conform with the legislative changes. On the following pages, we will review:

	Page
Status of Home Rule Petitions to Exit Civil Service	2
Attorney’s Fees and Costs - G.L. c. 31, §§2(3) and 45	2
Initial Application – G.L. c. 31, §§ 20, 21	3
Candidate Eligibility and Examinations – G.L. c. 31, § 25	3
Original (Entry Level) Appointments – G.L. c. 31, § 27	3
Discipline and Appeals – G.L. c. 31, §§ 41-45	3
Residency Preferences – G.L. c. 31, § 58	4
Eligibility for Promotional Examinations – G.L. c. 31, § 59	4
Alternative Pathway for Hiring Entry-Level Police Officers and Firefighters in Massachusetts – G.L. c. 31 § 59A	4
Establishment of Entry-Level Police & Fire Cadet Programs – G.L. c. 31 §§ 59B-D	5
Submission of Employee Demographic Information – G.L. c. 31, § 67	5
Creation of Commission on Recruitment, Hiring, and Retention of Municipal Police Officers and Firefighters in the Commonwealth – G.L. c. 31, § 78	6

Status of Home Rule Petitions to Exit Civil Service:

In recent years, many municipalities have filed home rule petitions with the Massachusetts General Court, the state legislature, to authorize the exit from civil service. While such home rule petitions were typically approved by the legislature without much debate, recent petitions have languished without action. Generally, the Act provides that cities and towns that filed special legislation **between January 4, 2023 and July 31, 2024** to remove public safety departments or certain officers from civil service, with proof of local approval, may finalize the removal without any further legislative action. Such municipalities must submit a letter **by February 15, 2025** to the state Personnel Administrator (“Administrator”), the Joint Committee on Public Service, and the Chair of the Civil Service Commission, signed by the mayor or city manager in cities or the chair of the select board or town manager in towns, and, as applicable, the police or fire chief. Once the letter is properly submitted, the exit from civil service takes effect **on March 1, 2025**.

The Act does not provide similar relief to municipalities that filed home rule petitions outside the January 4, 2023 – July 31, 2024 date range. If a municipality wishes to continue to remove a department or officer from civil service, such home rule petitions must be refiled and meet the normal requirements for authorization of a home rule petition, i.e., approval in a city by the council and in a town by the town meeting.

Attorney’s Fees and Costs - G.L. c. 31, §§2(3) and 45:

The Civil Service Commission’s authority to award attorney’s fees in appeals under the Commission’s jurisdiction, such as disciplinary appeals, has been expanded. Successful appellants are now automatically entitled to the following fees and costs:

- (i) the appellant’s filing fee paid to the Civil Service Commission;
- (ii) an amount not to exceed \$1,500 for attorneys’ fees actually incurred in conjunction with each of the following:
 - a. an appointing authority hearing;
 - b. a hearing before the Civil Service Commission; and
 - c. an action for judicial review of a Civil Service Commission decision pursuant to G.L. c. 31, § 44; and
- (iii) an amount not to exceed \$500 for summonses to witnesses and any other expenses actually incurred in such successful appeal.

The Civil Service Commission is now authorized to award up to \$25,000 in attorney’s fees and costs to a prevailing appellant “upon an express finding of either bad faith on the part of the appointing authority or an egregious or willfully repeated violation of this chapter, unless special circumstances would render such an award in full unjust.” No similar remedy is granted to cities and towns that successfully defend civil service or judicial appeals.

Initial Application – G.L. c. 31, §§ 20, 21:

The new legislation eliminates the requirement that applicants provide information about criminal convictions prior to a conditional offer of employment. In addition, G.L. c. 31, § 21 now requires that the Personnel Administrator notify the Massachusetts Commission Against Discrimination whenever a certification restricts a promotional appointment to only male or only female candidates. A new paragraph permits appointing authorities to ask the Personnel Administrator for a special certification for candidates fluent in a specific foreign language.

Candidate Eligibility and Examinations – G.L. c. 31, § 25:

Eligibility for placement on, and standing within, an entry-level eligibility list will now be determined by the highest examination score a candidate achieves, rather than their most recent score. Thus, for entry-level candidates who take multiple examinations within the same examination cycle, the highest score will be used in certifications. Additionally, in the past, if the appointing authority failed to submit a report of certification before a candidate's eligibility expired, that candidate's appointment was automatically nullified. Under the new provisions, the Personnel Administrator may choose to nullify the appointment if the report is not submitted. Furthermore, the name of a candidate certified for an entry-level position and under consideration for appointment will remain in effect until the hiring process is completed and any appointment is reported to the Administrator.

Importantly, assuming appropriate changes to the Personnel Administration Rules, the certification and appointment formula will change from $2n+1$ to $3n+1$.

Original (Entry Level) Appointments – G.L. c. 31, § 27:

If a candidate for original appointment is bypassed, rejected as not being in compliance with applicable entrance requirements, or withdraws from consideration, the appointing authority may consider the next highest-ranked individual. However, bypassed or rejected candidates cannot appear on future certifications from the same eligibility list unless so directed by the Civil Service Commission.

Discipline and Appeals – G.L. c. 31, §§ 41-45:

If the Commission finds that an appointing authority failed to meet the procedural requirements of G.L. c. 31, § 41 and that the rights of an individual were harmed as a result, G.L. c. 31, § 42 now provides the Commission the option of ordering the immediate restoration of that person's employment, without loss of compensation or other rights.

Amendments to G.L. c. 31, § 43 essentially codify existing Commission practices with respect to timelines for hearings and decisions on appeals. A preliminary hearing must occur within 60 days after the appeal is filed, and if a full evidentiary hearing is required, it must begin within 180 days unless the parties agree otherwise or a Commission member grants a continuance. The legislation also specifies grounds for reversing decisions, including procedural errors by the appointing authority, errors of law, or factors that are not reasonably related to the employee's ability to perform their duties. Finally, the language of G.L. c. 31, § 43 has been revised to allow

the Commission the option to fashion an appropriate remedy if it finds that the Appointing Authority did not have just cause for the decision being appealed by ordering that the appellant be restored “with or without loss of compensation or other benefits and subject to such other orders as the commission may deem appropriate to restore and protect the rights provided to such person under this chapter...”

Residency Preferences – G.L. c. 31, § 58:

A new residency preference has been created for applicants who earned a high school diploma from a public school located in the municipality or who lived there at the time of receiving the diploma. This preference will place such applicants on equal footing with those who have resided in the municipality for one year prior to taking a civil service examination. The legislation also introduces a regional residency preference for municipalities with populations under 75,000, allowing the Personnel Administrator to prioritize candidates from municipalities within 10 miles of the requesting municipality’s border. In cities with populations over 75,000, a public safety department and another municipality may jointly petition for such preferences, subject to local legislative approval. This regional residency preference takes effect on November 20, 2025, one year after enactment.

Eligibility for Promotional Examinations – G.L. c. 31, § 59:

The updated G.L. c. 31, § 59 lowers the threshold from four to two for opening promotional examinations to the next lower title.

Furthermore, no individual may sit for such an examination without having served for at least one year on the force and having performed the associated job duties, rather than one year after certification.

Alternative Pathway for Hiring Entry-Level Police Officers and Firefighters in Massachusetts – G.L. c. 31 § 59A:

General Laws c. 31, § 59A establishes a framework that allows appointing authorities to create local registers of entry-level police and firefighter candidates under certain conditions, bypassing traditional civil service examination requirements. This process requires appointing authorities to enter into written agreements with the Personnel Administrator, committing to adhere to basic merit principles, actively recruit and consider candidates from diverse backgrounds, and submit anti-nepotism, anti-patronage, and anti-favoritism policies for approval. Additional information from HRD is likely to be forthcoming in the near future.

Once an agreement is in place, appointing authorities can designate candidates for a local public safety register, which serves as an alternative pathway for hiring police officers and firefighters. These candidates are exempt from certain civil service rules, such as those in G.L. c. 31, §§ 26 and 27, and can be appointed without having passed the standard entry examination if they meet minimum age, educational, health, and physical fitness standards, along with satisfying at least one of several conditions tailored to police or firefighter roles.

Regardless of the pathway, police officers cannot perform their sworn duties until completing the necessary academy training or obtaining a waiver. Similarly, firefighter candidates must either complete prescribed training or meet equivalent standards. All appointments from the local public safety register must be reported to the Administrator to be valid for civil service purposes. If an appointing authority violates the terms of its agreement

with the Personnel Administrator, following an investigation and verification of the claims, the agreement may be modified, suspended, or terminated

Establishment of Entry-Level Police & Fire Cadet Programs – G.L. c. 31 §§ 59B-D:

General Laws c. 31, §§ 59B and 59C empower municipalities to create police and fire cadet programs for individuals aged 18 and older. These programs offer alternative pathways for municipalities to appoint entry-level police officers and firefighters, bypassing traditional civil service certification processes while adhering to merit-based hiring principles. Both programs require cadets to meet minimum age, education, and training standards, with oversight by the Personnel Administrator and the Municipal Police Training Committee for police cadets and the Massachusetts Fire Training Council for fire cadets.

Cadets are not entitled to accrue retirement or pension benefits during their service. However, if appointed as full-time officers or firefighters, cadet service is creditable for retirement purposes if the individual contributes the required amount to the retirement system. Appointments are limited to the lowest grade in the police or fire force and are contingent on completing required training, examinations, or program benchmarks.

Appointments may be made after completion of an approved cadet program and meeting additional qualifications, such as passing a qualifying exam, graduating from a police academy, or appearing on an eligible civil service list. The fire cadet program requires at least 24 months of service in an approved program and successful completion of a qualifying exam or inclusion on a fire entrance list before eligibility for appointment.

The fire cadet program includes additional safeguards, such as requiring municipalities to comply with collective bargaining obligations if cadet employment impacts the working conditions of current firefighters. This provision is not present in the police cadet program. Both programs require cadets to serve a probationary period upon appointment before attaining tenure, and all appointments must be reported to the Administrator.

Finally, G.L. c. 31, § 59D specifies that the percentage of candidates appointed by a municipality to a permanent position from a local public safety service register or a cadet program shall not exceed 50 percent of the appointing authority's overall appointments to the entry-level ranks during the period established by the written local register or cadet program agreement with the Administrator. The firefighter cadet program legislation is only effective for ten years, while the police cadet program has no sunset provision.

Submission of Employee Demographic Information – G.L. c. 31, § 67:

Each March, appointing authorities must submit to the Personnel Administrator a list of all Civil Service employees as of the preceding January 2, by series, title, and seniority. These lists must be signed under the pains and penalties of perjury and be posted in the workplace where "five or more" Civil Service employees begin their tours of duty. In a change to codify existing practice, the statute now expressly requires submission to the Personnel Administrator of aggregate data regarding available employee demographics such as race and gender. The penalty for failing to post these lists increases from \$100 to \$500.

Creation of Commission on Recruitment, Hiring, and Retention of Municipal Police Officers and Firefighters in the Commonwealth - G.L. c. 31, § 78:

The new G.L. c. 31, § 78 creates a permanent Commission charged with overseeing the recruitment, hiring, and retention of municipal police officers and firefighters throughout Massachusetts. This Commission, co-chaired by appointees from the Speaker of the House, the Senate President, and the Governor, includes a broad spectrum of stakeholders, such as government officials, public safety representatives, civil rights organizations, and others. The Commission is intended to serve as a resource for municipalities, promoting the hiring of highly qualified, diverse candidates, particularly women and people of color. The Commission will assess the implementation of civil service reforms, including residency preferences, exam frequency, and fee reductions, and recommend improvements to ensure alignment with merit-based principles. The law requires the Commission to gather information, form subcommittees, and report annually to the Governor and legislative leaders for the purpose of improving diversity and strengthening the effectiveness of public safety recruitment and retention statewide.

For further information, please contact Attorney [Michele Randazzo](#) or your KP Law Labor and Employment attorney at 617.556.0007.

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