

# Chapter 468 of the Acts of 2008

## AN ACT FURTHER PROVIDING FOR THE FINANCIAL 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:*

**SECTION 1.** Chapter 656 of the acts of 1989 is hereby amended by striking out sections 2 and 3 and inserting in place thereof the following 3 sections:-

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

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

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

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

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

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

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

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

secretary of administration and finance.

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

- (1) coordinating, administering, and supervising of all financial services and activities;
- (2) assisting in all matters related to municipal financial affairs;
- (3) implementing and maintaining uniform systems, controls, and procedures for all financial activities in all departments, including the school department, boards, commissions, agencies or other units of city government the operations of which have a financial impact upon the general fund and enterprise funds of the city, and including, but not limited to, maintaining of all financial and accounting data and records;
- (4) implementing and maintaining uniform financial data processing capabilities for all departments;
- (5) supervision of all financial data processing activities;
- (6) implementing and maintaining uniform budget guidelines and procedures;
- (7) assisting in the development and preparation of all department budgets and spending plans;
- (8) reviewing all proposed contracts and obligations with a term in excess of 1 year;
- (9) monitoring the expenditure of all funds, including periodic reporting by and to appropriate agencies of the status of accounts;
- (10) reviewing the spending plan for each department; and
- (11) providing for the allotment of funds on a periodic basis as provided for in this act.

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

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

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

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

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

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

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

(l) The city of Springfield shall be deemed to have accepted section 37M of chapter 71 of the General Laws for the purpose of consolidating the operations of the business and financial services department of the school department with those of the city under the authority of the CAFO. Such acceptance may be revoked but no revocation of acceptance shall be valid or effective in any year during which a loan under section 2 of chapter 169 of the acts of 2004 remains outstanding, without the written approval of the secretary of administration and finance.

The CAFO and the director of internal audit shall comply with all requests of the school department to provide any information relating to the operation of the school department held within the authority or control of the CAFO or the director of internal audit as the result of the consolidation. If the CAFO, the director of internal audit, or any employee thereof refuses to provide such information or engages in unreasonable delay, the school department shall notify the secretary of administration and finance. The secretary shall, within a reasonable time, make a determination that any such information shall be provided to the school department which shall be binding upon the CAFO, the director of internal audit and the school department. The secretary's determination shall not be an adjudicatory proceeding reviewable under chapter 30A of the General Laws. Nothing in this subsection shall abrogate any of the other powers or duties of the school committee under chapter 71 of the General Laws.

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

(b) The CAFO shall appoint the comptroller, with the approval of the mayor, solely on the basis of administrative and executive qualifications. The comptroller shall be a person especially fitted by education, training and previous experience to perform the duties of the office, and need not be a resident of the city or commonwealth when appointed.

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

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

(e) The comptroller may transfer from the accounts of any department any funding not projected to be necessary due to position vacancies or operating efficiencies developed during a fiscal year. This transfer shall

be into a central holding account which shall expire on June 30 of each fiscal year. If a vacant position is filled after any such transfer, the comptroller may reverse the portion of the transfer associated with that position to ensure sufficient funding in the relevant department. This transfer authority shall extend to the school department only during a year during which budgeted net school spending, as reported to the department of elementary and secondary education, is at or above required amounts under chapter 70 of the General Laws.

(f) Upon majority vote and at the written request of the city council, within a reasonable time period after such a request, the comptroller shall provide an oral or written assessment, or both, as the city council may request, of the current and future financial impact of the cost of any proposed appropriation order, lease arrangement for a term in excess of 1 year, collective bargaining agreement or borrowing authorization, particularly, but not limited to, as such cost item would relate to the continuous provision of the existing level of municipal services. To the extent reasonable, this assessment shall include such analysis or other information of a financial nature as is specifically requested by vote of the city council. The comptroller shall provide this assessment and analysis as the comptroller's professional opinion and the comptroller shall not be obliged to represent the position of the mayor or CAFO.

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

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

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

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

(d) Annually, not later than March 30, the director shall propose to the city council an audit plan for the following fiscal year which shall be reviewed and accepted by the city council, subject to modification by majority vote. The audit plan may be filed, considered, modified and approved in an executive session of the city council if public review, consideration, modification or approval would negatively impact the ability of the director to execute the audit plan.

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

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

**SECTION 2.** Section 2 of chapter 169 of the acts of 2004 is hereby amended by striking out the eighth and

ninth sentences and inserting in place thereof the following 2 sentences:- The city shall repay the entire balance of amounts loaned pursuant to this section not later than June 30, 2022. This loan shall not be forgiven in whole or in part, and failure to repay the full value of loans disbursed from the fund to the city shall result in an equally commensurate reduction in local aid payments made by the commonwealth to the city in fiscal year 2023.

**SECTION 3.** Subsection (d) of section 4 of chapter 169 of the acts of 2004 is hereby amended by striking out clauses (7) and (8) and inserting in place thereof the following 2 clauses:-

(7) notwithstanding any general or special law to the contrary, to establish, increase, or decrease any fee, rate, or charge, for any service, license, permit or other municipal activity, otherwise within the authority of the city; provided, that executive order number 8-11-04 issued by the board shall be repealed as of July 31, 2011.

(8) notwithstanding the charter or any city ordinance to the contrary, to appoint, remove, supervise and control all city employees and have control over all personnel matters; provided, however that the board shall hold all existing powers to hire and fire and set the terms and conditions of employment held by other employees or officers of the city, whether or not elected; provided further, that the board shall have the authority to exercise all powers otherwise available to a municipality regarding contractual obligations during a fiscal emergency; provided further, that the board shall, subject to collective bargaining, require all new city employees and those current employees receiving promotions, to be residents of the city within 6 months after their appointment and the board shall not issue a residency waiver; provided further, that and no city employee or officer shall hire, fire, transfer or alter the compensation or benefits of any employee except with the written approval of the board; and provided further, that the board may delegate or otherwise assign these powers with the approval of the secretary.

**SECTION 4.** (a) There shall be in the city of Springfield a consolidated department of community development which shall be under the direction of a director of community development.

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

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

**SECTION 5.** In any year in which a loan under section 2 of chapter 169 of the acts of 2004 remains outstanding, on or before July 1, the CAFO shall submit to the director of accounts a pro forma tax rate recapitulation for the following fiscal year. The director shall ascertain whether the city budget for that fiscal year contains reasonable revenues from taxation and other sources to meet the appropriations and other amounts required by law to be raised under section 23 of chapter 59 of the General Laws and the director shall report his conclusion to the commissioner of revenue. In any such year, upon submission of the annual tax rate recapitulation, the director shall also ascertain whether the city budget for that fiscal year contains reasonable revenues from taxation and other sources to meet the appropriations and other amounts required by law to be raised under said section 23 of said chapter 59 and the director shall report his conclusion to the commissioner. If the commissioner determines that the city budget as presented on the pro forma or annual tax rate recapitulation would not permit certification of the tax rate for the applicable fiscal year, he shall certify this determination in writing and provide notice of the determination with a copy of the certificate to the secretary of

administration and finance. Upon such notification, the secretary may recommend to the governor that he submit legislation reviving the finance control board or establishing a receiver for the city.

**SECTION 6.** Notwithstanding chapter 43 of the General Laws or any other general or special law to the contrary, the city board of election commissioners shall place upon the ballot for the regular city election in 2009 in the city of Springfield the following question:— “Shall the term of office of the mayor of the city of Springfield be 4 years?”

If a majority of the votes cast in answer to said question is in the affirmative, the term of office of the mayor of the city of Springfield shall be for 4 years and shall continue until the election and qualification of his successor, beginning with the 2011 regular city election.

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

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

*Approved January 9, 2009*