

COMMONWEALTH OF MASSACHUSETTS

by His Excellency

John A. Volpe

Governor

EXECUTIVE ORDER NO. 42

WHEREAS, the Congress of the United States has enacted Public Law 85-606 authorizing contributions of Federal funds to states and their political sub-divisions for Civil Defense personnel and administrative expenses, provided, that positions in state and municipal Civil Defense organizations be placed under a personnel merit system; and

WHEREAS, it was the sense of congress in authorizing such contributions that the defense of the United States, in this thermonuclear age, could best be accomplished by enacting into law such measures and that it was the policy and intent of Congress thereby to assist in providing a system of Civil Defense for the protection of life and property in the United States from attack; and

WHEREAS, the President of the United States, acting through the Office of Civil and Defense Mobilization in the Executive Office of the President, as provided in presidential Executive Order No. 10773, issued July 1, 1958, has offered to the Commonwealth from funds appropriated by the Congress for such prupose, the sum of approximately four hundred thousand dollars as a contribution to Civil Defense personnel and administrative expenses of the Commonwealth and its political subdivisions for the balance of the Fiscal Year ending June 30, 1962; and

WHEREAS, it is a condition of eligibility of such contribution as required by said Public Law 85-606, that positions in the Civil Defense organizations of the Commonwealth and its political subdivisions be placed (with specified exceptions) under an approvable merit system prior to making such contribution; and

WHEREAS, failure to place positions in the division of Civil Defense and in the local organizations for civil defense under Civil Service will cause a loss to the Commonwealth and its political subdivisions of approximately four hundred thousand dollars in Federal contributions that would otherwise be available; and

WHEREAS, although legislation putting positions in Civil Defense organizations under Civil Service will be before the 1962 Session of the General Court, action thereon will necessarily come after January 1, 1962 and the requirement to immediately increase the emergency readiness preparations of the Commonwealth will not admit of such delay; and

WHEREAS, it is therefore necessary and expedient that the Governor, by Executive Order, take action to facilitate such preparations and avoid

loss of the aforementioned Federal contributions for such purposes; and

WHEREAS, the Governor of the Commonwealth is authorized under Stat. 1950, chapter 639, as amended, section 15, to accept an offer of funds by the Federal Government and to authorize an officer of the Commonwealth to receive such funds subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer; and

WHEREAS, the Governor of the Commonwealth is authorized by Sections 4 and 6 of said Chapter 639 to cooperate with the Federal Government in all matters pertaining to Civil Defense and to take measures which the Governor may deem proper to carry into effect any request of the President of the United States for action looking to the national defense or the public safety:

NOW, THEREFORE, I, John A. Volpe, Governor of the Commonwealth, acting under Stat. 1950, Chapter 639, as amended, and in particular Sections 4, 6, 7, 8A and 20 thereof, and all other authority hereunto enabling, do hereby issue this order as a necessary preparatory step in advance of actual disaster and as a measure of cooperation with the Government of the United States in matters pertaining to the Civil Defense of the Commonwealth and the Nation.

1. Executive Order No. 41, issued August 30, 1961, is hereby terminated, effective this date, provided, however, that said termination shall not affect the validity of any expenditure heretofore made, or any obligation heretofore incurred, pursuant to said Executive Order No. 41, and Executive Order 36 as amended, or in connection with the participation, as authorized by said Executive Orders, by the Commonwealth and its political subdivisions in the federal contributions program under Public Law 85-606, from January 1, 1961, to the effective date of this Order.

2. All offices and positions in the division of Civil Defense, excepting the Director, are hereby made subject to the Civil Service laws and rules.

3. All offices and positions in a local organization for civil defense established in a city under Section 13 of said Chapter 639, excepting the office or position of director of said organization, if not previously classified under the Civil Service laws and rules, are hereby made subject to the Civil Service laws and rules.

4. All offices and positions in a local organization for civil defense established in a town under Section 13 of said Chapter 639, excepting the office or position of director of said organization, shall, if not previously classified under the Civil Service laws and rules, become subject to the Civil Service laws and rules.

This paragraph shall take effect upon its acceptance by a town in the manner hereinafter set forth:

There may be submitted to the voters of a town at an annual or special town meeting the following question which shall be placed upon the official ballot to be used at such meeting: - "Shall the town accept

the provisions of an executive order placing offices and positions in local organizations for civil defense, excepting the office of director, under the civil service laws and rules?" If a majority of the votes in answer to said question is in the affirmative, this paragraph shall thereupon take effect in said town.

4A. The office or position of director of a local organization for civil defense established in a city or town under Section 13 of said chapter 639, shall, if not previously classified under the Civil Service laws and rules, become subject to the Civil Service laws and rules.

This paragraph shall take effect in a city having a Plan B or a Plan E charter by the affirmative vote of the majority of all the members of the city council, and, in the case of other cities, by vote of the city council, subject to the provisions of the charter.

This paragraph shall take effect in a town upon its acceptance in the following manner:

There may be submitted to the voters of a town at an annual or special town meeting, the following question which shall be placed upon the official ballot to be used at such meetings - "Shall the town accept the provisions of an executive order placing the office or position of director of the local organization for civil defense under the civil service laws and rules?" If the majority of the votes in answer to said question is in the affirmative, this paragraph shall thereupon take effect in said town.

5. Any person who on the effective date of this order is employed in an office or position in the division of civil defense, or in a local organization for civil defense in a city, or who is employed in an office or position in a local organization for civil defense in a town on the date said town accepts the provisions of paragraph four of this order, may continue to serve in such office or position until such time as an appointment to that office or position has been made from an eligible list after a competitive examination in accordance with Chapter 31 of the General Laws; provided, however, that such examination shall be given within eight months after the date said office or position becomes subject to the provisions of the Civil Service laws and rules in accordance with the provisions of this order.

6. The provisions of paragraph (g) of Section 9 of Chapter 639 of the Acts of 1950, as amended, shall not be construed to permit the exclusion of said division of civil defense or any local organization for civil defense in a city, or in a town which accepts this order, from the operation of the civil service laws and rules, and any such exclusion of a local organization for civil defense approved prior to the date of which positions in such local organization become subject to the Civil Service Laws and Rules, shall be terminated on said date.

7. The director of civil service shall establish, with the approval of a board consisting of the director of civil defense, the chairman of the civil service commission and the director of accounts, ex officio, a compensation plan for holders of offices or positions in each local

organization for civil defense which, by this order or theretofore, has been made subject to the civil service laws and rules. The director of civil service may, with like approval, make rules and regulations providing for the application and administration of said compensation plan. Said director, with like approval, may from time to time modify or change said compensation plan or said rules and regulations. Any holder of such office or position objecting to any provisions of such plan, or any action taken in connection therewith, which affects his office or position, may appeal in writing to said board and shall be entitled to a hearing, after due notice, upon such appeal. The decision of said board shall be final.

8. Any person appointed to an office or position in a local organization for civil defense which is subject to the civil service laws and rules, shall be given an annual step-rate increase, to be set forth in the compensation plan established under paragraph 7, but such increase shall not entitle such person to any change of rating or increased authority. Such increase shall be paid annually until the maximum salary set forth in said compensation plan for such office or position has been reached. The superior court, upon suit by the attorney general or petition of one or more taxable inhabitants of a city or town in which it is alleged that the provisions of this paragraph or paragraph 3, 4, or 7 of this order are not enforced, may, in law, or by equity, enforce said paragraphs.

This paragraph shall become effective in a city having a Plan D or a Plan E charter by the affirmative vote of the majority of all the members of the city council, and, in the case of other cities by vote of the city council, subject to the provisions of the charter, and in a town by a majority vote at an annual town meeting.

9. This order shall be effective as of July 1, 1961.

Given at the Executive Chamber in Boston this fifteenth day of September in the year of our Lord one thousand nine hundred and sixty-one and of the Independence of the United States of America, the one hundred and eighty-sixth.

JOHN A. VOLPE
Governor
Commonwealth of Massachusetts

KEVIN H. WHITE
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS