

By Mr. King, a petition (accompanied by bill, Senate, No. 1648) of John G. King for legislation to provide for a review of the staffing of state agencies to eliminate unnecessary positions and requiring justification of positions in future state budgets. Ways and Means (Joint).

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-nine.

AN ACT PROVIDING FOR A REVIEW OF THE STAFFING OF STATE AGENCIES TO ELIMINATE UNNECESSARY POSITIONS AND REQUIRING JUSTIFICATION OF POSITIONS IN FUTURE STATE BUDGETS.

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. It is hereby declared to be the policy of the
 2 commonwealth to maintain a level of state employment not
 3 exceeding the proven needs of the several offices and agencies
 4 of the commonwealth and, to that end, to require each office
 5 and agency to justify the number of positions to be provided
 6 for in each annual budget, to permit reasonable transfers of
 7 positions among the several offices and agencies according to
 8 their respective needs, to provide financial assistance and
 9 opportunities for retraining and re-employment for any per-
 10 sons whose positions are found to be in excess of proved
 11 needs, and to set an initial level of necessary employment to
 12 be reached under rules and regulations of the commissioner
 13 of administration through the offices of the several secre-
 14 taries.

1 SECTION 2. Section 3 of chapter 29, as most recently
 2 amended by *Italic type* means language inserted. [Brackets]
 3 means language stricken. Section 2 of chapter 844 of the
 4 acts of 1974, is hereby further amended by adding at the
 5 end of the first paragraph the following new sentence: —

6 *Such statement of justification shall be completed with the*
 7 *assistance of the personnel administrator in accordance with*
 8 *procedures prescribed by rule and regulation of the commis-*
 9 *sioner of administration.*

1 SECTION 3. Chapter 30 of the General Laws is hereby
2 amended by inserting the following new section: —

3 *Section 44C. The personnel administrator in the executive*
4 *office of administration and finance shall, at reasonable inter-*
5 *vals, review every appointive office and position in the execu-*
6 *tive department of the government of the commonwealth,*
7 *excepting such offices and positions in the professional staffs*
8 *servng under governing boards of institutions of higher edu-*
9 *cation, to determine that it is justified by the work require-*
10 *ments of the office or agency in which it is placed and, further*
11 *to determine whether the duties actually being performed by*
12 *the incumbent of such position reasonably conform with those*
13 *described in the specifications for the class established under*
14 *paragraph (1) of section forty-five of this chapter. He shall*
15 *report from time to time to the commissioner of administra-*
16 *tion any positions which he finds are no longer justified and*
17 *said commissioner shall take any appropriate action relative*
18 *to their abolition.*

1 SECTION 4. Chapter 31 of the General Laws is hereby
2 amended by striking out the second paragraph of section 39
3 as appearing in chapter 393 of the acts of 1978 and inserting
4 in place thereof the following new paragraph: —

5 Any action by an appointing authority to separate a tenured
6 employee from employment for the reasons of lack of work
7 or lack of money or abolition of positions shall be taken in
8 accordance with the provisions of section forty-one. Any such
9 employee who has received written notice of an intent to
10 separate him from employment for such reasons may, as an
11 alternative to such separation, file with his appointing author-
12 ity, within seven days of receipt of such notice, a written
13 consent of his being demoted to a position *in his department*
14 *unit* in the next lower title or titles in succession in the official
15 service or to the next lower title or titles in the labor service,
16 as the case may be, if in such next lower title or titles there
17 is an employee junior to him in length of service. As soon as
18 sufficient work or funds are available, any employee so de-
19 moted shall be restored, according to seniority in the unit, to
20 the title in which he was formerly employed.

1 SECTION 5. Said chapter 31 is hereby further amended by
2 striking out the first paragraph of section 40, as appearing in
3 chapter 393 of the acts of 1978, and inserting in place thereof
4 the following new paragraph: —

5 *Section 40.* If a permanent employee shall become separated
6 from his position because of lack of work, or lack of money
7 or abolition of his position *or because of the demotion of*
8 *another employee pursuant to section 39,* his name shall be
9 placed by the administrator on a re-employment list, or if a
10 permanent employee resigns for reasons of illness his name
11 shall be placed on such list upon his request made in writing
12 to the administrator within two years from the date of such
13 resignation.

1 SECTION 6. The secretary of each executive office estab-
2 lished under the provisions of chapter 6A of the General
3 Laws shall cause a survey to be made of every permanent,
4 temporary and part-time position in each agency within his
5 jurisdiction, in accordance with procedures established by the
6 commissioner of administration, to determine the necessity
7 of such positions in relation to the work to be done by the
8 several agencies. The results of such surveys shall be reported
9 to the commissioner of administration and to the personnel
10 administrator to assist him in the classification or re-classifi-
11 cation of such positions. Based on such reports, the com-
12 missioner of administration shall, from time to time, deter-
13 mine what permanent positions are no longer required by
14 the work of the several agencies and shall authorize the joint
15 committee on ways and means to eliminate such positions
16 from its current schedule of positions; provided, that the
17 total number of such positions so terminated as of December
18 31, 1980, shall be not less than ten per cent of the total num-
19 ber of permanent positions on said schedules as of July 1,
20 1979, and provided, further, that said commissioner shall
21 thereafter continue to make such reductions in permanent
22 positions as subsequent surveys indicate may be made without
23 impairment of essential state services.

1 SECTION 7. Any other provision of law to the contrary
2 notwithstanding, any permanent employee in a position termi-

3 nated under the provisions of section 3 may be transferred
4 to a position in the service of the commonwealth of equal or
5 lower grade, as established by the personnel administrator,
6 whether or not the title is similar, on request of the appoint-
7 ing authority of the department to which the employee is to
8 be transferred and with the consent of the employee. Such
9 transfer shall be without loss of seniority, retirement or other
10 rights.

1 SECTION 8. For the purposes of this and the following two
2 sections, the following terms shall, unless the context clearly
3 requires otherwise, have the following meanings: —

4 “Permanent civil service employee”, an officer or employee
5 holding appointment after certification to an office or position
6 whether permanent or temporary, in the official or labor
7 service of the commonwealth, as defined in section one of
8 chapter thirty-one of the General Laws.

9 “Special tenured employees”, an officer or employee who
10 holds tenure, by reason of section nine A, section nine B or
11 section nine D of chapter thirty of the General Laws, in an
12 office or position not in the classified civil service of the
13 commonwealth.

1 SECTION 9. Notwithstanding any provision of general or
2 special law to the contrary, any permanent civil service em-
3 ployee or special tenured employee who is separated from his
4 office or position as a result of abolition of such office or
5 position by amendment at any time before the end of the
6 fiscal year ending on June 30, 1979, of schedules of permanent
7 or temporary positions by the joint committee on ways and
8 means under authority of the act, making general appropri-
9 ations for said fiscal year, or of paragraph (5) of section forty-
10 five of chapter thirty of the General Laws, or who is sepa-
11 rated from his office or position as a direct result of the demo-
12 tion of any such permanent civil service employee under sec-
13 tion forty-six G of chapter thirty-one, shall be entitled to the
14 following rights and benefits:

15 (a) His name shall be placed on a re-employment list estab-
16 lished by the personnel administrator in the manner provided

17 in section forty of chapter thirty-one of the General Laws
18 and he may be appointed therefrom, in such manner, to an
19 office or position for which he is qualified in the opinion of
20 said administrator. The names of such employees shall be
21 placed on such re-employment list in the following order: —

22 (1) permanent civil service employees, in the order of the
23 dates of their original appointment;

24 (2) special tenured employees, in the order of the dates
25 of their original appointment;

26 Persons in each of the foregoing clause (1) shall have
27 preference over persons in the succeeding clause (2) in ap-
28 pointment to offices or positions for which they are qualified,
29 and persons on such re-employment list shall have preference
30 over all other persons in appointment to such offices or posi-
31 tions.

32 Any permanent civil service employee who is appointed to
33 an office or position for such re-employment list shall be
34 deemed to be permanently appointed to such office or position
35 without taking a qualifying examination or serving a pro-
36 bationary period. Any special tenured employee who is ap-
37 pointed to an office or position from such re-employment list
38 shall be subject to a qualifying examination prescribed by the
39 administrator and, if he passes, shall be deemed to be perma-
40 nently appointed to such office or position after serving a
41 probationary period.

42 Any person appointed from such re-employment list shall
43 retain all seniority, retirement, tenure and other rights held
44 immediately prior to the effective date of such separation
45 from service, but nothing herein shall be construed to confer
46 on such person any rights not held on such date.

47 (b) He shall receive preference, in the order prescribed by
48 clauses (1), and (2) of paragraph (a) of this section, in
49 enrollment in any job training program conducted by the
50 commonwealth under section twenty-eight A of chapter seven
51 of the General Laws or otherwise, for a period of one year
52 from such date of separation.

1 SECTION 10. Notwithstanding any provision of general or
2 special law to the contrary, the personnel administrator may

3 include among the positions to which appointment may be
4 certified from the re-employment list established under the
5 preceding section any position for maintenance employees in
6 any institution under the department of education or any
7 position in any institution under the departments of mental
8 health, public health, public welfare, correction or youth
9 services or in the soldiers' home of Massachusetts, or their
10 successor agencies, except positions to be filled by an em-
11 ployee rendering professional service.

1 SECTION 11. The provisions of this act shall take effect on
2 July first, nineteen hundred and seventy-nine.

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A. Characteristics of Situation

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