

By Mr. Lombardi of Cambridge, petition of the Boston Police Patrolmen's Association and others for legislation to protect public employees and the employees of certain public authorities in the enjoyment of their Constitutional rights and to prevent governmental invasion of the privacy of such employees. Public Service.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Nine.

AN ACT TO PROTECT THE EMPLOYEES OF THE COMMONWEALTH OF MASSACHUSETTS, OF THE SEVERAL CITIES AND TOWNS BEING POLITICAL SUBDIVISIONS THEREOF, AND OF ANY AUTHORITY OR SIMILAR BODY, IN THE ENJOYMENT OF THEIR CONSTITUTIONAL RIGHTS AND TO PREVENT UNWARRANTED GOVERNMENTAL INVASIONS OF THEIR PRIVACY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 31 of the General Laws is hereby amended by
2 striking out section 44 and inserting in place thereof the
3 following:—
4 *Section 44. Rights and Privileges of Employees of the*
5 *Commonwealth of Massachusetts, the Cities and Towns, and*
6 *of any Authority or similar Body.*—(1) It shall be unlawful
7 for any elected official, executive officer, or any officer of the
8 commonwealth of Massachusetts, of the several cities and
9 towns being political subdivisions thereof, or of any authority
10 or similar body, or for any officer of any department or
11 agency of said commonwealth of Massachusetts, of the sev-
12 eral cities and towns being political subdivisions thereof, or of
13 any authority or similar body, or for any person acting or

14 purporting to act under his or their authority, to do any of
15 the following things:

16 (a) To require or request, or to attempt to require or
17 request, any employee of the commonwealth of Massachu-
18 setts, of the several cities and towns being political subdivi-
19 sions thereof, or of any authority or similar body, or any
20 person seeking employment in such capacity, to disclose his
21 race, religion, or national origin, or the race, religion, or
22 national origin of any of his forebears; provided, however,
23 that nothing contained in this subsection shall be construed
24 to prohibit inquiry concerning the citizenship of any such
25 employee or person if his citizenship is a statutory condition
26 of his obtaining or retaining his employment.

27 (b) To state or intimate, or to attempt to state or intimate,
28 to any such employee that any notice will be taken of his
29 attendance or lack of attendance at any assemblage, discus-
30 sion, or lecture held or called by any such official, executive
31 officer, officer or person, as the case may be, or by any outside
32 parties or organizations to advise, instruct, or indoctrinate
33 any such employee in respect to any matter or subject other
34 than the performance of official duties to which he is or may
35 be assigned, or the development of skills, knowledge, or
36 abilities which qualify him for the performance of such
37 duties; provided, however, that nothing contained in this
38 subsection shall be construed to prohibit taking notice of the
39 participation of any such employee in the activities of any
40 professional group or association.

41 (c) To require, or request, or to attempt to require or
42 request, any such employee to participate in any way in any
43 activities or undertakings unless such activities or under-
44 takings are related to the performance of official duties to
45 which he is or may be assigned, or to the development of
46 skills, knowledge, or abilities which qualify him for the
47 performance of such duties.

48 (d) To require or request, or to attempt to require or
49 request, any such employee to make any report concerning
50 any of his activities or undertakings unless such activities or
51 undertakings are related to the performance of official duties
52 to which he is or may be assigned, or to the development of

53 skills, knowledge, or abilities which qualify him for the
54 performance of such duties, or unless there is reason to
55 believe that such employee is engaged in outside activities or
56 employment in conflict with his official duties.

57 (e) To require or request, or to attempt to require or
58 request, any such employee to support by personal endeavor
59 or contribution of money or any other thing of value the
60 nomination or the election of any person or group of persons
61 to public office in the government of the United States or in
62 the commonwealth of Massachusetts or any political sub-
63 division or city and town thereof, or to attend any meeting
64 held to promote or support the activities or undertakings of
65 any political party of the United States, the commonwealth
66 of Massachusetts or any political subdivision or city and
67 town thereof.

68 (f) To coerce or attempt to coerce any such employee to
69 invest his earnings in bonds or other obligations or securities
70 issued by the United States or any of its departments or
71 agencies, or by the commonwealth of Massachusetts or any
72 political subdivision or city and town thereof, or to make
73 donations to any institution or cause of any kind; provided,
74 however, that nothing contained in this subsection shall be
75 construed to prohibit any such elected official, executive
76 officer, officer, or any person acting or purporting to act
77 under his or their authority, from calling meetings and taking
78 any action appropriate to afford any such employee the
79 opportunity voluntarily to invest his earnings in any such
80 bonds or other obligations or securities, or voluntarily to make
81 donations to any institution or cause.

82 (g) To require or request, or to attempt to require or
83 request, any such employee to disclose any items of his
84 property, income, or other assets, source of income, or liabili-
85 ties, or his personal or domestic expenditures or those of any
86 member of his family or household; provided, however, that
87 this subsection shall not apply to any such employee who
88 has authority to make any final determination with respect to
89 the tax or other liability of any person, corporation, or other
90 legal entity to the United States, the commonwealth of
91 Massachusetts or any political subdivision or city and town
92 thereof, or claims which require expenditure of moneys of the

93 United States, the commonwealth of Massachusetts or any
94 political subdivision or city and town thereof; provided
95 further, however, that nothing contained in this subsection
96 shall prohibit the Department of the Treasury or any other
97 executive department or agency of the United States Gov-
98 ernment, or the department of corporations and taxation or
99 other executive department or agency of the commonwealth
100 of Massachusetts from requiring any such employee to make
101 such reports as may be necessary or appropriate for the
102 determination of his liability for taxes, tariffs, custom duties,
103 or other obligations imposed by law.

104 (h) To require or request, or to attempt to require or
105 request, any such employee to disclose any items of his
106 property, income, or other assets, source of income, or liabili-
107 ties, or his personal or domestic expenditures or those of any
108 member of his family or household other than specific items
109 tending to indicate a conflict of interest in respect to the
110 performance of any of the official duties to which he is or may
111 be assigned.

112 (i) To require or request, or to attempt to require or
113 request, any such employee, who is or may be under investi-
114 gation for misconduct, to submit to interrogation (oral,
115 written or by report) which could lead to disciplinary action
116 without the presence of counsel or other person of his choice,
117 if he so requests, and, if he so requests, other than through
118 such counsel or other person, unless such employee otherwise
119 determines.

120 (j) To require or request, or attempt to require or request,
121 any such employee, or any person applying for employment
122 in such capacity, to take any polygraph test designed to elicit
123 from him information concerning his personal relationship
124 with any person connected with him by blood or marriage, or
125 concerning his religious beliefs or practices.

126 (k) To discharge, discipline, demote, deny promotion to,
127 relocate, reassign, or otherwise discriminate in regard to any
128 term or condition of employment, of any such employee, or to
129 threaten to commit any of such acts, by reason of the refusal
130 or failure of such employee to submit to or comply with any
131 requirement, request or action made unlawful by this act, or
132 by reason of the exercise by such employee of any right
133 granted or secured by this act.

134 (2) Whenever any elected official, executive officer, or any
135 officer of the commonwealth of Massachusetts, of the several
136 cities and towns being political subdivisions thereof, or of any
137 authority or similar body, or any officer of any department or
138 agency of said commonwealth of Massachusetts, said cities
139 and towns, and said authority or similar body, or any person
140 acting or purporting to act under his or their authority,
141 violates or threatens to violate any of the provisions of
142 subsection (1) of this section forty-four, any employee of the
143 commonwealth of Massachusetts, of said cities and towns, or
144 said authority or similar body, or any person applying for
145 employment in such capacity, affected or aggrieved by the
146 violation or threatened violation, may bring a civil action in
147 his own behalf or in behalf of himself and others similarly
148 situated, against the offending official, officer or person in the
149 superior court of the commonwealth of Massachusetts for the
150 county in which the violation occurs or is threatened, or the
151 county in which the offending official, officer or person is
152 found, to prevent the threatened violation or to obtain
153 redress against the consequences of the violation. Such court
154 shall have jurisdiction to try and determine such civil action
155 irrespective of the actuality or amount of pecuniary injury
156 done or threatened, and without regard to whether the
157 aggrieved party shall have exhausted any administrative
158 remedies that may be provided by law, and to issue such
159 restraining order, interlocutory injunction, permanent injunc-
160 tion, or mandatory injunction, or enter such other judgment
161 or decree as may be necessary or appropriate to prevent the
162 threatened violation, or to afford the plaintiff and others
163 similarly situated complete relief against the consequences of
164 the violation. With the written consent of any person affected
165 or aggrieved by a violation or threatened violation of sub-
166 section (1) of this section forty-four, any employee organiza-
167 tion may bring such action on behalf of such person, or may
168 intervene in such action. For the purposes of this section
169 forty-four, employee organizations shall be construed to in-
170 clude any brotherhood, council, federation, organization,
171 union, or professional association made up in whole or in part
172 of such employees and which has as one of its purposes
173 dealing with the commonwealth of Massachusetts, the several

174 cities and towns being political subdivisions thereof, or any
175 authority or similar body, or any department or agency
176 thereof, concerning the condition and terms of employment
177 of such employees.



