

CITY OF CAMBRIDGE
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PERSONNEL DEPARTMENT
MICHAEL P. GARDNER
Director

MEMORANDUM

TO: Robert W. Healy
City Manager

FROM: Michael P. Gardner
Personnel Director 

DATE: June 6, 1996

RE: Council Order #21, dated 5/13/96 RE: Report on the Civil Service System

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The Civil Service system for the Commonwealth of Massachusetts and its cities and towns dates back to 1884 when, in response to concerns over excessive patronage and coercive political control in public service employment, the state Legislature asserted control over municipal employment decisions by introduction of the concept of "merit" hiring based upon job analysis, minimum qualifications and testing. The Legislature was apparently more concerned about patronage hiring in cities than in towns. Pursuant to G.L. c. 31 sec. 51, all positions in cities are subject to civil service, while, pursuant to G.L. c. 31 sec. 52, virtually the only positions in towns that are subject to civil service are those that are brought under civil service by action of the town. Thus cities were denied the choice generally available to towns.

Section 51 makes all positions in cities (except those specifically exempted) subject to civil service regardless of the population of the city. There is one important exception to that general rule however. That exception applies to the "labor service", which refers to largely blue collar, laboring and trades positions, for which the legislature decided no testing or other merit principles (except in limited cases minimal experience) were required. For the labor service selection order is based on date of registration rather than competitive testing. Pursuant to Section 51, labor service positions in cities under 100,000 population "shall not be [subject to civil service] unless the city council votes to accept the applicability of the civil service law and rules to the labor service." See copy of Sections 51 and 52 attached.

At the time this provision was enacted Cambridge had a population over 100,000, and thus labor service positions were included under civil service by terms of the act, not action of the City Council.

There is no provision of the General Laws that allows cities of under 100,000 to opt out of civil service for the majority of civil service positions (those for which competitive testing is the norm, generally referred to as the "official service"). The official service includes, among other things police, fire, clerical, supervisory, administrative and managerial positions.

Regarding the applicability of civil service to the labor service, Chapter 31 provides no guidelines with respect to a situation where the population of the community has dropped under 100,000, nor have we been able to find any precedents concerning such a circumstance. The traditional view (bolstered by the last clause of section 51) would be that, once covered by civil service a position remains subject to it unless removed by Act of the Legislature. A legally more aggressive position might be: by definition Cambridge labor service positions are no longer covered absent specific action of the City Council. Were such a position taken, current incumbents in labor service positions should continue to be regarded as subject to its rules and protections.

Should it be determined that civil service no longer applies to the labor service for the City, future eligibility for hiring for such positions might be controlled by a lottery system. This would eliminate (or reduce) concerns about patronage and political interference. It would recognize that for many of these jobs there are no realistic minimum prior experience requirements or qualifications subject to quantitative testing for ranking purposes.

Under a lottery system current labor service registrants and new applicants (solicited through intensive local recruiting and perhaps subject to residency) would go into a pool to be called in order of a random number generator, birth date or similar chance process. Candidates would be individually screened after their name came up on the list. Applicants would be protected by state and federal fair practices and non discrimination legislation but would not subject to civil service law or rule. The City would establish minimum entrance requirements or licensing requirements for some trade or skilled laborer positions and would reserve the right to do job sample testing (e.g. by asking a motor equipment repair applicant to demonstrate that he or she could actually repair truck brakes by completing such a job on our equipment.) Applications (followed by a new reshuffling of list order) could be opened periodically, perhaps annually or biannually. The lists could be used for both permanent and, if desired temporary or seasonal openings.

The City currently has 364 labor service positions, 25% of the total positions covered by civil service. The number of positions will decrease by 130 to 234 after the Hospital and Neville Manor become a public authority.

CIVIL SERVICE

the civil service law and rules to such office or offices; (3) any municipal office to which the civil service law and rules are made applicable pursuant to section fifty-three; and (4) any office or position to which the civil service law and rules were applicable immediately preceding the effective date of this chapter.

Added by St.1978, c. 393, § 11.

Historical and Statutory Notes

Prior Laws:

St.1884, c. 320, § 15.
 St.1893, c. 95.
 St.1894, c. 455, § 5.
 St.1896, c. 502.
 St.1901, c. 78.
 R.L.1902, c. 19, §§ 9, 37; c. 103, § 5.
 St.1904, c. 194.
 St.1909, c. 382.
 St.1909, c. 536, § 7.
 St.1911, c. 352.
 St.1911, c. 468.
 St.1912, c. 597.
 St.1914, c. 452, § 1.
 St.1914, c. 486.
 St.1918, c. 218.
 St.1918, c. 257, §§ 91, 252.
 St.1918, c. 291, § 22.
 St.1919, c. 5.
 St.1919, c. 350, §§ 11, 46.
 St.1920, c. 2.
 St.1923, c. 130.
 St.1924, c. 197.
 St.1929, c. 134.
 St.1930, c. 34.
 G.L.1932 (Ter.Ed.), c. 31, §§ 4, 5.
 St.1932, c. 282, § 1.
 St.1935, c. 405, § 2.
 St.1936, c. 244, § 3.
 St.1938, c. 72.
 St.1939, c. 238, §§ 13, 14.
 St.1939, c. 256, § 1.
 St.1941, c. 49.
 St.1941, c. 402, § 3.
 St.1941, c. 625, § 1.
 St.1941, c. 627, § 1.
 St.1941, c. 686, § 2.
 St.1943, c. 246, § 1.
 St.1943, c. 402, § 1.
 St.1945, c. 355.
 St.1945, c. 701, §§ 4, 4A.
 St.1948, c. 387, § 2.

St.1949, c. 397.
 St.1949, c. 765, § 1.
 St.1949, c. 779, § 1.
 St.1950, c. 397.
 St.1951, c. 26.
 St.1954, c. 298.
 St.1956, c. 294.
 St.1956, c. 438, § 1.
 St.1956, c. 652, § 1.
 St.1957, c. 142.
 St.1958, c. 583, §§ 1, 2.
 St.1959, c. 320, §§ 1, 2.
 St.1963, c. 162, § 1.
 St.1964, c. 24, §§ 1, 2.
 St.1964, c. 199.
 St.1964, c. 526.
 St.1965, c. 31.
 St.1965, c. 365, § 2.
 St.1965, c. 471, § 1.
 St.1966, c. 19, §§ 1, 2.
 St.1967, c. 60.
 St.1967, c. 780, § 8.
 St.1968, c. 461, § 1.
 G.L. c. 31, § 48B, as added by St.1968, c. 461, § 2.
 St.1970, c. 5, §§ 1, 2.
 St.1970, c. 161.
 St.1970, c. 165.
 St.1970, c. 599.
 St.1971, c. 187.
 St.1971, c. 294.
 St.1972, c. 311, § 1.
 St.1975, c. 115, § 1.
 St.1975, c. 134, § 1.
 St.1975, c. 535, § 1.
 St.1975, c. 689, § 10.
 St.1975, c. 706, § 82.
 St.1976, c. 138, § 2.
 St.1976, c. 198.
 St.1976, c. 231.
 St.1976, c. 492, § 1.
 St.1977, c. 155.

Cross References

Emergency appointments not subject to provisions of civil service law, see § 31 of this chapter.
 Reserve fire forces, appointments, see c. 48, § 59E.
 Town accountants, see c. 41, § 55.

§ 52. Towns; civil service offices and positions

The following offices and positions in towns shall be subject to the civil service law and rules:

(1) Inspectors of plumbing.

(2) Sealers and deputy sealers of weights and measures and inspectors and deputy inspectors of weights and measures, whether they are heads of departments or not, in towns of over ten thousand inhabitants.

(3) Offices and positions allocable to the official service in any town of more than five thousand inhabitants which votes pursuant to the provisions of sections fifty-four and fifty-five to accept the applicability of the civil service law and rules to such service.

(4) Positions allocable to the labor service in any town of more than five thousand inhabitants which votes pursuant to the provisions of sections fifty-four and fifty-five to accept the applicability of the civil service law and rules to such service.

(5) Any municipal office to which the civil service law and rules are made applicable pursuant to section fifty-three.

(6) Any office or position to which the civil service law and rules were applicable immediately preceding the effective date of this chapter.

The civil service law and rules shall also be applicable to any of the following in a town which accepts such applicability pursuant to the provisions of sections fifty-four and fifty-five:

(a) The chief of police, or the officer performing similar duties, whatever the title of his office, in any town.

(b) The chief of the fire department, or the officer performing similar duties, whatever the title of his office in any town.

(c) The police force, the fire force and the call fire force in any town.

(d) Parking meter supervisor in any town.

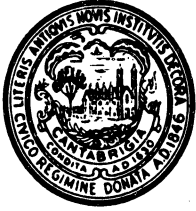
(e) Janitors of school buildings in a town with more than five thousand inhabitants.

(f) Supervisors of attendance in a town with more than five thousand inhabitants.

(g) Clerical positions in the school department of a town with more than five thousand inhabitants.

(h) Sealers and deputy sealers of weights and measures or inspectors and deputy inspectors of weights and measures, whether they are heads of departments or not, in a town with more than five thousand but not more than ten thousand inhabitants.

Added by St.1978, c. 393, § 11.



EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

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June 10, 1996

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 22, regarding a report on the civil service system, received from Personnel Director Michael P. Gardner.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Robert W. Healy", is written over the typed name.

Robert W. Healy
City Manager

RWH/mec
attachment

Consent Agenda #19

S-322

Relative to Awaiting Report Item
Number Twenty-two, regarding
a report on the civil service
system.

In City Council June 10, 1996

*Referred to Civil and
Human Rights Committee*