

1 New England Police Benevolent Association, Inc.

2
3 Commonwealth of Massachusetts

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5) House Bill 3907 (sec 5)

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Testimony given in opposition to
this bill.

12 Honorable Members of the Joint Committee on Public Service, my
13 name is Paul Larkham, I am a retired police captain from Tyngsboro,
14 MA; now serving as the MA Legislative Director for the New England
15 Police Benevolent Association, Inc.

16 The NEPBA represents more than 3000 Law Enforcement professionals
17 across the Commonwealth.

18 For the record, on behalf of the members of the NEPBA, I am
19 submitting the following written testimony in opposition to House Bill
20 3907, specifically section (5) of the Bill, as it relates to *CIVIL*
21 *SERVICE*.

22
23 Massachusetts was the 2nd state in the country to adopt the Civil
24 Service law, which has now been in place here since 1884.

1 The purpose of the law is the same today as it was 132 years ago;
2 to guard against political considerations, favoritism and bias in
3 governmental employment decisions, including hiring and promotion.

4 No community is forced to adopt the law - it is a local option law
5 that, by design, is only adopted not by fiat of an elected body or
6 administrator, but, consistent with its principles, by the will of the
7 community. First by a petition supported by 5% of the population, and
8 then by a majority vote of the public at a regular town or city
9 election.

10 The proposed legislation, as written, runs exactly contrary to the
11 ideals and principles of the law, which is, equity, fairness,
12 protection for veterans and disabled citizens. It will allow a
13 political body to, with a single swipe of a pen, take from the people
14 their popularly supported choice, as demonstrated by their vote at the
15 ballot box, without input from the either the public, or the often
16 thousands of municipal workers who will be impacted in countless ways.
17 Certainly all citizens who aspire to government employment in the
18 police and fire services, many returning military veterans, will have
19 no rights to challenge any lack of fairness in decisions not to hire
20 them.

21 The civil service law, as it has existed for more than a century,
22 remains a creature of the people. It can only be adopted by a vote at
23 a local election. Likewise, it can only be rescinded in one of two
24 ways, each allowing for public input. The first way is by following
25 the same process used to adopt it - *local election*. The second, is by
home rule petition, after resolution adopted by the local community.

1 Very importantly, this format provides the public notice and
2 opportunity to be heard before such an important rule of law,
3 one adopted by ballot vote, is simply stripped from the books.
4 Presently, there is advance public notice to place such proposals on
5 Town Warrants or City agendas, allowing for employees to advocate
6 their positions, for public employee representatives to make known the
7 impacts of such a decision, and for veterans groups and others to make
8 presentations in support or opposition. Then, if passed, these same
9 groups can petition the General Court before it acts on the Home Rule
10 petition.

11 *This due process is the hallmark of our society, and should not*
12 *be stripped because of a desire by municipal management to make*
13 *governmental personnel decisions without oversight from the people.*

14 The law provides many benefits that will be now, if this Bill is
15 adopted, unavailable to all who aspire to civil service employment,
16 and will also be gone to all of those present employees who are
17 promoted out of their current positions. Among these benefits are:

- 18 • Layoff protection (just cause requirement);
- 19 • Layoff protection based on civil service seniority;
- 20 • Protections and benefits for the blind and disabled;
- 21 • Statewide reemployment protection for separated employees;
- 22 • Hiring preferences for veterans, disabled veterans, and children
23 of officers killed in the line of duty;
- 24 • Ability to transfer laterally from one community to another;
- 25 • Protection from discipline without just cause;

- 1 • Assurances that promotions will be based on merit;
- 2 • Rights to judicial review of certain employment decisions;
- 3 • Right to petition the Commission to investigate and remedy
- 4 personnel actions not based on merit, or that are due to
- 5 favoritism or bias.

6 The law is not onerous: (1) There no longer exists the requirement
7 that communities provide its justification for making hiring or
8 promotional decisions to the Commonwealth prior to making them. The
9 state's Human Resources Division has for years now delegated that
10 function to the communities. (2) Even where an individual prevails on
11 a civil service appeal (a veteran who was bypassed for hire or
12 promotion, for example), the Community does not have to fire or demote
13 the candidate it chose, it simply is ordered to consider the bypassed
14 veteran first when the next vacancy is filled. (3) The Civil Service
15 Commission's decisions are, by a wide margin, supportive of the
16 decisions made by communities (2015 Stats were: sided with Towns in
17 88% discipline cases and 80% promotion cases).

18 Question remains, since the law provides voice to our citizens, and
19 protections to our employees, veterans and disabled, why must such a
20 drastic move be made? One that allows appointed or elected officials
21 to simply do away with a century of protections that, as it stands, is
22 by far more beneficial than detrimental?

23 The answer is that by doing this, the voice of the public,
24 including public employee unions and veterans, will be silenced.
25 There will be no ability to advocate at Town Meeting, or to State

1 Officials, or during local elections. Moreover, the ability of a
2 public employee union to negotiate at the bargaining table relative
3 to the impact of these decisions - including the ability to leverage
4 its support for removing its group from the civil service in exchange
5 for fair consideration - will be removed, and will allow the Municipal
6 officials, who may be in office for a short or long time, the ability
7 to make an end run around 130 years of legislation that has worked to
8 ensure fairness to our citizens.

9 Based on these facts, the membership of the New England Police
10 Benevolent Association request this Committee vote unfavorably on
11 Section (5) of House Bill 3907.

12 I want to thank this Committee for allowing me to submit this
13 testimony for the record.

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16 Dated this 26thth day of JAN, 2016

17
18 By: Paul V. Larkham

19 Paul V. Larkham, Captain
20 Tyngsboro Police (RETIRED)
21 MA Legislative Director
22 New England Police Benevolent Assoc., INC.
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