

House No.

Message from his Excellency the Governor recommending legislation relative to an act providing for the financial stability of the city of Lawrence.

The Commonwealth of Massachusetts



EXECUTIVE DEPARTMENT
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DEVAL L. PATRICK
GOVERNOR

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December 31, 2009

To the Honorable Senate and House of Representatives:

Pursuant to Article II, Section 8, Paragraph 1, Clause (2) of the Amendments to the Constitution, as amended by Article LXXXIX, I am filing for your consideration the attached legislation, entitled "An Act providing for the financial stability of the city of Lawrence."

The City of Lawrence is facing a fiscal year 2010 operating budget deficit of approximately \$9.5 million and a capital project deficit of \$8 million. The City is also facing a projected budget deficit in fiscal year 2011. The City will be unable to resolve these budget deficits without the authority to borrow. Without state action, the City of Lawrence will be unable to continue to fund critical city operations as early as this spring.

This legislation provides a comprehensive approach by requiring the City to fulfill conditions to get back on a path to responsible budgeting and to avoid the need for the state to implement a control board in Lawrence. This legislation:

- Allows the City to borrow into deficit to balance its fiscal year 2010 and 2011 budgets, thus allowing it to generate a steady cash flow, and to meet payroll and other commitments.
- Increases state oversight of city finances by providing for a state designated fiscal overseer working cooperatively with the new mayor and city council. The overseer will report directly to the Secretary of Administration and Finance.
- Requires the overseer to assess the ability of City government to manage the City's fiscal challenges and develop a three year financial plan.

- Requires the City to act to move to GIC or a regional health purchasing group if it will save the city money.
- Requires the City to consolidate municipal and school business functions.
- Provides that, if the City is not able to balance its fiscal year 2011 budget before January 31, 2011, the overseer shall report this, as well as the underlying reasons, to the Secretary of Administration and Finance. At any time after January 31, 2011, if the state overseer concludes that the City is unable to achieve a balanced budget and fiscal stability, the overseer shall report this in writing to the Secretary, and the Secretary may appoint a finance control board with extensive powers.

It is essential to provide a combination of support and oversight for the City to get back on a path to responsible budgeting. I therefore request your prompt enactment of this legislation.

Respectfully submitted,

DEVAL L. PATRICK,

Governor.

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

An Act PROVIDING FOR THE FINANCIAL STABILITY OF THE CITY OF LAWRENCE .

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

- 1 The general court finds that:
- 2 (1) The city of Lawrence has a projected structural deficit for fiscal year 2010.
- 3 (2) Without significant changes the city is likely to project a structural deficit in fiscal year 2011.
- 4 (3) As a result of such structural deficits, the city is unable to enact a balanced budget and is in
- 5 fiscal crisis.
- 6 (4) The fiscal crisis poses an imminent danger to the safety of citizens of the city and their
- 7 property.
- 8 (5) Without an approved balanced budget, the city will be unable to collect property taxes during
- 9 part or all of fiscal year 2010.
- 10 (6) The city may be unable to obtain reasonable access to credit markets.
- 11 (7) The city has received fiscal year 2010 local aid from the commonwealth in excess of
- 12 \$154,000,000, which is expected to represent over two-thirds of its operating budget, a
- 13 proportion in keeping with that of recent years.

14 (8) Special acts approved in 1990 and 1992 have not been successful in achieving fiscal stability
15 for the city.

16 (9) In order to assure a comprehensive long-term solution to the city's financial problems, it is
17 necessary to enact extraordinary remedies, including a fiscal overseer and, if necessary, a
18 finance control board, with the powers necessary to achieve the intent of this act.

19 (10) The governor has recommended to the general court pursuant to section 8 of Article
20 LXXXIX of the Amendments to the Constitution that this legislation be enacted to resolve the
21 financial emergency in the city and to restore financial stability to the city.

22 SECTION 2. As used in this act, the following words shall, unless the context requires
23 otherwise, have the following meanings:

24 “City council”, the city council for the city of Lawrence established under its charter.

25 “Charter”, the charter of the city of Lawrence as provided in chapter 425 of the acts of 1983, as
26 amended.

27 “Commissioner”, the commissioner of revenue.

28 “City”, the city of Lawrence.

29 “Director”, the director of accounts in the department of revenue.

30 “Board”, a finance control board established under sections 7 and 8 of this act.

31 “School committee”, the school committee of the city of Lawrence established under its charter.

32 “Secretary”, the secretary of administration and finance.

33 SECTION 3. (a) Notwithstanding any general or special law, city charter provision or local
34 ordinance to the contrary, the city, with the approval of the commissioner, may borrow, at 1
35 time or from time to time, sums approved by the city council and then by the commissioner,
36 but in no event in an amount in the aggregate more than \$35,000,000, to maintain and operate
37 the city while it adjusts the level of its expenses and revenues in the fiscal years beginning
38 July 1, 2009 and July 1, 2010. In the fiscal year beginning July 1, 2010 the city may borrow
39 no more than one-half of the amount of its deficit in the fiscal year beginning July 1, 2009.
40 The director of accounts shall certify the amount of the city's deficit for the fiscal year
41 beginning July 1, 2009.

42 (b) The commissioner may limit this borrowing to an amount or amounts less than the amount or
43 amounts approved by the council. Bonds or notes issued under this act for operating purposes
44 may be issued for a term of not more than 20 years and shall be backed by the full faith of the
45 city. The bonds and notes shall be eligible to be issued as qualified bonds or notes under chapter
46 44A of the General Laws. Indebtedness incurred under this act shall not be included in
47 determining the statutory limit of indebtedness of the city under section 10 of chapter 44 of the
48 General Laws but, except as provided in this act, shall otherwise be subject to said chapter
49 44. Amounts raised to pay indebtedness incurred under authority of this section shall be subject
50 to section 21C of chapter 59 of the General Laws.

51 (c) The maturities of each issue of bonds or notes authorized under this act, including any
52 refunding bonds, may, if approved by the city officers authorized to issue and approve bonds
53 or notes, and by the commissioner, be arranged so that for each issue the amounts payable in
54 the several years for principal and interest combined are as nearly equal as is practicable in the

55 opinion of the officers authorized to issue and approve the bonds or notes, or in the alternative,
56 in accordance with a schedule providing for a more rapid amortization of principal.

57 (d) In any year during which a loan issued under this section remains outstanding, the city
58 shall not issue any other bond, note or other form of indebtedness without written notification
59 to, and the approval of, the director.

60 (e) In the fiscal year beginning July 1, 2009, notwithstanding section 57C of chapter 59 of the
61 General Laws and chapter 183 of the acts of 2009, an actual tax bill issued upon the
62 establishment of the tax rate for the fiscal year, after credit is given for a preliminary tax
63 payment previously made, shall be due and payable in 2 installments. The first installment
64 shall be due and payable on February 1, 2010, or 30 days after the actual real estate tax bills
65 are mailed, whichever is later, if the bills are mailed no later than March 15, 2010, and the
66 second installment shall be due and payable on May 1, 2010, after which dates, if unpaid, they
67 shall become delinquent.

68 SECTION 4. All proceeds of any loan issued under section 3 shall be deposited in a separate
69 fund which shall be set up on the books of the city and be maintained separate and apart from
70 all other funds and accounts of the city. This fund shall be called the City of Lawrence
71 Financial Stability Fund, in this act called the fund. The city council, with the approval of the
72 commissioner, may authorize disbursements from the fund for purposes that the mayor
73 considers appropriate to maintain and continue city operations. Funds borrowed for city
74 operating purposes may be applied, with the approval of the director, as general revenue for
75 purposes of section 23 of chapter 59 of the General Laws. The director may establish rules

76 and procedures that he considers appropriate relating to disbursements from the fund and the
77 reporting and accounting for these disbursements.

78 SECTION 5. (a) There shall be in the city a fiscal overseer, appointed by the secretary to assess
79 the ability of the city government to manage the city's fiscal challenges, and develop within 120
80 days of appointment a 3-year operating and capital financial plan to achieve fiscal stability. The
81 overseer shall:

82 (1) recommend to the mayor, city council and school committee sound fiscal policies for
83 implementation;

84 (2) supervise all financial services and activities including the school department;

85 (3) advise the director of budget and finance, assessors, comptroller, treasurer-collector,
86 purchasing agent and employees performing similar duties but with different titles;

87 (4) provide assistance in all matters related to municipal financial affairs including the school
88 department;

89 (5) assist in development and preparation of all department budgets and spending plans;

90 (6) review all proposed contracts and obligations with a term in excess of 1 year; and

91 (7) monitor the expenditures of all funds;

92 (8) report to the secretary.

93 (b) All department budgets and request for budget transfers shall be submitted to the fiscal
94 overseer for review and recommendation before submission to the mayor, city council or
95 school committee.

96 (c) The city shall annually appropriate amounts sufficient for the proper administration of the
97 fiscal overseer and staff, as determined in writing by the secretary. If the city fails to appropriate
98 such amounts, the secretary shall direct the state treasurer to deduct the necessary funds from the
99 city's distribution of unrestricted general aid and shall expend those funds directly for the benefit
100 of the overseer and staff.

101 (d) The city shall be deemed to have accepted section 37M of chapter 71 of the General Laws
102 for the purpose of consolidating the business and financial operations and functions of the
103 school department with those of the city under the authority of the director of the department
104 of budget and finance. This acceptance may be revoked, but no revocation of acceptance shall
105 be valid or effective in any year during which a loan issued under section 3 remains
106 outstanding, without the written approval of the secretary. Upon consolidation of the business
107 and financial operations and functions of the school department with those of the city, the
108 fiscal overseer shall advise the new consolidated department of budget and finance.

109 SECTION 6. Before setting a tax rate under section 23 of the chapter 59 of the General Laws for
110 the fiscal year beginning July 1, 2010 or for any subsequent fiscal year in which a loan issued
111 under section 3 remains outstanding, the city shall submit to the director a pro forma tax rate for
112 the succeeding fiscal year, which shall contain all information required to set the tax rate under
113 said section 23 of chapter 59 except for the assessed valuation of all real and personal property
114 subject to taxation for the fiscal year. The pro forma tax rate recapitulation, together with a copy
115 of the adopted budget and such supporting revenue and expenditure information as the director
116 may prescribe, shall be submitted no later than 10 days after the adoption of the city budget, or
117 July 1, whichever is earlier. The director shall ascertain whether the city budget for that fiscal
118 year contains reasonable revenues from taxation and other sources to meet the appropriations and

119 other amounts required by law to be raised under said section 23 of chapter 59, and the director
120 shall report his conclusion to the commissioner. For the fiscal year beginning July 1, 2009 or for
121 any subsequent fiscal year in which a loan issued under section 3 remains outstanding, upon
122 submission of the annual tax rate recapitulation by the city, the director shall also ascertain
123 whether the city budget for that fiscal year contains reasonable revenues from taxation and other
124 sources to meet the appropriations and other amounts required by law to be raised under said
125 section 23 of said chapter 59 and the director shall report his conclusion to the commissioner. If
126 the commissioner determines that the city budget as presented on the pro forma or annual tax rate
127 recapitulation would not permit certification of the tax rate for the applicable fiscal year, the
128 commissioner shall certify this determination in writing and provide notice of the determination
129 with a copy of the certificate to the secretary. In this case, no tax rate for the year shall be
130 approved until submission of an annual tax rate recapitulation based on the actions taken to
131 achieve a balanced budget.

132 (b) In any year in which a loan issued under section 3 remains outstanding, the commissioner
133 shall not certify the annual tax rate of the city until an audit report and balance sheet for the
134 preceding fiscal year has been received and accepted by the director. The audit report shall be
135 prepared by a certified public accountant in accordance with generally accepted auditing
136 standards and shall include accompanying financial statements.

137 (c) In any year in which a loan issued under section 3 remains outstanding, the city shall
138 submit to the director quarterly reports presenting a budget to actual comparison of revenues
139 and expenditures. The written reports shall be submitted within 30 days after the conclusion
140 of each fiscal quarter and shall be in the form and include the information and detail that the
141 director may prescribe.

142 (e) The director may waive any reporting or filing requirements contained in this section.

143 SECTION 7. If the city cannot set a tax rate for the fiscal year beginning July 1, 2010 by
144 January 31, 2011, the fiscal overseer shall report this, as well as the underlying reasons, to the
145 secretary. At any time after January 31, 2011, if the overseer concludes that the city is unable to
146 achieve a balanced budget and fiscal stability, the overseer shall report this in writing to the
147 secretary, and the secretary may abolish the overseer and appoint a finance control board. The
148 board shall have all of the powers and duties set forth in section 8. At any time after July 1, 2011
149 and while debt issued under this act is outstanding, if a finance control board has not been
150 appointed and if the secretary, in his sole discretion, determines that the city has taken steps
151 necessary to achieve long-term fiscal sustainability and no longer requires active state oversight,
152 the secretary may abolish the overseer. If the director notifies the secretary in writing that the
153 city is unable to achieve a balanced budget or set a tax rate at any time after the removal of the
154 overseer and while the debt issued under this act is still outstanding, then the secretary may
155 establish a finance control board in accordance with section 8.

156 SECTION 8. (a) If a finance control board is established in accordance with section 7, it shall
157 consist of 5 members: 3 designees of the secretary, 1 of whom shall be a resident of the city,
158 the mayor of the city, and the president of the city council of the city. The secretary may at
159 any time and without cause remove any member whom he designated and appoint a successor.
160 The board shall act by a majority vote of all its members. The board shall initiate and assure
161 the implementation of appropriate measures to secure the financial stability of the city. The
162 board shall continue in existence until the secretary abolishes it. The board shall be a state
163 agency for the purpose of chapter 268A of the General Laws.

164 (b) Action by the board under the authority of this act shall in all respects constitute action by
165 the city for all purposes under the General Laws and under any special law.

166 (c) Until the board ceases to exist, no appropriation, borrowing authorization, transfer,
167 including transfer from or replenishment of funds into the fiscal stability reserve fund under
168 section 4 of chapter 41 of the acts of 1990, as amended by section 5 of chapter 377 of the acts
169 of 1992, the capital reserve fund established under section 11, or other municipal spending
170 authority shall take effect until approved by the board. The board shall approve all
171 appropriations, borrowing authorizations, transfers, or any other municipal spending
172 authorizations, in whole or part.

173 (d) In addition to the authority and powers conferred elsewhere in this act, and notwithstanding
174 any city charter provision or local ordinance to the contrary, the board shall have the following
175 powers:

176 (1) to amend formulate and execute the annual or supplemental budgets of the city and the school
177 committee, including the establishment, increase or decrease of any appropriations and spending
178 authority for all departments, boards, committees, agencies or other units of the city and the
179 school committee, but, notwithstanding section 34 of chapter 71 of the General Laws, this clause
180 shall fully apply to the school department and all school spending purposes;

181 (2) to implement and maintain uniform budget guidelines and procedures for all departments;

182 (3) to amend, formulate and execute capital budgets, including to amend any borrowing
183 authorization, or finance or refinance any debt in accordance with law;

184 (4) to amortize operational deficits in an amount and for such term as the secretary approves on
185 an annual basis;

186 (5) to develop and maintain a uniform system for all financial planning and operations in all
187 departments, offices, boards, commissions, committees, agencies or other units of the city's
188 government, including the school department;

189 (6) to review and approve or disapprove all proposed contracts for goods or services;

190 (7) notwithstanding any general or special law to the contrary, to establish, increase, or decrease
191 any fee, rate, or charge, for any service, license, permit or other municipal activity, otherwise
192 within the authority of the city;

193 (8) notwithstanding the charter or any city ordinance to the contrary, to appoint, remove,
194 supervise and control all city employees and have control over all personnel matters; the board
195 shall hold all existing powers to hire and fire and set the terms and conditions of employment
196 held by other employees or officers of the city, whether or not elected; the board shall have the
197 authority to exercise all powers otherwise available to a municipality regarding contractual
198 obligations during a fiscal emergency; and no city employee or officer shall hire, fire, transfer or
199 alter the compensation or benefits of any employee except with the written approval of the board.
200 The board may delegate or otherwise assign these powers with the approval of the secretary;

201 (9) to alter the compensation of elected officials of the city to reflect the fiscal emergency and
202 changes in the responsibilities of the officials as provided by this act;

203 (10) to employ, retain, and supervise such managerial, professional and clerical staff as are
204 necessary to carry out its responsibilities, with the approval of the secretary. The board, with the
205 approval of the secretary, shall have authority to set the compensation, terms, and conditions of
206 employment of its own staff. The city shall annually appropriate amounts sufficient for the
207 compensation of personnel hired under this subsection as determined and fixed by the board. If
208 the city fails to appropriate such amounts, the secretary shall direct the state treasurer to deduct

209 the necessary funds from the city's distribution of unrestricted general aid and shall expend those
210 funds directly for the benefit of the board. Staff hired under this subsection shall be deemed
211 employees of the commonwealth, except such employees as the board formally designates
212 independent contractors, but chapters 31 and 150E of the General Laws shall not apply to such
213 employees.

214 (11) to reorganize, consolidate or abolish departments, commissions, boards, offices or functions
215 of the city, in whole or in part, and to establish such new departments, commissions, boards,
216 offices or functions as it deems necessary, and to transfer the duties, powers, functions and
217 appropriations of 1 department, commission, board or other unit to another;

218 (12) to appoint in consultation with the secretary persons to fill vacancies on any board,
219 committee, department, or office acting in an advisory capacity to the board;

220 (13) to sell, lease, or otherwise transfer real property and other assets of the city with the
221 approval of the secretary;

222 (14) to purchase, lease, or otherwise acquire property or other assets on behalf of the city with
223 the approval of the secretary;

224 (15) to adopt rules and regulations governing the operation and administration of the city;

225 (16) to seek voter approval of general override, debt exclusion or capital expenditure exclusion
226 ballot questions as provided in section 21C of chapter 59 of the General Laws;

227 (17) to approve the allocation of the tax levy through the selection of a residential factor pursuant
228 to section 56 of chapter 40 of the General Laws, but no choice of a residential factor under said
229 section 56 shall be valid until it has been approved by the board;

230 (18) to alter or rescind any action or decision of any municipal officer, employee, board or
231 commission within 14 days after receipt of notice of such action or decision;

232 (19) to suspend in consultation with the secretary any rules and regulations of the city and to
233 adopt rules and regulations to carry out this act; and
234 (20) to exercise all powers under the General Laws and this or any other special act, any
235 charter provision or ordinance that any elected official of the city may exercise, acting
236 separately or jointly. With respect to any such exercise of powers by the board, the elected
237 officials shall not rescind or take any action contrary to such action by the board so long as the
238 board continues to exist.

239 SECTION 9. (a) Notwithstanding any general or special law or local ordinance to the contrary,
240 this section shall apply upon abolition of a finance control board established under this act.
241 There shall be in the city a department of administration and finance which shall be responsible
242 for the overall budgetary and financial administration of the city. The department shall be under
243 the charge and control of a chief administrative and financial officer, in this section called the
244 CAFO. The CAFO shall report to and be under the charge and direction of the mayor. Nothing
245 in this section shall abrogate the powers and duties of the school committee under any general or
246 special law, except as specifically provided in this section.

247 Whenever the term “department of budget and finance” appears in any general or special law or
248 any ordinance, regulation, contract or other document with reference to the city, it shall mean the
249 department of administration and finance of the city. Whenever the term “chief financial
250 officer” or “director of budget and finance” appears in any general or special law or any
251 ordinance, regulation, contract or other document with reference to the city, it shall mean the
252 CAFO of the city.

253 (b)(1) The mayor shall appoint the CAFO for a term of not more than 3 years, as provided in
254 this subsection. The CAFO shall be appointed solely on the basis of administrative and executive
255 qualifications and shall be a person especially fitted by education, training and experience to
256 perform the duties of the office. The CAFO need not be a resident of the city.

257 (2) When the office of CAFO is vacant or it is known that it will become vacant, the mayor shall
258 initiate the selection process by giving notice of the intention to establish a screening committee
259 to review applicants for the position and shall send a copy of the notice to each agency or officer
260 responsible for appointing persons to serve on the screening committee. The mayor shall appoint
261 the screening committee not earlier than 21 days after sending that notice. No screening
262 committee shall be required if the mayor reappoints an incumbent CAFO.

263 (3) The screening committee shall consist of 7 members. The school committee, city council
264 and secretary shall each appoint 1 person to serve on the screening committee. The mayor shall
265 appoint 4 other members to the screening committee, 2 of whom shall be experts in municipal
266 management.

267 (4) The screening committee shall recommend to the mayor the names of not less than 2 or more
268 than 5 candidates whom it believes to be best suited to perform the duties of the CAFO. If the
269 screening committee determines that there are not at least 2 candidates qualified to perform the
270 duties of the CAFO, the screening committee shall report to the mayor that it is unable to
271 complete its assigned task. In that event, the mayor shall direct the screening committee to
272 reopen the search.

273 (5) The mayor shall appoint as the CAFO 1 of the candidates recommended by the screening
274 committee or, if the mayor finds that no such candidate to be qualified for the office, the
275 mayor shall direct the screening committee to reopen the search.

276 (c) While the process of appointing a CAFO under subsection (b) is proceeding, the mayor
277 may appoint an acting CAFO.

278 (d) If a loan issued under section 3 remains outstanding, the appointment, including an acting
279 appointment, or removal of the CAFO shall not take effect until it has been approved in
280 writing by the secretary.

281 (e) The powers and duties of the CAFO shall include the following:

282 (1) coordinating, administering, and supervising of all financial services and activities;

283 (2) assisting in all matters related to municipal financial affairs;

284 (3) implementing and maintaining uniform systems, controls, and procedures for all financial
285 activities in all departments, including the school department, boards, commissions, agencies or
286 other units of city government the operations of which have a financial impact upon the general
287 fund and enterprise funds of the city, and including, but not limited to, maintaining of all
288 financial and accounting data and records;

289 (4) implementing and maintaining uniform financial data processing capabilities for all
290 departments;

291 (5) supervision of all financial data processing activities;

292 (6) implementing and maintaining uniform budget guidelines and procedures;

293 (7) assisting in the development and preparation of all department budgets and spending plans;

294 (8) reviewing all proposed contracts and obligations with a term in excess of 1 year;

295 (9) monitoring the expenditure of all funds, including periodic reporting by and to appropriate
296 agencies of the status of accounts;

297 (10) reviewing the spending plan for each department; and

298 (11) providing for the allotment of funds on a periodic basis as provided for in this act.

299 In all cases where the duty is not expressly charged to any other department or office, it shall
300 be the duty of the CAFO to promote, secure, and preserve the financial interests of the city.

301 (f) All department budgets and requests for budget transfers shall be submitted to the CAFO
302 for review and recommendation before submission to the city council or school committee, as
303 appropriate. For each proposed appropriation order, lease or contract arrangement for a term
304 including more than 1 fiscal year, collective bargaining agreement and with respect to any
305 proposed city council vote necessary to effectuate a financial transfer, ordinance revision or
306 special legislation which may require the expenditure of funds or otherwise financially
307 obligate the city for a period in excess of 1 year, or with respect to a vote to authorize a
308 borrowing pursuant to a provision of law other than section 4, 6 or 6A of chapter 44 of the
309 General Laws, the CAFO shall, if it be the case, submit in writing to the city council a
310 certification that it is the CAFO's professional opinion, after an evaluation of all pertinent
311 financial information reasonably available, that the city's financial resources and revenues are
312 and will continue to be adequate to support such proposed expenditures or obligations without
313 a detrimental impact on the continuous provision of the existing level of municipal

314 services. If the CAFO fails to provide this certification within 7 days after a request for such
315 certification from the city council or school committee, the appropriation order, financial
316 transfer, ordinance revision, special legislation or borrowing authorization may nonetheless be
317 approved, but the absence of the certification of the CAFO shall be expressly noted in that
318 order or vote.

319 (g) All departments, officers, boards, commissions, agencies and other units of the city,
320 including the school department, shall submit budget requests to the mayor upon the schedule
321 and in the form established by the CAFO.

322 (h) Annually, not later than March 30, the CAFO shall submit a 4-year financial plan and a 5-
323 year capital plan to the city council that includes all capital needs of the city.

324 (i) The board of assessors, treasurer-collector, budget director, comptroller, director of
325 information technology, purchasing agent, director of human resources, labor relations
326 director, and employees performing similar duties but with different titles shall report to and
327 be under the direction of the CAFO. The CAFO shall appoint all such officers and employees
328 with the approval of the mayor. The mayor may also place other positions and departments
329 under the direction of the CAFO.

330 (j) The CAFO shall not assume the duties or responsibilities of the treasurer-collector and
331 shall not hold an elective office or engage in any other business or occupation.

332 (k) The city shall annually appropriate amounts sufficient for the proper administration of the
333 department, as determined in writing by the secretary. If the city fails to appropriate such
334 amounts, the secretary shall direct the state treasurer to deduct the necessary funds from the

335 city's distribution of the city's unrestricted general aid and shall expend those funds directly
336 for the benefit of the department.

337 (l) The CAFO shall comply with all requests of the school department to provide any
338 information relating to the operation of the school department held within the authority or
339 control of the CAFO as the result of the consolidation of school and city business and
340 financial functions under section 5. If the CAFO, or any employee thereof refuses to provide
341 such information or engages in unreasonable delay, the school department shall notify the
342 secretary. The secretary shall, within a reasonable time, make a determination that any such
343 information shall be provided to the school department which shall be binding upon the CAFO
344 and the school department. The secretary's determination shall not be an adjudicatory
345 proceeding reviewable under chapter 30A of the General Laws. Nothing in this subsection
346 shall abrogate any of the other powers or duties of the school committee under chapter 71 of
347 the General Laws.

348 (m) In any year in which a loan issued under section 3 remains outstanding, the CAFO shall
349 submit to the director all reports required under section 6.

350 SECTION 10. The overseer shall include in the 3-year operating and capital financial plan to
351 achieve fiscal stability required under section 5 an assessment and analysis of the financial
352 impact of the city's (a) acceptance of section 18 of chapter 32B of the General Laws and (b)
353 termination of providing group health insurance coverage by self-insurance under section 3A
354 of said chapter 32B and acceptance of section 19 of said chapter 32B for purposes of obtaining
355 group health insurance coverage from the group insurance commission established by section
356 3 of chapter 32A of the General Laws or participation in a joint purchasing group or

357 agreement under section 12 of said chapter 32B for purposes of obtaining such coverage. If
358 the overseer determines that any such acceptance or action would assist the city achieve fiscal
359 stability, the overseer shall recommend such acceptance and action and the city shall take all
360 actions needed by law to implement any such recommendation.

361 SECTION 11. In addition to the fiscal stability reserve fund under section 4 of chapter 41 of
362 the acts of 1990, as amended by section 5 of chapter 377 of the acts of 1992, there shall be in
363 the city a capital reserve fund into which the city shall appropriate in each fiscal year
364 beginning in fiscal year 2012 at least 1.5 per cent of the amount of property taxes committed
365 for the preceding fiscal year. The fund may be appropriated only for purposes for which the
366 city could borrow for 10 years or longer under chapter 44 of the General Laws.

367 SECTION 12. (a) No official of the city, except in the case of an emergency involving the health
368 and safety of the people or their property declared by the council under section 31 of chapter 44
369 of the General Laws, shall knowingly expend or cause to be expended in any fiscal year any sum
370 in excess of that official's departmental or other governmental unit's appropriation duly made in
371 accordance with the law, nor commit the city, nor cause it to be committed, to any obligation for
372 the future payment of money in excess of that appropriation, with the exception of court
373 judgments.

374 (b) An official who intentionally violates this section shall be personally liable to the city for any
375 amounts expended in excess of an appropriation to the extent that the city does not recover such
376 amounts from the person or persons to whom such amounts were paid. The superior court or a
377 single justice of the supreme judicial court shall have jurisdiction to adjudicate claims brought by
378 the city, or on the city's behalf by a finance control board established under this act, under this

379 act and to order relief that the court finds appropriate to prevent further violations of this section.

380 A violation of this section shall be sufficient cause for removal.

381 (c) For the purposes of this section, the word "official" shall mean a city department head,
382 permanent, temporary or acting, including the superintendent of schools, and all members of
383 municipal boards, committees, including the school committee, and commissions which
384 recommend, authorize or approve the expenditure of funds, and the word "emergency" shall
385 mean a major disaster, including, but not limited to, flood, drought, fire, hurricane,
386 earthquake, storm or other catastrophe, whether natural or otherwise, which poses an
387 unexpected and immediate threat to the health and safety of persons or property.

388 SECTION 13. This act shall be effective notwithstanding any charter provision or ordinance to
389 the contrary.

390 SECTION 14. This act shall take effect upon its passage.