

HOUSE No. 4302

The Commonwealth of Massachusetts

PRESENTED BY:

Daniel Cahill and Brendan P. Crighton

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the financial condition of the city of Lynn.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Daniel Cahill

10th Essex

Brendan P. Crighton

Third Essex

HOUSE No. 4302

By Representative Cahill of Lynn and Senator Crighton, a joint petition (subject to Joint Rule 12) of Daniel Cahill and Brendan P. Crighton (with the approval of the mayor and city council) that the city of Lynn be authorized to amend the charter of said city. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to the financial condition of the city of Lynn.

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. Section 3-10 of Article 3 of the charter of the city of Lynn, which is on file
2 in the office of the archivist of the commonwealth, as provided in section 12 of chapter 43B of
3 the General Laws, is hereby amended by striking out subsection (a) and inserting in place thereof
4 the following subsection:-

5 (a) In General:--Unless otherwise provided by law or this charter, a measure adopted by
6 the city council shall not be effective until approved by the mayor under section 2-7.

7 SECTION 2. Said section 3-10 of said Article 3 of said charter is hereby further amended
8 by striking out subsection (c) and inserting in place thereof the following subsection:-

9 (c) Notice and Public Hearings Required:--Notice of a proposed ordinance or loan order,
10 except those submitted under subsection (b), shall be in accordance with the laws of the
11 commonwealth and rules and regulations promulgated by the attorney general.

12 SECTION 3. Said section 3-10 of said Article 3 of said charter is hereby further amended
13 by striking out subsection (e) and (f) and inserting in place thereof the following subsection:-

14 (e) Publication, Exceptions--If any measure required to be published in full by subsection
15 (c) exceeds 8 octavo pages of ordinary print, then in lieu of such publication, the measure may be
16 published in a booklet or pamphlet and made available for distribution to any person requesting
17 the measure at the office of the city clerk; provided, however, that notice of that publication and
18 a summary of the contents thereof shall be published as otherwise provided in said subsection
19 (c).

20 SECTION 4. Section 5-6 of Article 5 of said charter is hereby repealed.

21 SECTION 5. The third sentence of subsection (a) of section 6-11 of Article 6 of said
22 charter is hereby amended by striking out the words “director of data processing,” and inserting
23 in place thereof the following words:-“director of the department of information and technology,
24 purchasing agent”.

25 SECTION 6. Subsection (b) of said section 6-11 of said Article 6 of said charter is hereby
26 amended by striking out the words “director of data processing” and inserting in place thereof
27 the following words:- “director of the department of information and technology, purchasing
28 agent”.

29 SECTION 7. Subsection (f) of section 6-11 of said Article 6 of said charter is hereby
30 amended by striking out the words “director of data processing” and inserting in place thereof
31 the following words:-“director of the department of information and technology, purchasing
32 agent”.

33 SECTION 8. Said charter is hereby further amended by striking out section 8-11 and
34 inserting in place thereof the following section:-

35 Section 8-11 City Residence Required

36 Except for the positions of chief financial officer, superintendent of schools, or positions
37 exempted by the law, every person who is appointed to a city office and every person who is
38 employed on a permanent full-time basis by the city who is not a resident of the city at the time
39 of such appointment or employment shall, not later than 6 months following such appointment or
40 employment, establish an ordinary and usual place of residence within the city or such
41 appointment or employment shall be deemed to be vacated or forfeited.

42 SECTION 9. (a) Notwithstanding any general or special law, city charter provision or
43 local ordinance to the contrary, the city of Lynn, with the approval of the director of accounts in
44 the department of revenue, may borrow sums, approved by the city council and the director of
45 accounts, to achieve a balanced budget for fiscal years 2018 and 2019 provided, however, that
46 the aggregate of such sums shall not exceed \$12,000,000, unless the director of accounts finds
47 that up to an additional \$2,000,000 is necessary for the city to achieve a balanced budget in fiscal
48 year 2018 or 2019, in which case, the aggregate of sums borrowed shall not exceed \$14,000,000.
49 The director of accounts may limit the amount borrowed to less than the amount approved by the
50 city council. Notwithstanding chapter 44A of the General Laws bonds or notes issued for the
51 purposes of this act may be issued, with the approval of the director of accounts, for a term of not
52 more than 10 years and shall be backed by the full faith and credit of the city and the bonds and
53 notes shall be eligible to be issued as qualified bonds or notes. Indebtedness incurred under this
54 act shall not be included in determining the statutory limit of indebtedness of the city under

55 section 10 of chapter 44 of the General Laws but, except as provided in this act, shall otherwise
56 be subject to said chapter 44. Amounts raised to pay indebtedness incurred under this section
57 shall be subject to section 21C of chapter 59 of the General Laws.

58 (b) The maturities of each issue of bonds or notes authorized under this act, including any
59 refunding bonds, may, if approved by the city officers authorized to issue and approve these
60 bonds or notes and by the director of accounts, be arranged so that for each issue the amounts
61 payable in the several years for principal and interest combined are as nearly equal as is
62 practicable in the opinion of the officers authorized to issue and approve the bonds or notes or, in
63 the alternative, in accordance with a schedule providing for a more rapid amortization of
64 principal.

65 (c) Proceeds of any loan authorized by this act shall be deposited in the
66 general fund of the city of Lynn.

67 (d) The director of accounts may establish rules and procedures relating to the accounting
68 standards applicable to the city of Lynn for the purposes of this act and otherwise.

69 SECTION 10. (a) For fiscal year 2018 and any other year in which bonds or notes
70 authorized under this act remain outstanding, not later than 10 days after the adoption of the city
71 budget, or on July 1, whichever occurs first, the chief financial officer shall submit to the director
72 of accounts in the department of revenue a pro forma tax rate recapitulation for the following
73 fiscal year, together with a copy of the adopted budget and such supporting revenue and
74 expenditure information as the director may request. The director shall ascertain whether the city
75 budget for that fiscal year contains reasonable revenues from taxation and other sources to meet
76 the appropriations and other amounts required to be raised under section 23 of chapter 59 of the

77 General Laws and the director shall report the findings to the city council and mayor. The tax
78 rate for the year shall not be approved until an annual tax rate recapitulation is submitted that
79 reflects the actions the city has approved or taken to achieve a balanced budget.

80 (b) In any year during which bonds or notes authorized under this act remain outstanding,
81 the commissioner of revenue shall not certify the annual tax rate of the city of Lynn until an audit
82 report for the preceding fiscal year has been received and accepted by the director. The audit
83 report shall be prepared by a certified public accountant in accordance with generally accepted
84 auditing standards and shall include relevant financial statements.

85 (c) In any year during which bonds or notes authorized under this act remain outstanding,
86 the city shall submit to the director of accounts quarterly reports presenting a budget to actual
87 comparison of revenues and expenditures. The written reports shall be submitted not later than
88 30 days after the conclusion of each fiscal quarter and shall be in the form and include the
89 information and detail that the director may prescribe.

90 (d) In any year during which bonds or notes authorized by this act remain outstanding,
91 the city shall not issue any bond, note or other form of indebtedness without written notification
92 to, and the approval of, the director of accounts.

93 (e) In any year during which bonds or notes authorized by this act remain outstanding, the
94 city shall submit to the director of accounts a balance sheet and have its free cash certified before
95 setting the annual tax rate.

96 (f) In any year in which bonds or notes authorized under this act remain outstanding and
97 in which there is no fiscal stability officer under section 7, the director of accounts may waive

98 reporting, filing or approval requirements contained in this section if the director determines it is
99 appropriate to effectuate the purposes of this act.

100 SECTION 11. (a) The chief financial officer or other official with responsibility for
101 accounting matters in the city of Lynn shall have the powers and duties vested in this office by
102 general or special law and in addition, the powers and duties provided in this act. To the extent
103 otherwise consistent with this act, the chief financial officer shall also have the powers and duties
104 provided by city charter and local ordinance.

105 (b) Within a reasonable period of time after receiving a written request from the mayor or
106 a written request from the city council upon majority vote, the chief financial officer shall
107 provide an oral or written assessment, or both, as the mayor or city council may request, of the
108 current and future financial impact of the cost of any proposed appropriation, lease or contract
109 arrangement for a term including more than a fiscal year, collective bargaining agreement or
110 borrowing authorization, including, but not limited to, an assessment of how that cost item would
111 relate to the continuous provision of the existing level of municipal services. To the extent
112 reasonable, this assessment shall include an analysis or other information of a financial nature
113 requested by the mayor or the city council. The assessment and analysis shall be provided by the
114 chief financial officer as a professional opinion.

115 SECTION 12. (a) Notwithstanding any general or special law, city charter provision or
116 ordinance to the contrary, but subject to section 21C of chapter 59 of the General Laws, the city
117 of Lynn shall establish a special reserve fund for extraordinary and unforeseen expenditures,
118 which shall be called the Supplemental Reserve Fund to Ensure Fiscal Stability. This fund shall

119 be separate and in addition to any amounts appropriated under section 6 of chapter 40 of the
120 General Laws.

121 (b) Beginning with fiscal year 2019 and for all fiscal years thereafter, before the date
122 when the tax rate is fixed, the board of assessors shall include in the amounts to be raised
123 pursuant to section 23 of chapter 59 of the General Laws for a fiscal year a supplemental reserve
124 fund sum, as determined under this section, to be certified to the board of assessors by the chief
125 financial officer.

126 (c) The supplemental reserve fund sum for fiscal year 2019 shall be not less than an
127 amount equal to 0.25 per cent of the gross amount to be raised for the prior fiscal year as
128 appearing on the city's tax rate recapitulation for that prior year. The supplemental reserve fund
129 sum for fiscal year 2020 shall be not less than an amount equal to 0.50 per cent of the gross
130 amount to be raised for the prior fiscal year as appearing on the city's tax rate recapitulation for
131 that prior year, The supplemental reserve fund sum for fiscal year 2021 shall be not less than an
132 amount equal to 0.75 per cent of the gross amount to be raised for the prior fiscal year as
133 appearing on the city's tax rate recapitulation for that prior year, The supplemental reserve fund
134 sum for fiscal year 2022 and for each subsequent fiscal year during which bonds or notes
135 authorized under this act remain outstanding shall be not less than an amount equal to 1 per cent
136 of the gross amount to be raised for the prior fiscal year as appearing on the city's tax rate
137 recapitulation for the prior year.

138 (d) In each year during which bonds or notes authorized under this act remain
139 outstanding, the amount required to be raised for the supplemental reserve fund may be reduced
140 by the amount, if any, remaining in the supplemental reserve fund established for the preceding

141 year after all expenditures have been made from that fund as authorized in this act, and this
142 remaining amount shall be retained in such supplemental reserve fund provided for the then
143 current fiscal year.

144 (e) Transfers or expenditures may be made from the supplemental reserve fund of any
145 fiscal year during that fiscal year only, and only by the city council upon the written request of
146 the mayor. Each such transfer or expenditure request shall be accompanied by a written
147 statement detailing the amount and the reason for the transfer or expenditure. In any year during
148 which bonds or notes authorized under this act remain outstanding, except for such transfers or
149 expenditures as are authorized in this act, there shall not be other transfers or reductions in the
150 amount of this fund; provided, however, that after the end of the fiscal year in which the bonds or
151 notes authorized under this act are paid or completed, any funds remaining in the reserve fund
152 shall be available for appropriation.

153 (f) In any year in which bonds or notes authorized under this act remain outstanding and
154 in which there is no fiscal stability officer under section 7, the director of accounts may waive in
155 whole or in part the requirements of this section if the director determines it is appropriate to
156 effectuate the purposes of this act.

157 SECTION 13. (a) For the purposes of this section, the following words shall have the
158 following meaning unless the context clearly requires otherwise:

159 “Emergency”, a major disaster, including, but not limited to, flood, drought, fire,
160 hurricane, earthquake, storm or other catastrophe, whether natural or otherwise, which poses an
161 unexpected and immediate threat to the health and safety of persons or property.

162 “Official”, a permanent, temporary or acting city department head.

163 (b) No official of the city of Lynn, except in the case of an emergency involving the
164 health and safety of the people or their property, shall knowingly expend or cause to be expended
165 in any fiscal year any sum in excess of that official's departmental or other governmental unit's
166 appropriation duly made in accordance with the law or commit the city or cause the city to be
167 committed to any obligation for the future payment of money in excess of that appropriation,
168 with the exception of court judgments. An official who intentionally violates this section shall be
169 personally liable to the city for the amounts expended in excess of an appropriation to the extent
170 that the city does not recover these amounts from the person to whom the amounts were paid.
171 The superior court or a single justice of the supreme judicial court shall have jurisdiction to
172 adjudicate claims brought by the city, or the attorney general, under this act and to order relief
173 that the court finds appropriate to prevent further violations of this section. Notwithstanding any
174 general or special law, city charter provision or ordinance to the contrary, any violation of this
175 section shall be considered sufficient cause for removal by the school department or general
176 government appointing authority pursuant to subsection (d) of section 3-7 of Article 3 and
177 section 6-6 of Article 6 of the city charter.

178 SECTION 14. (a) Not later than 30 days after the effective date of this act, the secretary
179 of administration and finance shall appoint a fiscal stability officer for the city of Lynn to advise
180 the city government as it manages the city's fiscal challenges. The stability officer shall:

- 181 i. recommend to the mayor, city council and school committee sound fiscal policies;
- 182 ii. advise the chief financial officer, assessors, comptroller, treasurer, collector,
183 purchasing agent and employees performing similar duties but with different titles;

- 184 iii. provide assistance in all matters related to municipal financial affairs, including
185 those concerning the school department;
- 186 iv. assist in development and preparation of all department budgets and spending
187 plans;
- 188 v. validate and report on the value of all proposed contracts and obligations with a
189 term more than 1 year, except for contracts executed under chapter 150E of the General Laws;
- 190 vi. provide an overview on the annual budget proposal submitted by the mayor;
- 191 vii. provide an overview on the final budget as approved by the city council, including
192 any appropriation necessary to support a collective bargaining agreement executed under said
193 chapter 150E;
- 194 viii. provide an overview on any supplemental budgets submitted to the city council,
195 including any supplemental budget request necessary to support a collective bargaining
196 agreement executed under said chapter 150E;
- 197 ix. be informed of and opine on all budget transfer requests before submission to the
198 city council or school committee, including any budget transfer request necessary to support a
199 collective bargaining agreement executed under said chapter 150E;
- 200 x. decide whether to waive the reporting requirements contained in section 2 or the
201 supplemental reserve fund requirements contained in section 4;
- 202 xi. opine on any proposed use of free cash, overlay surplus, or any other 1-time
203 revenues as determined by the stability officer; and

204 xii. report quarterly to the secretary and to the house and senate committees on ways
205 and means on the progress made towards reducing the city’s capital and structural deficits.

206 (b) If recommended by the fiscal stability officer and if the contract cost does not exceed
207 \$100,000, the city shall bear the costs of any consultant retained by the city to perform work on
208 its behalf.

209 (c) Not later than 180 days after the effective date of this act, the mayor shall develop and
210 submit to the city council a 5-year capital plan. The fiscal stability officer shall provide a written
211 review of the proposed capital plan, upon submission to the city council.

212 (d) Each year, the mayor shall submit, along with the mayor’s annual budget proposal, a
213 multi-year revenue and expenditure forecast. The forecast shall be reviewed by the fiscal stability
214 officer prior to submission.

215 (e) After July 1, 2020 and while debt issued under this act is outstanding, if the secretary
216 of administration and finance, in the secretary’s sole discretion, determines that the city has taken
217 the steps necessary to achieve long-term fiscal sustainability and no longer requires active state
218 oversight, the secretary may abolish the position of stability officer.

219 SECTION 15. (a) There shall be a Lynn employee and retiree health insurance working
220 group consisting of the following members: 1 member appointed by the mayor who shall have
221 professional experience in the area of health care financing and public employee benefits; 1
222 member appointed by the mayor, with the approval of the city council president who shall be a
223 retired public employee with professional experience in the area of public health insurance
224 benefits contracts; 1 member appointed by the city council president, who shall have professional
225 experience in health care benefits; and 2 members nominated by the advisory committee

226 established in section 3 of chapter 32B of the General Laws and appointed by the mayor with the
227 approval of the city council president, who shall be members of a city of Lynn collective
228 bargaining unit. No member shall be an elected official and not more than 2 members shall be
229 members of a city of Lynn collective bargaining unit. The working group shall review and
230 determine the most appropriate manner to negotiate, purchase, or otherwise provide quality and
231 affordable health benefits for employees and retirees of the city of Lynn and their families. The
232 working group shall consider the range of benefits that are or should be provided as well as the
233 current and anticipated future cost of providing those benefits. The working group shall make
234 recommendations that may include, but shall not be limited to, plan design changes, the method
235 of financing health benefit costs, how best to divide costs between the city and its employees and
236 retirees and implementing changes to health insurance benefits pursuant to sections 19 and 21 to
237 23, inclusive, of said chapter 32B. The recommendations shall be submitted to the mayor and the
238 city council not later than October 1, 2018 and shall be considered for implementation during
239 fiscal year 2020.

240 (b) Notwithstanding any general or special law, ordinance or charter provision to the
241 contrary, the mayor may enter into a contract for the services of the appointed working group
242 member who has professional experience in the area of health care financing and public
243 employee benefits, for the duration of the working group's existence.

244 SECTION 16: Notwithstanding chapter 8 of the Acts and Resolves of 1985, the city of
245 Lynn may consolidate the positions of treasurer and collector at its discretion by ordinance
246 whenever a vacancy shall occur in one or both of those positions.

247 SECTION 17. Notwithstanding any general or special law to the contrary, the city of
248 Lynn is permitted to attribute both salaries and benefits of its custodial and maintenance
249 personnel that work exclusively in school buildings towards net school spending requirements of
250 chapter 70 of the General Laws.

251 SECTION 18. (a) The commissioner of the department of public works may establish a
252 charge for municipal solid waste collection, disposal services, and recycling in the city of Lynn
253 commencing in January of fiscal year 2018. The charge shall be limited to the costs associated
254 with such collection, services and recycling.

255 (b) A fee established pursuant to subsection (a) shall initially be limited to \$90 per
256 calendar year per residential, commercial, nonprofit or not-for-profit property unit. The fee shall
257 be billed on a bi-annual basis by the city of Lynn. Once established, the commissioner of the
258 department of public works shall have the authority to increase the fees every other year
259 beginning as of January 1, 2020; provided however, that the fee shall not be increased by more
260 than 20 per cent of the prior year's fee.

261 (c) Solid waste collection, disposal services, and recycling fees for residential,
262 commercial, nonprofit or not-for-profit property units shall not be collected when the owner or
263 occupant of the property presents a current contract for private rubbish collection for the unit(s)
264 to the department of public works. The contract shall be valid and remain in force for the entire
265 fiscal year. The contract shall state: the term, address, number of units, and contract price. If the
266 contract is terminated, the property owner shall notify the city in writing not later than 5 business
267 days after termination and the property owner shall be responsible for the pro rata share of the
268 solid waste collection, disposal services, and recycling fee for the remainder of the fiscal year.

269 (d) Fees not collected shall be subject to all collection remedies provided for real estate
270 collection, including interest and demand fees. Any fee not paid 30 days from the date of the
271 electronic transmission or mailing of a bill may be liened to the property in the next real estate
272 bill. Such liens shall remain valid to the extent allowed by law.

273 (e) A residential, commercial, nonprofit or not-for-profit property owner who owns an
274 unoccupied unit shall be eligible to receive a credit for each full 6-month period or longer for
275 which the unit is not occupied. Property owners shall provide documentation to the
276 commissioner of the department of the public works signed under the pains and penalties of
277 perjury, demonstrating that the unit was vacant during the entire 6-month billing period for
278 which a credit is requested. Eligibility shall be determined by the commissioner of the
279 department of public works using a water bill or, in cases where a unit's water meter is not
280 separate from another unit, a letter or billing statement from the electric company. Property
281 owners who make false representations regarding the vacancy status of a residential dwelling
282 unit shall be fined twice the amount of the single unit fee for each false representation up to a
283 maximum of \$300.

284 (f) The commissioner of the department of public works is hereby authorized to make
285 rules and regulations relating to condominium units which utilize both municipal and private
286 waste and refuse collection based upon the amount of trash and solid waste collected at the
287 condominium complex.

288 (g) Any person sixty-nine years of age or older residing in an owner-occupied residence
289 shall be entitled to a forty dollar abatement on the solid waste collection, disposal services, and
290 recycling fee. Such people sixty-nine years of age or older residing in an owner-occupied

291 dwelling shall present satisfactory evidence demonstrating that he/she qualifies for the abatement
292 to the commissioner of the department of public works. Said satisfactory evidence shall include
293 but is not limited to a deed, a driver's license, birth certificate and a utility bill in the owner-
294 occupier's name. The commissioner of the department of public works is hereby authorized to
295 enact rules and regulations for the administration of processing abatements.

296 SECTION 19. Notwithstanding any general or special law to the contrary, except where
297 otherwise stated in this act, shall supersede conflicting provisions of the city's charter or local
298 ordinance.

299 SECTION 20. This act shall take effect upon its passage.