

Donna Britto

From: Mikaela A. McDermott
Sent: Thursday, June 25, 2020 10:02 AM
To: Naomi Carney; Brian Gomes; Councillor Brian Gomes; Joseph Lopes; Brad Markey
Cc: Linda Morad; Scott Lima; Denis Lawrence, Jr.; Donna Britto; Linda Morad
Subject: Fw: Residency requirement for police and fire chiefs
Attachments: 108O Employment contracts for police chiefs and fire chiefs.doc.docx

Councilors,

Below please find emails relating to residency requirements for police and fire chiefs. I have also attached the statute to which the emails refer.

Thank you,

Mikaela

From: Mikaela A. McDermott <MMcDermott@newbedford-ma.gov>
Sent: Tuesday, June 9, 2020 1:30 PM
To: Linda Morad <Linda.Morad@newbedford-ma.gov>; 'DAVID GERWATOWSKI' <davidgerwatowski@comcast.net>
Subject: Re: Residency requirement for police and fire chiefs

Councilor Morad and Attorney Gerwatowski,

I researched G.L. c. 108O further and spoke to outside counsel about it, and our conclusion is that the statute would preclude the City Council from imposing an enforceable residency requirement on the police and fire chiefs. My apologies for not having found this statute before the meeting last night. If you have any questions, just give me a call.

Thank you,

Mikaela

From: Mikaela A. McDermott
Sent: Monday, June 8, 2020 9:25 PM
To: Linda Morad <Linda.Morad@newbedford-ma.gov>; 'DAVID GERWATOWSKI' <davidgerwatowski@comcast.net>
Subject: Residency requirement for police and fire chiefs

Councilor Morad and Attorney Gerwatowski:

I did some further research on residency requirements for police and fire chiefs after our meeting tonight and believe that the attached general law could prevent us from imposing such a requirement. In short, the law gives the appointing authority the ability to enter into contracts with police and fire chiefs and says that such contracts shall prevail over conflicting local personnel ordinances.

I will do some further research and get back to you but wanted to let you know about this law.

Thank you,

Mikaela

Massachusetts General Laws Annotated

Part I. Administration of the Government (Ch. 1-182)

Title VII. Cities, Towns and Districts (Ch. 39-49a)

Chapter 41. Officers and Employees of Cities, Towns and Districts (Refs & Annos)

M.G.L.A. 41 § 1080

§ 1080. Employment contracts for police chiefs and fire chiefs

Effective: April 12, 2001

Currentness

Any city or town acting through its appointing authority, may establish an employment contract for the salary, fringe benefits, and other conditions of employment, including but not limited to, severance pay, relocation expenses, reimbursement for expenses incurred in the performance of his duties or office, liability insurance, conditions of discipline, termination, dismissal, and reappointment, performance standards and leave for its police chief and fire chief, or a person performing such duties having a different title. In communities where said police chief and fire chief is subject to the provisions of chapter thirty-one, the provisions of chapter thirty-one shall prevail when the provisions of this section conflict with the provisions of said chapter thirty-one.

Said contract shall prevail over any conflicting provision of any local personnel by-law, ordinance, rule or regulation. In addition to the benefits provided municipal employees under chapters thirty-two and thirty-two B, said contract may provide for supplemental retirement and insurance benefits.

Nothing contained in this section shall affect the appointment powers of any city or town over its police chief and fire chief, or such person performing such duties with a different title. In the absence of any conflicting provisions in an employment contract, nothing contained in this section shall affect the removal powers of any city or town over its police chief and fire chief or such person performing such duties with a different title.

Nothing contained in this section shall grant tenure to such officer, nor shall it abridge the provisions of section sixty-seven of chapter forty-four. If there is no employment contract in force, and if the police chief or fire chief has an appointment for a term, the appointing authority shall give such chief at least one year's written notice if it decides not to reappoint said chief.

Credits

Added by St.1995, c. 289, § 1. Amended by St.2000, c. 423, §§ 1, 2.

M.G.L.A. 41 § 108O, MA ST 41 § 108O

Current through Chapter 87 of the 2020 2nd Annual Session
