

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1364 Session of
2008INTRODUCED BY ROBBINS, ERICKSON, REGOLA, STOUT AND WOZNIAK,
APRIL 11, 2008

AS AMENDED ON THIRD CONSIDERATION, JUNE 16, 2008

AN ACT

1 Amending the act of June 5, 1941 (P.L.84, No.45), entitled "An
2 act providing for and regulating the appointment, promotion
3 and reduction in rank, suspension and removal of paid members
4 of the police force in boroughs, incorporated towns and
5 townships of the first class maintaining a police force of
6 not less than three members; creating a civil service
7 commission in each borough, incorporated town and township of
8 the first class; defining the duties of such civil service
9 commission; imposing certain duties and expense on boroughs,
10 incorporated towns and townships of the first class; imposing
11 penalties, and repealing inconsistent laws," further
12 providing for general provisions relating to examinations,
13 for rejection of applicant and hearing, for manner of filling
14 appointments, for probationary period and for physical
15 examinations.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Section 11 of the act of June 5, 1941 (P.L.84,
19 No.45), entitled "An act providing for and regulating the
20 appointment, promotion and reduction in rank, suspension and
21 removal of paid members of the police force in boroughs,
22 incorporated towns and townships of the first class maintaining
23 a police force of not less than three members; creating a civil
24 service commission in each borough, incorporated town and

1 township of the first class; defining the duties of such civil
2 service commission; imposing certain duties and expense on
3 boroughs, incorporated towns and townships of the first class;
4 imposing penalties, and repealing inconsistent laws," amended
5 October 17, 1980 (P.L.1080, No.181), is amended to read:

6 Section 11. General Provisions Relating to Examinations.--

7 (a) Each commission shall make rules and regulations, to be
8 approved as provided in section 6 hereof, providing for the
9 examination of applicants for positions in the police force and
10 for promotions therein, which rules and regulations shall
11 prescribe the minimum qualifications of all applicants to be
12 examined and the passing grades. All examinations for positions
13 or promotions in the police force of any municipality shall be
14 practical in character and shall relate to such matters and
15 include such inquiries as will fairly test the merit and fitness
16 of the persons examined to discharge the duties of the
17 employment sought by them. All examinations shall be open to all
18 applicants who have the minimum qualifications required by the
19 rules and regulations. Each applicant for examination shall:

20 (1) be subject to the regulations adopted by the commission
21 [and shall be required to submit to a physical examination];

22 (2) either before or after being admitted to the regular
23 examination held by the commission[.], be required to submit to
24 a physical fitness or agility examination that is job-related
25 and consistent with business necessity; and

26 (3) if made a conditional offer of employment, be given a
27 physical and psychological medical examination in accordance
28 with section 19 of this act.

29 (b) Public notice of the time and place of every
30 examination, together with the information as to the kind of

1 position or place to be filled, shall be given by publication
2 once in a newspaper of general circulation in the municipality
3 or in a newspaper circulating generally in the municipality at
4 least two weeks prior to each examination, and a copy of the
5 notice shall be prominently posted in the office of the
6 commission or other public place.

7 (c) The commission shall post in its office the eligible
8 list containing the names and grades of those who have passed
9 the examination for position under this act. Persons, male or
10 female, who served in the military or naval service of the
11 United States during any war in which the United States has
12 been, is now or shall hereafter be engaged, and who have
13 honorable discharges from such service, who have successfully
14 passed the examination, shall be given the additional credits
15 and preference in appointment and promotion provided for by any
16 law of this Commonwealth.

17 Section 2. Sections 13, 14 and 16 of the act are amended to
18 read:

19 Section 13. Rejection of Applicant; Hearing.--(a) The
20 commission may refuse to examine any applicant, or, if examined,
21 may refuse to certify after examination as eligible anyone who
22 is found to lack any of the minimum qualifications for
23 examination prescribed in the rules and regulations adopted for
24 the position or employment for which he has applied, or who is
25 physically [disabled and] unfit for the performance of the
26 duties of the position to which he seeks employment, or [who is
27 addicted to the habitual use of intoxicating liquors or drugs]
28 who is currently addicted to and illegally using a controlled <—
29 substance, as defined in section 102 of the Controlled
30 Substances Act (Public Law 91-513, 21 U.S.C. § 802), or who has

1 been guilty of any crime involving moral turpitude or of
2 infamous or notorious disgraceful conduct, or who has been
3 dismissed from public service for delinquency or misconduct in
4 office, or who is affiliated with any group whose policies or
5 activities are subversive to the form of government set forth in
6 the constitutions and laws of the United States and
7 Pennsylvania.

8 **(b)** If any applicant or person feels himself aggrieved by
9 the action of the commission in refusing to examine him or to
10 certify him as eligible after examination the commission shall
11 at the request of such person, within ten (10) days, appoint a
12 time and place where he may appear personally and by counsel,
13 whereupon the commission shall then review its refusal to make
14 such examination or certification and take such testimony as may
15 be offered. The decision of the commission shall be final.

16 Section 14. Manner of Filling Appointments.--**(a)** At the
17 completion of the testing process, including any background,
18 physical agility or other examinations, with the exception of
19 physical and psychological medical examinations pursuant to
20 section 19 of this act, the commission shall rank the candidates
21 who have satisfied the minimum requirements for appointment on
22 an eligibility list. The eligibility list shall contain the
23 names of individuals eligible for appointment listed from
24 highest to lowest based on their scores on the examinations
25 administered by the commission and any points for which the
26 applicant was entitled by virtue of 51 Pa.C.S. Ch. 71 (relating
27 to veterans' preference). The eligibility list shall be valid
28 for one year from the date the commission ranks all passing
29 applicants, assigns veterans' preference points and formally
30 adopts the eligibility list. The commission may, at its sole

1 discretion before the original expiration date, by a vote of the
2 majority of the commission at a duly authorized commission
3 meeting, extend the list for up to an additional twelve months.
4 In the absence of a lawful extension by the commission, the list
5 shall expire. The commission may, at its sole discretion, void
6 an eligibility list at any time for any reason so long as the
7 voiding of the list is not designed to circumvent this act.

8 (b) Every position or employment, except that of chief of
9 police or equivalent official, unless filled by promotion,
10 reinstatement or reduction shall be filled only in the following
11 manner: the appointing officer or body of the municipality shall
12 notify the commission of any vacancy in the police force which
13 is to be filled and shall request the certification of a list of
14 eligibles. The commission shall certify for each existing
15 vacancy from the eligible list the names of three persons
16 thereon who have received the highest average in the last
17 preceding examination held within a period of one year next
18 preceding the date of the request for such eligibles. The
19 appointing officer or body shall thereupon with sole reference
20 to the merits and fitness of the candidates make an appointment
21 from the three names certified unless he or they make objections
22 to the commission as to one or more of the persons so certified
23 for any of the reasons stated in section 13 of this act. Should
24 such objections be sustained by the commission as provided in
25 said section the commission shall thereupon strike the name of
26 such person from the eligible list and certify the next highest
27 name for each name stricken off. As each subsequent vacancy
28 occurs in the same or another position precisely the same
29 procedure shall be followed.

30 (c) In the case of a vacancy in the office of chief of

1 police or equivalent official the appointive power may nominate
2 a person to the commission. It shall thereupon become the duty
3 of the commission to subject such person to a noncompetitive
4 examination, and, if such person shall be certified by the
5 commission as qualified, he may then be appointed to such
6 position and thereafter shall be subject to all the provisions
7 of this act.

8 Section 16. Probationary Period.--All original appointments
9 to any position in the police force shall be for a probationary
10 period of six months, but during the probationary period an
11 appointee may be dismissed only for a cause specified in section
12 13 of this act or because of incapacity for duty because of <—
13 addiction to, and the current DUE TO THE use of alcohol or <—
14 drugs. If at the close of a probationary period the conduct or
15 fitness of the probationer has not been satisfactory to the
16 appointing officer or body the probationer shall be notified in
17 writing that he will not receive a permanent appointment.
18 Thereupon his appointment shall cease; otherwise his retention
19 shall be equivalent to a permanent appointment.

20 Section 3. Section 19 of the act, amended October 17, 1980
21 (P.L.1080, No.181), is amended to read:

22 Section 19. Physical and Psychological Medical
23 Examinations.--[All applicants for examination shall undergo] An
24 applicant selected from the eligibility list shall receive a
25 conditional offer of employment. The offer of employment shall
26 be conditioned upon the applicant's successfully completing a
27 physical medical examination [as provided in section 11] which
28 shall be conducted under the supervision of a doctor of medicine
29 appointed by the civil service commission. If required by the
30 rules and regulation of the commission, the offer of employment

1 may also be conditioned on the successful completion of a
2 psychological medical examination conducted under the
3 supervision of a psychologist or psychiatrist appointed by the
4 commission. No person shall be eligible for appointment until
5 [said doctor certifies] each examiner certifies that the
6 applicant is free from any bodily or mental defects, deformity
7 or disease that might incapacitate him from the discharge of the
8 duties of the position desired. For purposes of this section,
9 the phrase "medical examination" shall mean any examination,
10 procedure, inquiry or test designed to obtain information about
11 medical history or a physical or mental defect or impairment.
12 Nothing in this section shall preclude rules and regulations
13 requiring physical fitness or agility examinations of applicants
14 that are job-related and consistent with business necessity,
15 either before or after being admitted to the regular examination
16 held by the commission.

17 Section 4. Nothing contained in the amendment of section 11,
18 13, 14, 16 or 19 of this act shall affect the validity of any
19 civil services appointment made prior to the effective date of
20 this section.

21 Section 5. This act shall take effect immediately.