

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 1516

PRINTER'S NO. 4284

AMOUNT

No cost to the Commonwealth

FUND

General

DATE INTRODUCED

May 26, 2009

PRIME SPONSOR

Representative Freeman

HISTORY OF BILL

Referred to LOCAL GOVERNMENT, May 26, 2009

Reported as amended, June 9, 2009

First consideration, June 9, 2009

Re-committed to RULES, June 9, 2009

Re-reported as committed, June 15, 2009

Re-committed to APPROPRIATIONS, June 15, 2009

Re-reported as committed, June 16, 2009

Laid on the table, July 8, 2009

Removed from table, July 8, 2009

Second consideration, July 9, 2009

Third consideration and final passage, July 15, 2009 (196-0)

In the Senate

Referred to LOCAL GOVERNMENT, July 17, 2009

Reported as amended, Feb. 2, 2010

First consideration, Feb. 2, 2010

Re-referred to APPROPRIATIONS, March 17, 2010

Re-reported as amended, Sept. 21, 2010

DESCRIPTION AND PURPOSE OF BILL

House Bill 1516 amends Act 272 of 1933 (Firemen, Civil Service in Third Class Cities) by amending the police officers and firefighters civil service statutory provisions to comply with the federal Americans with Disabilities Act ("ADA"). This legislation is part of a package of bills, prepared under the auspices of the Local Government Commission, which amends six municipal statutes to comply with the federal ADA. These six statutes provide the procedures by which a municipal civil service commission selects candidates for appointment as police officers or firefighters.

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As amended by amendment number A07898, the legislation would amend the police officers and firefighters civil service statutory provisions to expressly authorize the establishment of an eligibility list comprised of the top three scoring candidates of a promotional examination. The governing body or appointing officer may promote any candidate in the promotion eligibility list and is not required to promote the top scoring candidate.

Under existing federal regulations, it is prohibited for an employer to conduct a medical examination of a candidate, or otherwise ask disability related questions of a candidate, prior to a conditional offer of employment. Furthermore, under the ADA, and the Pennsylvania Human Relations Act, an employer's questions related to current and former addiction, and discrimination on the basis of a person's status as a current or former addict, with some exceptions, could be a violation of the law.

House Bill 1516 is intended to accomplish the following:

- Clearly delineate a difference between prohibited pre-offer "medical examinations" and permissible "physical and agility tests" that may occur at any time during the testing process. This change was also modified to ensure that the physical tests were "job-related and consistent with business necessity" in order to alert municipalities to possible claims based on discrimination.
- Remove the ability of a municipality to disqualify a candidate, at the pre-offer stage, on the basis of a "disability," because of past or current addiction to alcohol, or past addiction to narcotics. Current illegal use of narcotics is not a protected disability, thus a prospective employer may ask questions related to current use of illegal drugs. However, for past or recovering addiction, without current use, of drugs and alcohol, or current addiction to alcohol, the law provides some protection, and municipalities should avoid questions that could be considered disability-related.
- Clearly specify where in the process "medical examinations" may occur in relation to the written examination, when veteran's preference points are to be awarded, and how long eligibility lists may be in effect.
- Clearly specify that a probationary officer may not be dismissed solely on the basis of his or her "status" as an addict. The amendatory language is intended to require that the officer is incapable of duty.

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- Clearly define “medical examinations” in accordance with federal law, provide for “psychological medical examinations,” and specify a procedure by which medical examinations may be administered in a manner consistent with anti-discrimination laws.

An analysis prepared by the Local Government Commission was used in the preparation of this fiscal note.

House Bill 1516 is similar in substance to Senate Bill 911.

This act shall take effect immediately.

FISCAL IMPACT:

Enactment of this legislation will have no adverse fiscal impact to the Commonwealth.