

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL****No. 1363** 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 1, 1945 (P.L.1232, No.427), entitled  
2 "An act providing for and regulating the appointment,  
3 promotion and reduction in rank, suspension and removal of  
4 paid operators of fire apparatus in boroughs, incorporated  
5 towns and townships of the first class; creating a civil  
6 service commission in each borough, incorporated town and  
7 township of the first class; defining the duties of such  
8 civil service commission; imposing certain duties and  
9 expenses on boroughs, incorporated towns and townships of the  
10 first class; imposing penalties; and repealing inconsistent  
11 laws," further providing for general provisions relating to  
12 examinations, for rejection of applicant and hearing, for  
13 manner of filling appointments, for probationary period and  
14 for physical examinations.

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

17 Section 1. Section 11 of the act of June 1, 1945 (P.L.1232,  
18 No.427), entitled "An act providing for and regulating the  
19 appointment, promotion and reduction in rank, suspension and  
20 removal of paid operators of fire apparatus in boroughs,  
21 incorporated towns and townships of the first class; creating a  
22 civil service commission in each borough, incorporated town and  
23 township of the first class; defining the duties of such civil

1 service commission; imposing certain duties and expenses on  
2 boroughs, incorporated towns and townships of the first class;  
3 imposing penalties; and repealing inconsistent laws," amended  
4 October 17, 1980 (P.L.1078, No.180), is amended to read:

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

6 (a) Each commission shall make rules and regulations to be  
7 approved, as provided in section six hereof, providing for the  
8 examinations of applicants for positions as fire apparatus  
9 operators and for promotion thereof, which rules and regulations  
10 shall prescribe the minimum qualifications of all applicants to  
11 be examined and passing grades. All examinations for promotions,  
12 or positions as fire apparatus operators of any municipality,  
13 shall be practical in character and shall relate to such  
14 matters, and include such inquiries as will test the merit and  
15 fitness of the persons examined to discharge the duties of the  
16 employment sought by them.

17 All examinations shall be open to all applicants who have the  
18 minimum qualifications required by the rules and regulations.

19 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 either before or after being admitted to the regular examination  
23 held by the commission.];

24 (2) either before or after the written examination, be  
25 required to submit to a physical fitness or agility examination  
26 that is job-related and consistent with business necessity; and

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

30 (b) Public notice of the time and place of every

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

8 (c) The commission shall post in its office the eligible  
9 list containing the names and grades of those who have passed  
10 the examination for position.

11 (d) Under this act, soldiers as defined [by the act,  
12 approved the fifth day of August, one thousand nine hundred  
13 forty-one (Pamphlet Laws, eight hundred seventy-two),] in 51  
14 Pa.C.S. § 7101 (relating to soldier defined) who have  
15 successfully passed the examination shall be given the  
16 additional credits [provided for by said act] in accordance with  
17 section fourteen of this act.

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

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

1 Law 91-513, 21 U.S.C. § 802), or who has been guilty of any  
2 crime involving moral turpitude, or of infamous or notoriously  
3 disgraceful conduct, or who has been dismissed from public  
4 service for delinquency or misconduct in office, or who is  
5 affiliated with any group whose policies or activities are  
6 subversive to the form of government set forth in the  
7 Constitutions and laws of the United States and 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 days, appoint a time  
12 and place where he may appear personally and by council,  
13 whereupon the commission shall then review its refusal to make  
14 such examination of 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 nineteen of this act, the commission shall rank the  
21 candidates who have satisfied the minimum requirements for  
22 appointment on an eligibility list. The eligibility list shall  
23 contain the names of individuals eligible for appointment listed  
24 from 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, unless filled by  
9 promotion, reinstatement or reduction, shall be filled only in  
10 the following manner:

11       The appointing officer or body of the municipality shall  
12 notify the commission of any vacancy as a fire apparatus  
13 operator which is to be filled and shall request the  
14 certification of a list of eligibles. The commission shall  
15 certify for each existing vacancy from the eligible list, the  
16 names of three persons therefrom who have received the highest  
17 average in the last preceding examination, held within a period  
18 of one year next preceding the date of the request for such  
19 eligibles. The appointing officer or body shall thereupon, with  
20 sole reference to the merits and fitness of the candidates, make  
21 an appointment from the three names certified unless he or they  
22 make objections to the commission as to one or more of the  
23 persons so certified for any reason stated in section thirteen  
24 of this act. Should such objections be sustained by the  
25 commission, as provided in said section, the commissioner shall  
26 thereupon strike the name of such person from the eligible list  
27 and certify the next highest name for each name stricken off. As  
28 each subsequent vacancy occurs in the same or another position  
29 precisely the same procedure shall be followed.

30       Section 16. Probationary Period.--All original appointments

1 to positions as fire apparatus operators shall be for a  
2 probationary period of six months, but during the probationary  
3 period an appointee may be dismissed only for a cause specified  
4 in section thirteen of this act or because of incapacity for  
5 duty because of addiction to, and the current use of, DUE TO THE ←  
6 USE OF alcohol or drugs. If at the close of the probationary  
7 period the conduct or fitness of the probationer has not been  
8 satisfactory to the appointing body or officer, the probationer  
9 shall be notified in writing that he will not receive a  
10 permanent appointment. Thereupon his appointment shall cease,  
11 otherwise, his retention shall be equivalent to a permanent  
12 appointment.

13 Section 3. Section 19 of the act, amended October 17, 1980  
14 (P.L.1078, No.180), is amended to read:

15 Section 19. Physical and Psychological Medical  
16 Examinations.--[All applicants for examination shall undergo a  
17 physical examination as provided in section 11] An applicant  
18 selected from the eligibility list shall receive a conditional  
19 offer of employment. The offer of employment shall be  
20 conditioned upon the applicant successfully completing a  
21 physical medical examination which shall be conducted under the  
22 supervision of a doctor of medicine appointed by the civil  
23 service commission. If required by the rules and regulations of  
24 the commission, the offer of employment may also be conditioned  
25 on the successful completion of a psychological medical  
26 examination conducted under the supervision of a psychologist or  
27 psychiatrist appointed by the commission. No person shall be  
28 eligible for appointment until [said doctor certifies] each  
29 examiner certifies that the applicant is free from any bodily or  
30 mental defects, deformity, or disease that might incapacitate

1 him from the discharge of the duties of the position desired.  
2 For purposes of this section, the phrase "medical examination"  
3 shall mean any examination, procedure, inquiry or test designed  
4 to obtain information about medical history or a physical or  
5 mental defect or impairment. Nothing in this section shall  
6 preclude rules and regulations requiring physical fitness or  
7 agility examinations of applicants that are job-related and  
8 consistent with business necessity, either before or after being  
9 admitted to the regular examination held by the commission.

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

14 Section 5. This act shall take effect immediately.