

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL****No. 1366** Session of  
2008INTRODUCED BY ROBBINS, ERICKSON, REGOLA, STOUT AND WOZNIAK,  
APRIL 11, 2008

SENATOR REGOLA, LOCAL GOVERNMENT, AS AMENDED, MAY 14, 2008

## AN ACT

1 Amending the act of June 24, 1931 (P.L.1206, No.331), entitled  
2 "An act concerning townships of the first class; amending,  
3 revising, consolidating, and changing the law relating  
4 thereto," further providing for general provisions relating  
5 to examinations, for rejection of applicant and hearing, for  
6 manner of filling appointments, for probation period and for  
7 physical examinations.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Section 635 of the act of June 24, 1931  
11 (P.L.1206, No.331), known as The First Class Township Code,  
12 reenacted and amended May 27, 1949 (P.L.1955, No.569) and  
13 amended December 4, 1980 (P.L.1101, No.188), ~~are~~ IS amended to ←  
14 read:

15 Section 635. General Provisions Relating to Examinations.--  
16 (a) The commission shall make rules and regulations to be  
17 approved as provided in section 630 hereof, providing for the  
18 examination of applicants for positions in the police force and  
19 as paid operators of fire apparatus and for promotions, which  
20 rules and regulations shall prescribe the minimum qualifications

1 of all applicants to be examined and the passing grades. All  
2 examinations for positions or promotions shall be practical in  
3 character and shall relate to such matters and include such  
4 inquiries as will fairly test the merit and fitness of the  
5 persons examined to discharge the duties of the employment  
6 sought by them. All examinations shall be open to all applicants  
7 who have the minimum qualifications required by the rules and  
8 regulations. Each applicant for examination shall:

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

11 (2) either before or after being admitted to the regular  
12 examination held by the commission, be required to submit to a  
13 physical fitness or agility examination that is job-related and  
14 consistent with business necessity; and examination that is job- ←  
15 related and consistent with business necessity; and

16 (3) if made a conditional offer of employment, be given a  
17 physical and psychological medical examination in accordance  
18 with section 643 of this act.

19 (b) Public notice of the time and place of every  
20 examination, together with the information as to the kind of  
21 position or place to be filled, shall be given by publication  
22 once in a newspaper of general circulation in the township or in  
23 a newspaper circulating generally in the township at least two  
24 weeks prior to each examination, and a copy of the notice shall  
25 be prominently posted in the office of the commission or other  
26 public place.

27 (c) The commission shall post in its office the eligible  
28 list containing the names and grades of those who have passed  
29 the examination. Persons male or female who served in the  
30 military or naval service of the United States during any war in

1 which the United States has been, is now, or shall hereafter be  
2 engaged and who have honorable discharges from such service, who  
3 have successfully passed the examination, shall be given the  
4 additional credits and preference in appointment and promotion  
5 provided for by law.

6 Section 2. Section 637 of the act, added May 27, 1949  
7 (P.L.1955, No.569), is amended to read:

8 Section 637. Rejection of Applicant; Hearing.--(a) The  
9 commission may refuse to examine or, if examined, may refuse to  
10 certify after examination as eligible, any applicant who is  
11 found to lack any of the minimum qualifications for examination  
12 prescribed in the rules and regulations adopted for the position  
13 or employment for which he has applied, or who is physically  
14 [disabled and] unfit for the performance of the duties of the  
15 position to which he seeks employment, or who is [addicted to  
16 the habitual use of intoxicating liquors or narcotic drugs]  
17 currently addicted to and illegally using a controlled  
18 substance, as defined in section 102 of the Controlled  
19 Substances Act (Public Law 91-513, 21 U.S.C. § 802), or who has  
20 been guilty of any crime involving moral turpitude or of  
21 infamous or notoriously disgraceful conduct, or who has been  
22 dismissed from public service for delinquency or misconduct in  
23 office, or who is affiliated with any group whose politics or  
24 activities are subversive to the form of government set forth in  
25 the Constitution and laws of the United States and Pennsylvania.

26 (b) If any applicant or person feels himself aggrieved by  
27 the action of the commission in refusing to examine him or to  
28 certify him as eligible after examination, the commission shall,  
29 at the request of such person, within ten (10) days appoint a  
30 time and place where he may appear personally and by counsel.

1 Whereupon, the commission shall then review its refusal to make  
2 such examination or certification and take such testimony as may  
3 be offered. The decision of the commission shall be final.

4 Section 3. Section 638 of the act, amended December 14, 1992  
5 (P.L.863, No.136), is amended to read:

6 Section 638. Manner of Filling Appointments.--(a) At the  
7 completion of the testing process, including any background,  
8 physical agility or other examinations, with the exception of  
9 physical and psychological medical examinations pursuant to  
10 section 643 of this act, the commission shall rank the  
11 candidates who have satisfied the minimum requirements for  
12 appointment on an eligibility list. The eligibility list shall  
13 contain the names of individuals eligible for appointment listed  
14 from highest to lowest based on their scores on the examinations  
15 administered by the commission and any points for which the  
16 applicant was entitled by virtue of 51 Pa.C.S. Ch. 71 (relating  
17 to veterans' preference). The eligibility list will be valid for  
18 one year from the date the commission ranks all passing  
19 applicants, assigns veterans' preference points and formally  
20 adopts the eligibility list. The commission may, at its sole  
21 discretion before the original expiration date, by a vote of the  
22 majority of the commission at a duly authorized commission  
23 meeting, extend the list for up to an additional twelve months.  
24 In the absence of a lawful extension by the commission, the list  
25 shall expire. The commission may, at its sole discretion, void  
26 an eligibility list at any time for any reason so long as the  
27 voiding of the list is not designed to circumvent this act.

28 (b) Every position or employment in the police force or as  
29 paid operators of fire apparatus except that of chief of police  
30 or chief of the fire department or equivalent shall be filled

1 only in the following manner: the township commissioners shall  
2 notify the commission of any vacancy which is to be filled and  
3 shall request the certification of a list of eligibles. The  
4 commission shall certify for each existing vacancy from the  
5 eligible list the names of three persons thereon who have  
6 received the highest average. The township commissioners shall,  
7 thereupon, with sole reference to the merits and fitness of the  
8 candidates, make an appointment from the three names certified,  
9 conditioned upon successful completion of a physical and  
10 psychological medical examination in accordance with section 643  
11 of this act, unless they make objections to the commission as to  
12 one or more of the persons so certified for any of the reasons  
13 stated in section 637 of this subdivision. Should such  
14 objections be sustained by the commission, as provided in said  
15 section, the commission shall thereupon strike the name of such  
16 person from the eligible list and certify the next highest name  
17 for each name stricken off. As each subsequent vacancy occurs in  
18 the same or another position, precisely the same procedure shall  
19 be followed.

20 (c) A vacancy in an existing position in the police force or  
21 as a paid operator of fire apparatus which occurs as a result of  
22 retirement, resignation, disability or death may be filled by  
23 the township commissioners by the reappointment or reinstatement  
24 of a former employe of the police force or fire department who  
25 had previously complied with the provisions of this section. No  
26 examination, other than a physical examination as directed by  
27 the Civil Service Commission, shall be required in a case of  
28 reappointment or reinstatement to the force or department with  
29 which the employe previously served, except at the discretion of  
30 the township commissioners or as otherwise required by law.

1       (d) In the case of a vacancy in the office of chief of  
2 police or chief of the fire department or equivalent official,  
3 the township commissioners may nominate a person to the  
4 commission. It shall thereupon become the duty of the commission  
5 to subject such person to a non-competitive examination and if  
6 such person shall be certified by the commission as qualified he  
7 may then be appointed to such position and thereafter shall be  
8 subject to all the provisions of this subdivision.

9       Section 4. Section 640 of the act, amended May 17, 1972  
10 (P.L.293, No.72), is amended to read:

11       Section 640. Probation Period.--All original appointments to  
12 any position in the police force or as paid operators of fire  
13 apparatus shall be for a probationary period of not less than  
14 six months and not more than one year, but during the  
15 probationary period an appointee may be dismissed only for a  
16 cause specified in [subdivision 637 of this subsection.] section  
17 637 of this act or because of incapacity for duty because of  
18 addiction to the habitual use of alcohol or drugs. If at the  
19 close of a probationary period the conduct or fitness of the  
20 probationer has not been satisfactory to the township  
21 commissioners, the probationer shall be notified in writing that  
22 he will not receive a permanent appointment. Thereupon, his  
23 appointment shall cease; otherwise, his retention shall be  
24 equivalent to a permanent appointment.

25       Section 5. Section 643 of the act, amended December 4, 1980  
26 (P.L.1101, No.188), is amended to read:

27       Section 643. Physical and Psychological Medical  
28 Examinations.--[All applicants for examination shall undergo]  
29 After an applicant has been selected from the eligibility list,  
30 the applicant shall receive a conditional offer of employment.

1 The offer of employment shall be conditioned upon the applicant  
2 successfully completing a physical and a psychological medical  
3 examination [as provided in section 635] which examinations  
4 shall be conducted under the supervision of a [doctor of  
5 medicine] physician and a psychiatrist or psychologist appointed  
6 by the commission. No person shall be eligible for appointment  
7 until [said doctor certifies] both the physician and the  
8 psychiatrist or psychologist certify that the applicant is free  
9 from any bodily or mental defects, deformity or disease that  
10 might incapacitate him from the discharge of the duties of the  
11 position desired. For purposes of this section, the term  
12 "medical examination" shall mean any examination, procedure,  
13 inquiry or test designed to obtain information about medical  
14 history or a physical or mental defect or impairment. Nothing in  
15 this section shall preclude rules and regulations requiring  
16 physical fitness or agility examinations of applicants that are  
17 job-related and consistent with business necessity, either  
18 before or after being admitted to the regular examination held  
19 by the commission.

20 Section 6. Nothing contained in the amendment of sections  
21 635, 637, 638, 640 and 643 of the act shall affect the validity  
22 of any civil services appointments made prior to the effective  
23 date of this section.

24 Section 7. This act shall take effect immediately.