
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1368 Session of
2008

INTRODUCED BY ROBBINS, ERICKSON, REGOLA, STOUT AND WOZNIAK,
APRIL 11, 2008

REFERRED TO LOCAL GOVERNMENT, APRIL 11, 2008

AN ACT

1 Amending the act of May 31, 1933, (P.L.1108, No.272), entitled,
2 as amended, "An act providing for the appointment, promotion,
3 reduction, removal and reinstatement of paid officers,
4 firemen and employes of fire departments and of fire alarm
5 operators and fire box inspectors in the bureaus of
6 electricity in cities of the third class; defining the powers
7 and duties of civil service commissions for such purposes;
8 and fixing penalties," further providing for civil service
9 examinations and eligibility lists.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 4 of the act of May 31, 1933 (P.L.1108,
13 No.272), entitled, as amended "An act providing for the
14 appointment, promotion, reduction, removal and reinstatement of
15 paid officers, firemen and employes of fire departments and of
16 fire alarm operators and fire box inspectors in the bureaus of
17 electricity in cities of the third class; defining the powers
18 and duties of civil service commissions for such purposes; and
19 fixing penalties," amended July 17, 2003 (P.L.29, No.13), is
20 amended to read:

21 Section 4. (a) All examinations for positions or promotions

1 shall be practical in their character, and shall relate to such
2 matters, and include such inquiries, as will fairly and fully
3 test the comparative merit and fitness of the persons examined
4 to discharge the duties of the employment sought by them. All
5 examinations shall be open to all applicants who have fulfilled
6 the preliminary requirements required by this act without regard
7 to any applicant's place of residence at or prior to the date of
8 application. All applicants for any position in the fire
9 department and as fire alarm operators and fire box inspectors
10 in the bureau of electricity shall[,]:

11 (1) be subject to regulations adopted by the civil service
12 commission[, be required to submit to a physical examination
13 before being admitted to the regular examinations held by the
14 commission.];

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

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

21 (b) Adequate public notice of the time and place of every
22 examination held under the provisions of this act, together with
23 information as to the kind of position or place to be filled,
24 shall be given at least one week prior to such examinations. The
25 commission shall adopt reasonable regulations for permitting the
26 presence of representatives of the press at the examinations.
27 The commission shall post, in a public place at its office, the
28 eligible lists, containing the names and grades of those who
29 have passed examinations, and shall indicate thereon such
30 appointments as may be made from said lists.

1 Section 2. Sections 5 and 6 of the act are amended to read:

2 Section 5. (a) The civil service commission in each city
3 shall require persons applying for admission to any examination
4 provided for under this act, or under the rules and regulations
5 of the said commission, to file in its office, within a
6 reasonable time prior to the proposed examination, a formal
7 application, in which the applicant shall state under oath or
8 affirmation---

9 First. His full name, residence, and post office address.

10 Second. His citizenship, age, and the place and date of his
11 birth.

12 Third. His health, and his physical capacity for public
13 service.

14 Fourth. His business and employments and residences for at
15 least three years previous.

16 Fifth. Such other information as may reasonably be required,
17 touching the applicant's qualifications and fitness for the
18 public service.

19 Blank forms for such applications shall be furnished by the
20 commission, without charge, to all persons requesting the same.
21 The commission may require, in connection with such application,
22 such certificates of citizens, physicians or others, having
23 knowledge of the applicant, as the good of the service may
24 require. The commission may refuse to examine an applicant, or,
25 after examination, to certify as eligible, one who is found to
26 lack any of the established preliminary requirements for the
27 examination or position or employments for which he applies; or
28 who is physically [so disabled as to be rendered] unfit for the
29 performances of the duties of the position to which he seeks
30 appointment; or who is [addicted to the habitual use of

1 intoxicating liquors or drugs;] currently addicted to and
2 illegally using a controlled substance, as defined in section
3 102 of the Controlled Substances Act (Public Law 91-513, 21
4 U.S.C. § 802); or who has been convicted of any crime, or whose
5 conduct is infamous or notoriously disgraceful; or who has been
6 dismissed from the public service for delinquency or misconduct;
7 or who has made a false statement of any material fact, or
8 practiced or attempted to practice any deception or fraud in his
9 application, in his examination, or in establishing his
10 eligibility; or who refuses to comply with the rules and
11 regulations of the commission.

12 (b) No application will be received if the person applying
13 is less than eighteen years of age or more than thirty-five
14 years of age at the date of application: Provided, however, That
15 in the event any applicant has formerly served in the fire
16 department or as a fire alarm operator or fire box inspector in
17 the bureau of electricity of the city to which application is
18 made for a period of more than six months, and no charges of
19 misconduct or other misfeasance were made against the applicant
20 within a period of two years next preceding the date of
21 application, and the applicant is a resident of the city, then
22 the person shall be eligible for reinstatement, in the
23 discretion of the civil service commission, even though the
24 applicant is over thirty-five years of age. The applicant,
25 providing the applicant's former term of service so justifies,
26 may be reappointed to the fire department or as a fire alarm
27 operator or fire box inspector in the bureau of electricity
28 without examination, other than a physical examination in
29 accordance with section nine of this act. If the person is
30 reinstated, the person shall be the lowest in rank in the

1 department next above the probationers of the department.

2 (c) If any applicant feels himself aggrieved by the action
3 of the commission in refusing to examine him, or, after an
4 examination, to certify him as an eligible, as provided in this
5 section, the commission shall, at the request of such applicant,
6 appoint a time and place for a public hearing, at which time
7 such applicant may appear, by himself or counsel, or both, and
8 the commission shall then review its refusal to make such
9 examination or certification, and testimony shall be taken. The
10 commission shall subpoena, at the expense of the applicant, any
11 competent witnesses requested by him. After such review, the
12 commission shall file the testimony taken in its records, and
13 shall again make a decision, which decision shall be final.

14 Section 6. (a) At the completion of the testing process,
15 including any background, physical agility or other
16 examinations, with the exception of physical and psychological
17 medical examinations pursuant to section nine of this act, the
18 civil service commission shall rank the candidates who have
19 satisfied the minimum requirements for appointment on an
20 eligibility list. The eligibility list shall contain the names
21 of individuals eligible for appointment listed from highest to
22 lowest based on their scores on the examinations administered by
23 the commission and any points for which the applicant was
24 entitled by virtue of 51 Pa.C.S. Ch. 71 (relating to veterans'
25 preference). The eligibility list will be valid for one year
26 from the date the commission ranks all passing applicants,
27 assigns veterans' preference points and formally adopts the
28 eligibility list. The commission may, at its sole discretion
29 before the original expiration date, by a vote of the majority
30 of the commission at a duly authorized commission meeting,

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

6 (b) Every position or employment, unless filled by
7 promotion, reinstatement, or reduction, shall be filled only in
8 the following manner: The appointing officer shall notify the
9 civil service commission of any vacancy in the service which he
10 desires to fill, and shall request the certification of
11 eligibles. The commission shall forthwith certify, from the
12 appropriate eligible list, the names of the three persons
13 thereon who received the highest averages at the last preceding
14 examination held under the provisions of this act. The
15 appointing officer shall, thereupon, with sole reference to the
16 relative merit and fitness of the candidates, make an
17 appointment from the three names so certified. If the appointing
18 officer makes objection to the commission to one or more of the
19 persons named for any of the reasons stated in section five of
20 this act, or because of incapacity for duty because of current
21 addiction to the habitual use of alcohol or drugs, and if such
22 objections are sustained by the commission, the commission shall
23 thereupon strike the name of such person from the eligible list,
24 and certify the next highest name for each person so stricken
25 off. If any name shall be three times rejected for the same or
26 another position, such name shall be stricken from the list.
27 When there are a number of positions of the same kind to be
28 filled at the same time, each appointment shall be made
29 separately and in accordance with the foregoing provisions.

30 Section 3. Section 9 of the act, amended June 16, 1972

1 (P.L.427, No.125), is amended to read:

2 Section 9. [All applicants] An appointee selected from an
3 eligibility list in accordance with section six of this act for
4 any position in the fire department and as fire alarm operators
5 and fire box inspectors in the bureau of electricity shall
6 [undergo a physical] receive a conditional offer of employment.
7 The offer of employment shall be conditioned upon the appointee
8 successfully completing a physical medical examination, which
9 shall be conducted under the supervision of the physician member
10 of the civil service commission, or [if there be none, then] by
11 a physician appointed by the civil service commission. If
12 required by the rules and regulations of the commission, the
13 offer of employment may also be conditioned on the successful
14 completion of a psychological medical examination conducted
15 under the supervision of a psychologist or psychiatrist
16 appointed by the commission. [Said examiner] The examiners shall
17 certify that an applicant is free from any bodily or mental
18 defects, deformity or diseases that might incapacitate him from
19 the performance of the duties of the position desired. [before
20 said applicant shall be permitted to take further examinations.
21 No application will be received if the person applying is less
22 than eighteen years of age or more than thirty-five years of age
23 at the date of his application: Provided, however, That in event
24 any applicant has formerly served in the fire department or as a
25 fire alarm operator or fire box inspector in the bureau of
26 electricity of the city to which he makes application for a
27 period of more than six months, and no charges of misconduct or
28 other misfeasance were made against such applicant within a
29 period of two years next preceding the date of his application,
30 and is a resident of the city, then such person shall be

1 eligible for reinstatement, in the discretion of the civil
2 service commission, even though such applicant shall be over the
3 age of thirty-five years. Such applicant, providing his former
4 term of service so justifies, may be reappointed to the fire
5 department or as a fire alarm operator or fire box inspector in
6 the bureau of electricity without examination, other than a
7 physical examination. If such person is reinstated, he shall be
8 the lowest in rank in the department next above the probationers
9 of the department.] For purposes of this section, the term
10 "medical examination" shall mean any examination, procedure,
11 inquiry or test designed to obtain information about medical
12 history or a physical or mental defect or impairment. Nothing in
13 this section shall preclude rules and regulations requiring
14 physical fitness or agility examinations of applicants that are
15 job-related and consistent with business necessity, either
16 before or after being admitted to the regular examination held
17 by the commission.

18 Section 4. Nothing contained in this act shall affect the
19 validity of any civil services appointments made prior to the
20 effective date of this section.

21 Section 5. This act shall take effect immediately.