

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1517 Session of  
2009

INTRODUCED BY FREEMAN, GRUCELA, ROSS, GINGRICH AND KESSLER,  
MAY 26, 2009

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MAY 26, 2009

AN ACT

1 Amending the act of June 23, 1931 (P.L.932, No.317), entitled  
2 "An act relating to cities of the third class; and amending,  
3 revising, and consolidating the law relating thereto," in  
4 civil service, further providing for rules and regulations  
5 and examinations and for selection of appointee from a  
6 certified list of applicants.

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

9 Section 1. The act of June 23, 1931 (P.L.932, No.317), known  
10 as The Third Class City Code, reenacted and amended June 28,  
11 1951 (P.L.662, No.164), is amended by adding a section to read:

12 Section 4404.1. Physical and Psychological Medical  
13 Examinations.--(a) A board may require that an applicant  
14 conditionally appointed in accordance with section 4406 of this  
15 act undergo a physical or psychological medical examination as a  
16 condition of permanent appointment. Physical medical  
17 examinations, if required, shall be under the direction of a  
18 physician or other qualified medical professional. Psychological  
19 medical examinations, if required, shall be under the direction  
20 of a psychiatrist or psychologist.

1 (b) A physician, other qualified medical professional,  
2 psychiatrist or psychologist shall be appointed by council and  
3 shall render an opinion as to whether the conditional appointee  
4 has a physical or mental condition which calls into question his  
5 or her ability to perform all of the essential functions of the  
6 position for which he or she was conditionally appointed.

7 (c) If the opinion rendered by the medical examiner calls  
8 into question the conditional appointee's ability to perform all  
9 essential functions of a position, the director of the  
10 department within which the position is to be filled shall meet  
11 with the conditional appointee for the purpose of having one or  
12 more interactive discussions focused on the issue of whether the  
13 conditional appointee can, with or without reasonable  
14 accommodation, perform all the essential functions of the  
15 position.

16 (d) If, at the conclusion of the interactive discussion  
17 process, the department director determines that the conditional  
18 appointee is not qualified, the department director shall give  
19 written notice to the conditional appointee and the board.

20 (e) Nothing in this act shall be construed as authorizing  
21 physical or psychological medical examinations prior to  
22 conditional appointment in accordance with section 4406 of this  
23 act.

24 (f) As used in this section, the term "medical examination"  
25 shall mean any examination, procedure, inquiry or test designed  
26 to obtain information about medical history or a physical or  
27 mental condition which might disqualify an applicant if it would  
28 prevent the applicant from performing, with or without  
29 reasonable accommodation, all of the essential functions of the  
30 position.

1 Section 2. Section 4406 of the act, amended October 13, 1965  
2 (P.L.579, No.300), is amended to read:

3 Section 4406. Selection of Appointee from Certified List of  
4 Applicants.--Said boards shall make and keep, in numerical  
5 order, a list containing the names of all applicants for civil  
6 service positions in said city who may pass the required [mental  
7 and physical examinations.] examinations, including any required  
8 physical fitness or agility examinations that are job-related  
9 and consistent with business necessity. Where more than one  
10 person takes examinations for any of said positions at the same  
11 time, the names of all those successfully passing such  
12 examination shall be entered upon the list of eligible names in  
13 the order of their respective percentages, the highest coming  
14 first. The board shall furnish to council a certified copy of  
15 all lists so prepared and kept. Wherever any vacancy shall occur  
16 in any civil service position in said city, the city council  
17 shall make written application to the president of the proper  
18 board, who shall forthwith certify to the city council, in  
19 writing, the three names on the list of applicants for such  
20 position having the highest percentage, but if there be less  
21 than three eligible names on such list, the board shall certify  
22 such name or names. Thereupon the director of the department in  
23 which such appointment is to be made shall nominate to the city  
24 council a person from the list submitted to fill such vacancy.  
25 If the city council approves such nomination, the person  
26 nominated shall be conditionally appointed by council to fill  
27 such vacancy, and shall be assigned for service in the  
28 department[.], subject to any physical or psychological medical  
29 examinations that may be required by the appropriate examining  
30 board as a condition of permanent appointment in accordance with

1 section 4404.1 of this act. If the council does not approve such  
2 nomination, or if the appointee is determined by the medical  
3 examination process to be unqualified, then the director of the  
4 department in which such appointment is to be made shall submit  
5 another nomination for such position from the remaining names,  
6 if any, and if such nomination is not approved by the council,  
7 or if the appointee is determined by the medical examination  
8 process to be unqualified, he shall submit the third name, if  
9 any. The person whose nomination by the director is approved by  
10 the city council shall be appointed to fill such a position in  
11 the department or as building inspector. In all cases the boards  
12 may recommend those in the employ of a department for promotion  
13 in case the person recommended is competent for the higher  
14 position. The name of the person so appointed shall be  
15 immediately stricken from the list of said board, and the names  
16 of the rejected persons shall immediately be restored to their  
17 proper place in said list: Provided, however, That if the name  
18 of any applicant has been submitted to the said council and been  
19 rejected three times or the appointee has been determined by the  
20 medical examination process to be unqualified, then such name  
21 shall be stricken from the eligible list. As used in this  
22 section, the term "medical examination" shall have the meaning  
23 given it in section 4404.1 of this act.

24 Section 3. Nothing contained in the addition of section  
25 4404.1 of the act or the amendment of section 4406 of the act  
26 shall affect the validity of any civil services appointments  
27 made prior to the effective date of this section.

28 Section 4. This act shall take effect immediately.