

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1090 Session of 2011

INTRODUCED BY BARRAR, AUMENT, BOBACK, BRENNAN, CALTAGIRONE, CAUSER, DONATUCCI, EVERETT, FARRY, GEIST, GILLEN, GINGRICH, GOODMAN, GRELL, GROVE, HARRIS, HORNAMAN, JOHNSON, M. K. KELLER, KILLION, KOTIK, MAHONEY, MARSICO, METCALFE, MICOZZIE, MILLARD, MIRABITO, MURPHY, MURT, PYLE, QUINN, REICHLEY, STEVENSON, TALLMAN AND VULAKOVICH, MARCH 17, 2011

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 17, 2011

AN ACT

1 Amending the act of August 5, 1941 (P.L.752, No.286), entitled
 2 "An act regulating and improving the civil service of certain
 3 departments and agencies of the Commonwealth; vesting in the
 4 State Civil Service Commission and a Personnel Director
 5 certain powers and duties; providing for classification of
 6 positions, adoption of compensation schedules and
 7 certification of payrolls; imposing duties upon certain
 8 officers and employes of the Commonwealth; authorizing
 9 service to other State departments or agencies and political
 10 subdivisions of the Commonwealth in matters relating to civil
 11 service; defining certain crimes and misdemeanors; imposing
 12 penalties; making certain appropriations, and repealing
 13 certain acts and parts thereof," further providing for
 14 examinations requisite for appointment and promotion, for
 15 certification and for selection and appointment of eligibles.

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

18 Section 1. Section 501 of the act of August 5, 1941
 19 (P.L.752, No.286), known as the Civil Service Act, amended June
 20 28, 2004 (P.L.461, No.50), is amended to read:

21 Section 501. Examinations Requisite for Appointment and
 22 Promotion.--(a) Except as otherwise provided in this act,

1 appointments of persons entering the classified service or
2 promoted therein shall be from eligible lists established as the
3 result of examinations given by the director to determine the
4 relative merit and qualification of candidates. Such
5 examinations may be written and shall be competitive and open to
6 all persons who may be lawfully appointed to positions within
7 the classes for which the examinations are held, except that
8 persons in unskilled positions shall enter the classified
9 service by promotion without examination provided: (1) such
10 promotion is into a classified position immediately above the
11 person's own position; (2) such promotion is based on seniority
12 and meritorious service; (3) the person meets the minimum
13 requirements for that position; and (4) the person
14 satisfactorily completes a six month probationary period in the
15 classified position. If no persons in such unskilled positions
16 meet the preceding requirements, the vacant position may be
17 filled pursuant to Article V.

18 (b) Persons applying for positions or promotions in the
19 classified service shall be residents of the Commonwealth or
20 former residents of the Commonwealth who meet the requirements
21 of this subsection, and where applicable to the administrative
22 district. Former residents of the Commonwealth must have
23 relocated out of State for academic or employment purposes,
24 shall plan to establish Commonwealth residency within six months
25 of beginning employment in the classified service and must have:
26 (1) graduated from a public, private or nonpublic secondary
27 school in the Commonwealth or satisfied the requirements of
28 sections 1327 and 1327.1 of the act of March 10, 1949 (P.L.30,
29 No.14), known as the "Public School Code of 1949," within five
30 years of applying for a position in the classified service; (2)

1 satisfied the requirements of sections 1327 and 1327.1 of the
2 "Public School Code of 1949" or attended a public, private or
3 nonpublic school in the Commonwealth at least eighty percent of
4 the time while enrolled in grades one through twelve and
5 attended such school within five years of applying for a
6 position in the classified service; or (3) graduated or attended
7 a public, private or nonpublic secondary school in the
8 Commonwealth or satisfied the requirements of sections 1327 and
9 1327.1 of the "Public School Code of 1949" and graduated from a
10 postsecondary institution in the Commonwealth within five years
11 of applying for a position in the classified service.

12 Notwithstanding any of the provisions of this act, whenever an
13 appointing authority finds a lack of a sufficient number of
14 qualified personnel available for appointment to any particular
15 class or classes of positions, the appointing authority may
16 present evidence thereof to the director who may waive the
17 residence requirements for such class or classes of positions.

18 (c) The director shall prepare the proper State and district
19 employment and promotion eligible lists: Provided, That after an
20 examination has been conducted for any class of positions, if
21 there is no person with such legal residence in any
22 administrative district, remaining on the register the director
23 shall certify and the appointing authority may make the
24 appointment or promotion from the names of persons on an
25 appropriate eligible list for the same class of positions of
26 other administrative districts. Limitations as to [age, sex,]
27 health, moral character, experience and other qualifications may
28 be specified in the rules of the commission and in the
29 announcements of the examinations. All applications for
30 positions in the classified service shall be subject to the

1 penalties of 18 Pa.C.S. § 4904 (relating to unsworn
2 falsification to authorities).

3 (d) The commission may limit competition in promotion
4 examinations to employes in the classified service who have
5 completed their probationary period in a class or classes
6 designated in the public notice of the examinations, and may
7 permit promotions to be accomplished by any one of the following
8 plans: (1) by appointment from open competitive lists; or (2) by
9 achieving a place on an eligible list after a promotional
10 examination, such examination having been given at the request
11 of the appointing authority; or (3) by promotion based upon
12 meritorious service and seniority to be accomplished by
13 appointment without examination, if the person has completed the
14 probationary period in the next lower position and meets the
15 minimum requirements for the higher position.

16 (e) To the extent permitted by law, when all applicants for
17 appointment or promotion to a position in the classified service
18 are equally qualified, preference will be shown to applicants
19 who are United States citizens over those who are not.

20 Section 2. Sections 601 and 602 of the act, amended November
21 27, 2002 (P.L.1129, No.140), are amended to read:

22 Section 601. Certification.--(a) Whenever a vacancy [is
23 likely to occur or] is to be filled in the classified service,
24 the appointing authority shall submit to the director a
25 statement indicating the position to be filled. Unless the
26 appointing authority elects to follow one of the alternative
27 procedures provided for in this act, or unless there is in
28 existence a labor agreement covering promotions in the
29 classified service, in which case the terms and procedures of
30 such labor agreement relative to the procedures for promotions

1 shall be controlling, the director shall certify to the
2 appointing authority the names of the three eligibles who are
3 highest on the appropriate promotion list or employment list,
4 whichever is in existence, or from the one, which under the
5 rules of the commission, has priority.

6 (b) If the appropriate employment or promotion certification
7 of eligibles contains fewer than three eligibles who are willing
8 to accept appointment or if there is no appropriate eligible
9 list, the appointing authority may appoint an available eligible
10 from the approved list or request the director to certify from
11 such other list or lists as the director deems the next most
12 nearly appropriate. If operational conditions of the appointing
13 authority [so dictate and it is found] dictate it to be in the
14 interest of the service to the Commonwealth, the commission may
15 authorize selective certifications based on standards to be
16 prescribed by the commission. Any person on any promotion or
17 employment list who waives consideration for promotion or
18 appointment need not be considered among the names from which a
19 promotion or appointment is to be made.

20 Section 602. Selection and Appointment of Eligibles.--[If a
21 vacant position is to be filled, an] (a) An appointing
22 authority may request the director to issue an appropriate
23 certification of eligibles to fill a vacant position unless a
24 labor agreement contains promotion procedures which are
25 inconsistent with this act, in which case the terms of such
26 labor agreement shall be controlling. The certification of
27 eligibles shall be valid for sixty work days.

28 (b) If the vacant position is to be filled from an
29 employment or promotion list, the appointing authority shall
30 select a person who is among the three highest ranking available

1 persons on the certification of eligibles. In making the second,
2 third or any additional selection from the eligibles on an
3 employment or promotional certification, each selection shall be
4 from among the three highest scoring available persons remaining
5 on such certification of eligibles. After a person has been
6 rejected three times by an appointing authority in favor of
7 others on the same eligible list, such person shall not again be
8 certified to that appointing authority, except upon written
9 request from the appointing authority.

10 (c) Appointing authorities shall promptly report to the
11 director the appointment of certified eligibles [who have been
12 certified]. If a certified eligible refuses to accept an offer
13 of employment, such refusal shall be promptly investigated by
14 the director and, if it be found that the refusal has been made
15 for improper or insufficient reasons, the director shall after
16 giving ten days' notice to such person remove the eligible from
17 the list.

18 (d) Whenever an appointing authority utilizes multiple lists
19 of certified eligibles or alternative procedures to fill a
20 vacancy, the following shall apply:

21 (1) Any list certified or furnished to the appointing
22 authority to fill a vacancy shall be used.

23 (2) When utilizing multiple lists, the appointing authority
24 shall select from among the three highest ranking available
25 persons.

26 (3) If a veteran appears on any list and at any time is
27 among the three highest ranking available persons, the
28 appointing authority shall select that person.

29 (e) Persons applying for positions or promotions in the
30 classified service may only be disqualified from application,

1 certification or appointment or promotion for the following
2 reasons based on a preponderance of evidence:

3 (1) The person is addicted to the use of narcotics or
4 intoxicating beverages when the addiction renders the applicant
5 unable to competently perform the duties of the position sought.

6 (2) The person has been found guilty of crime or of conduct
7 which renders the person unfit for the position sought.

8 (3) The person has been dismissed from employment for
9 incompetency or misconduct and the incompetency or misconduct
10 renders the person unfit for the position sought.

11 (4) The person has a physical or mental disability which
12 renders the applicant unable to perform the essential functions
13 of the position and responsibilities with or without reasonable
14 accommodation.

15 (5) The person has made a false statement or omitted a
16 material fact, or practiced or attempted to practice deception
17 or fraud in application, examination, in securing eligibility or
18 seeking appointment.

19 (f) (1) An appointing authority may only conduct interviews
20 of the highest ranking available persons on the certified or
21 furnished list for appointment or promotion.

22 (2) An appointing authority shall take every step necessary
23 to ensure that all available eligibles ranked highest on a
24 certified or furnished list are afforded an opportunity to be
25 interviewed to fill a vacancy.

26 Section 3. This act shall take effect immediately.