

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1461 Session of 2011

INTRODUCED BY ROSS, GINGRICH, CREIGHTON, FREEMAN AND SANTARSIERO, MAY 4, 2011

SENATOR CORMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS AMENDED, OCTOBER 24, 2011

AN ACT

1 Amending the act of February 1, 1966 (1965 P.L.1656, No.581),
2 entitled "An act concerning boroughs, and revising, amending
3 and consolidating the law relating to boroughs," IN FUNCTIONS
4 OF APPOINTED OFFICERS AND EMPLOYEES, FURTHER PROVIDING FOR
5 APPOINTMENTS AND INCOMPATIBLE OFFICES; AND, in civil service
6 for police and firemen, further providing for examinations
7 and for eligibility list and manner of filling appointments.



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

10 Section 1. Sections 1181 and 1184(a) of the act of February
11 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code,
12 amended October 27, 2010 (P.L.884, No.91), are amended to read:



13 SECTION 1. SECTION 1104 OF THE ACT OF FEBRUARY 1, 1966 (1965
14 P.L.1656, NO.581), KNOWN AS THE BOROUGH CODE, AMENDED JUNE 25,
15 2001 (P.L.651, NO.56), IS AMENDED TO READ:



16 SECTION 1104. APPOINTMENTS; INCOMPATIBLE OFFICES.--(A)
17 UNLESS THERE IS INCOMPATIBILITY IN FACT, ANY ELECTIVE OR
18 APPOINTIVE OFFICER OF THE BOROUGH SHALL BE ELIGIBLE TO SERVE ON
19 ANY BOARD, COMMISSION, BUREAU OR OTHER AGENCY CREATED BY OR FOR

1 THE BOROUGH, OR ANY BOROUGH OFFICE CREATED OR AUTHORIZED BY  
2 STATUTE AND MAY ACCEPT APPOINTMENTS THEREUNDER, BUT NO MAYOR OR  
3 MEMBER OF COUNCIL SHALL RECEIVE COMPENSATION THEREFOR. [NO]

4 (B) THE FOLLOWING APPLY TO EMPLOYMENT:

5 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), NO ELECTED BOROUGH  
6 OFFICIAL OF A BOROUGH WITH A POPULATION OF 3,000 OR MORE MAY  
7 SERVE AS AN EMPLOYEE OF THAT BOROUGH.

8 (2) THIS SUBSECTION SHALL NOT APPLY TO A BOROUGH OFFICIAL  
9 SERVING AS AN EMPLOYEE OF THAT BOROUGH PRIOR TO THE CERTIFICATION  
10 OF A DECENNIAL CENSUS WHICH INDICATES AN INCREASE IN THE  
11 POPULATION OF THAT BOROUGH TO 3,000 OR MORE.

12 (C) WHERE THERE IS NO INCOMPATIBILITY IN FACT, AND SUBJECT  
13 TO THE FOREGOING PROVISIONS AS TO COMPENSATION, APPOINTEES OF  
14 COUNCIL MAY HOLD TWO OR MORE APPOINTIVE BOROUGH OFFICES, BUT NO  
15 MAYOR OR MEMBER OF COUNCIL MAY SERVE AS BOROUGH MANAGER OR AS  
16 SECRETARY OR TREASURER.

17 (D) NO PERSON HOLDING THE OFFICE OF [JUSTICE OF THE PEACE]  
18 MAGISTERIAL DISTRICT JUDGE MAY AT THE SAME TIME HOLD THE OFFICE  
19 OF BOROUGH TREASURER.

20 (E) THE OFFICES OF SECRETARY AND TREASURER MAY BE HELD BY  
21 THE SAME PERSON WHEN SO AUTHORIZED BY ORDINANCE.

22 (F) NOTHING HEREIN CONTAINED SHALL AFFECT THE ELIGIBILITY OF  
23 ANY BOROUGH OFFICIAL TO HOLD ANY OTHER PUBLIC OFFICE OR RECEIVE  
24 COMPENSATION THEREFOR.

25 (G) ALL APPOINTMENTS TO BE MADE BY THE COUNCIL OR THE  
26 CORPORATE AUTHORITIES SHALL BE MADE BY A MAJORITY OF THE MEMBERS  
27 OF COUNCIL ATTENDING THE MEETING AT WHICH THE APPOINTMENT IS  
28 MADE, UNLESS A DIFFERENT VOTE IS REQUIRED BY STATUTE.

29 SECTION 1.1. SECTIONS 1181 AND 1184(A) OF THE ACT, AMENDED  
30 OCTOBER 27, 2010 (P.L.884, NO.91), ARE AMENDED TO READ:

1 Section 1181. General Provisions Relating to Examinations.--

2 (a) The commission shall make rules and regulations, to be  
3 approved as provided in section 1176 hereof, providing for the  
4 examination of applicants for positions in the police force and  
5 as paid operators of fire apparatus and for promotions, which  
6 rules and regulations shall prescribe the minimum qualifications  
7 of all applicants to be examined and the passing grades. All  
8 examinations for positions or promotions shall be practical in  
9 character and shall relate to such matters and include such  
10 inquiries as will fairly test the merit and fitness of the  
11 persons examined to discharge the duties of the employment  
12 sought by them. All examinations shall be open to all applicants  
13 who have the minimum qualifications required by the rules and  
14 regulations. Each applicant for an original position shall:

15 (1) be subject to the regulations adopted by the commission;

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

19 [and]

20 (3) if made a conditional offer of employment, be given a  
21 physical and psychological medical examination as provided in  
22 section 1189 of this act[.]; and

23 (4) be subject to a background investigation. Background  
24 investigations may be restricted to those candidates on an  
25 eligibility list or those to be certified to borough council for  
26 appointment in accordance with section 1184 of this act.

27 (a.1) Each applicant for promotion shall be subject to the  
28 regulations adopted by the commission and to examination and  
29 selection in accordance with section 1188 of this act. Physical  
30 fitness or agility examinations that are job-related and

1 consistent with business necessity and physical and  
2 psychological medical examinations may, but need not, be  
3 required for promotions.

4 (b) Public notice of the time and place of every  
5 examination, together with the information as to the kind of  
6 position or place to be filled, shall be given by publication  
7 once in a newspaper of general circulation in the borough, at  
8 least two weeks prior to each examination, and a copy of the  
9 notice shall be prominently posted in the office of the  
10 commission or other public place.

11 (c) The commission shall post in its office the eligible  
12 list, containing the names and grades of those who have passed  
13 the examination.

14 Section 1184. Eligibility List and Manner of Filling  
15 Appointments.--(a) At the completion of the testing process,  
16 including any [background,] physical agility or other  
17 examination, with the exception of any background investigation  
18 to be conducted after the establishment of an eligibility list  
19 and physical and psychological medical examination pursuant to  
20 section 1189 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 will be valid for  
28 one year from the date the commission formally adopts the  
29 eligibility list. Prior to expiration of the one-year period,  
30 the commission may extend the validity of the eligibility list

1 for up to an additional twelve months by a majority vote of the  
2 commission at a duly authorized commission meeting. In the  
3 absence of a lawful extension by the commission, the list shall  
4 expire.

5 \* \* \*

6 Section 2. The amendment of section 1181 of the act shall  
7 apply to all promotion examinations conducted on or after  
8 October 27, 2010.

9 ~~Section 3. This act shall take effect immediately.~~ ←

10 SECTION 3. THIS ACT SHALL TAKE EFFECT AS FOLLOWS: ←

11 (1) THE AMENDMENT OF SECTION 1104 OF THE ACT SHALL TAKE  
12 EFFECT IN 60 DAYS.

13 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT  
14 IMMEDIATELY.