

1 AN ACT in relation to fire protection.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the
5 Fire Department Promotion Act.

6 Section 5. Definitions. In this Act:

7 "Affected department" or "department" means a municipal
8 fire department or the fire department operated by a fire
9 protection district. The terms do not include fire
10 departments operated by the State, a university, or a
11 municipality with a population over 1,000,000 or any unit of
12 local government other than a municipality or fire protection
13 district. The terms also do not include a combined department
14 that was providing both police and firefighting services on
15 January 1, 2002.

16 "Appointing authority" means the Board of Fire and Police
17 Commissioners, Board of Fire Commissioners, Civil Service
18 Commissioners, Superintendent or Department Head, Fire
19 Protection District Board of Trustees, or other entity having
20 the authority to administer and grant promotions in an
21 affected department.

22 "Promotion" means any appointment or advancement to a
23 rank within the affected department for which an examination
24 was required before the effective date of this Act.
25 "Promotion" does not include appointments (i) that are for
26 less than 180 days; (ii) to the positions of Superintendent,
27 Chief, or other chief executive officer; (iii) to an
28 exclusively administrative or executive rank for which an
29 examination is not required; (iv) to a rank that has
30 previously been exempted by a home rule municipality,
31 provided that after the effective date of this Act no home

1 rule municipality may exempt any future or existing ranks
2 from the provisions of this Act; or (v) to an administrative
3 rank immediately below the Superintendent, Chief, or other
4 chief executive officer of an affected department, provided
5 such rank shall not exceed 2 persons and there is a promoted
6 rank immediately below it. Notwithstanding the exceptions to
7 the definition of "promotion" set forth in items (i), (ii),
8 (iii), (iv), and (v) of this paragraph, promotions shall
9 include any appointments to ranks covered by the terms of a
10 collective bargaining agreement in effect on the effective
11 date of this Act.

12 "Preliminary promotion list" means the rank order of
13 eligible candidates established in accordance with subsection
14 (b) of Section 20 prior to applicable veteran's preference
15 points. A person on the preliminary promotion list who is
16 eligible for veteran's preference under the laws and
17 agreements applicable to the appointing authority may file a
18 written application for that preference within 10 days after
19 the initial posting of the preliminary promotion list. The
20 preference shall be calculated in accordance with Section 55
21 and applied as an addition to the person's total point score
22 on the examination. The appointing authority shall make
23 adjustments to the preliminary promotion list based on any
24 veteran's preference claimed and the final adjusted promotion
25 list shall then be posted by the appointing authority.

26 "Final adjusted promotion list" means the promotion list
27 for the position that is in effect on the date the position
28 is created or the vacancy occurs. If there is no final
29 adjusted promotion list in effect for that position on that
30 date, or if all persons on the current final adjusted
31 promotion list for that position refuse the promotion, the
32 affected department shall not make a permanent promotion
33 until a new final adjusted promotion list has been prepared
34 in accordance with this Act, but may make a temporary

1 appointment to fill the vacancy. Temporary appointments shall
2 not exceed 180 days.

3 Each component of the promotional test shall be scored on
4 a scale of 100 points. The component scores shall then be
5 reduced by the weighting factor assigned to the component on
6 the test and the scores of all components shall be added to
7 produce a total score based on a scale of 100 points.

8 Section 10. Applicability.

9 (a) This Act shall apply to all positions in an affected
10 department, except those specifically excluded in items (i),
11 (ii), (iii), (iv), and (v) of the definition of "promotion"
12 in Section 5 unless such positions are covered by a
13 collective bargaining agreement in force on the effective
14 date of this Act. Existing promotion lists shall continue to
15 be valid until after their expiration dates, or up to a
16 maximum of 3 years after the effective date of this Act.

17 (b) Notwithstanding any statute, ordinance, rule, or
18 other laws to the contrary, all promotions in an affected
19 department to which this Act applies shall be administered in
20 the manner provided for in this Act. Provisions of the
21 Illinois Municipal Code, the Fire Protection District Act,
22 municipal ordinances, or rules adopted pursuant to such
23 authority and other laws relating to promotions in affected
24 departments shall continue to apply to the extent they are
25 compatible with this Act, but in the event of conflict
26 between this Act and any other law, this Act shall control.

27 (c) A home rule or non-home rule municipality may not
28 administer its fire department promotion process in a manner
29 that is inconsistent with this Act. This Section is a
30 limitation under subsection (i) of Section 6 of Article VII
31 of the Illinois Constitution on the concurrent exercise by
32 home rule units of the powers and functions exercised by the
33 State.

1 (d) This Act does not apply to any municipality with a
2 population over 1,000,000.

3 (e) This Act is intended to serve as a minimum standard
4 and shall be construed to authorize and not to limit:

5 (1) An appointing authority from establishing
6 different or supplemental promotional criteria
7 components, provided that each component is job-related
8 and applied uniformly to all candidates.

9 (2) The negotiation by an employer and an exclusive
10 representative of clauses within a collective bargaining
11 agreement relating to conditions or procedures for the
12 promotion of employees who are not specifically excluded
13 under items (i), (ii), (iii), (iv), and (v) of the
14 definition of "promotion" in Section 5.

15 Section 15. Promotion process.

16 (a) For the purpose of granting promotion to any rank to
17 which this Act applies, the appointing authority shall from
18 time to time, as necessary, administer a promotion process in
19 accordance with this Act.

20 (b) Eligibility requirements to participate in the
21 promotional process may include a minimum requirement as to
22 the length of employment, education, training, and
23 certification in subjects and skills related to fire
24 fighting. After the effective date of this Act, any such
25 eligibility requirements shall be published at least one year
26 prior to the date of the beginning of the promotional process
27 and all members of the affected department shall be given an
28 equal opportunity to meet those eligibility requirements.

29 (c) All aspects of the promotion process shall be
30 equally accessible to all eligible employees of the
31 department. Every component of the testing and evaluation
32 procedures shall be published to all eligible candidates when
33 the announcement of promotional testing is made. The scores

1 for each component of the testing and evaluation procedures
2 shall be disclosed to each candidate as soon as practicable
3 after the component is completed.

4 (d) The appointing authority shall provide a separate
5 promotional examination for each rank that is filled by
6 promotion. All examinations for promotion shall be
7 competitive among the members of the next lower rank who meet
8 the established eligibility requirements and desire to submit
9 themselves to examination. The appointing authority may
10 employ consultants to design and administer promotion
11 examinations or may adopt any job-related examinations or
12 study materials that may become available, so long as they
13 comply with the requirements of this Act.

14 Section 20. Promotion lists.

15 (a) For the purpose of granting a promotion to any rank
16 to which this Act applies, the appointing authority shall
17 from time to time, as necessary, prepare a preliminary
18 promotion list in accordance with this Act. The preliminary
19 promotion list shall be distributed, posted, or otherwise
20 made conveniently available by the appointing authority to
21 all members of the department.

22 (b) A person's position on the preliminary promotion
23 list shall be determined by a combination of factors which
24 may include any of the following: (i) the person's score on
25 the written examination for that rank, determined in
26 accordance with Section 35; (ii) the person's seniority
27 within the department, determined in accordance with Section
28 40; (iii) the person's ascertained merit, determined in
29 accordance with Section 45; and (iv) the person's score on
30 the subjective evaluation, determined in accordance with
31 Section 50. Candidates shall be ranked on the list in rank
32 order based on the highest to the lowest total points scored
33 on all of the components of the test. Promotional components,

1 as defined herein, shall be determined and administered in
2 accordance with the referenced Section, unless otherwise
3 modified or agreed to as provided by paragraph (1) or (2) of
4 subsection (e) of Section 10. The use of physical criteria,
5 including but not limited to fitness testing, agility
6 testing, and medical evaluations, is specifically barred from
7 the promotion process.

8 (c) A person on the preliminary promotion list who is
9 eligible for a veteran's preference under the laws and
10 agreements applicable to the department may file a written
11 application for that preference within 10 days after the
12 initial posting of the preliminary promotion list. The
13 preference shall be calculated as provided under Section 55
14 and added to the total score achieved by the candidate on the
15 test. The appointing authority shall then make adjustments
16 to the rank order of the preliminary promotion list based on
17 any veteran's preferences awarded. The final adjusted
18 promotion list shall then be distributed, posted, or
19 otherwise made conveniently available by the appointing
20 authority to all members of the department.

21 (d) Whenever a promotional rank is created or becomes
22 vacant due to resignation, discharge, promotion, death, or
23 the granting of a disability or retirement pension, or any
24 other cause, the department shall appoint to that position
25 the person with the highest ranking on the final promotion
26 list for that rank, except that the appointing authority may
27 pass over the person with the highest ranking if it has an
28 objectively demonstrable basis for determining that the
29 person is unable to perform the duties of the position. Any
30 dispute as to the existence of such a basis shall be subject
31 to resolution in accordance with any grievance procedure in
32 effect covering the employee.

33 A vacancy shall be deemed to occur in a position on the
34 date upon which the position is vacated, and on that same

1 date, a vacancy shall occur in all ranks inferior to that
2 rank, provided that the position or positions continue to be
3 funded and authorized by the corporate authorities. If a
4 vacated position is not filled due to a lack of funding or
5 authorization and is subsequently reinstated, the final
6 promotion list shall be continued in effect until all
7 positions vacated have been filled or for a period up to 5
8 years beginning from the date on which the position was
9 vacated. In such event, the candidate or candidates who
10 would have otherwise been promoted when the vacancy
11 originally occurred shall be promoted.

12 Any candidate may refuse a promotion once without losing
13 his or her position on the final adjusted promotion list.
14 Any candidate who refuses promotion a second time shall be
15 removed from the final adjusted promotion list, provided that
16 such action shall not prejudice a person's opportunities to
17 participate in future promotion examinations.

18 (e) A final adjusted promotion list shall remain valid
19 for a period of 3 years after the date of the initial
20 posting. Integrated lists are prohibited and when a list
21 expires it shall be void, except as provided in subsection
22 (d) of this Section. If a promotion list is not in effect,
23 a successor list shall be prepared and distributed within 180
24 days after a vacancy, as defined in subsection (d) of this
25 Section.

26 Section 25. Monitoring.

27 (a) All aspects of the promotion process, including
28 without limitation the administration, scoring, and posting
29 of scores for the written examination and subjective
30 evaluation and the determination and posting of seniority and
31 ascertained merit scores, shall be subject to monitoring and
32 review in accordance with this Section and Sections 30 and
33 50.

1 (b) Two impartial persons who are not members of the
2 affected department shall be selected to act as observers as
3 follows: by the exclusive bargaining agent or if there is no
4 exclusive bargaining agent, then by a majority of the
5 candidates participating in the promotion process. The
6 corporate authorities may also select 2 additional impartial
7 observers.

8 (c) The observers monitoring the promotion process are
9 authorized to be present and observe when any component of
10 the test is administered or scored. Observers may not
11 interfere with the promotion process, but shall promptly
12 report any observed or suspected violation of the
13 requirements of this Act or an applicable collective
14 bargaining agreement to the appointing authority and all
15 other affected parties.

16 Section 30. Promotion examination components. Promotion
17 examinations that include components consisting of written
18 examinations, seniority points, ascertained merit, or
19 subjective evaluations shall be administered as provided in
20 Sections 35, 40, 45 and 50. The weight, if any, that is
21 given to any such component included in a test may be set at
22 the discretion of the appointing authority provided that such
23 weight shall be subject to modification by the terms of any
24 collective bargaining agreement in effect on the effective
25 date of this Act or thereafter by negotiations between the
26 employer and an exclusive bargaining representative. If the
27 appointing authority establishes a minimum passing score,
28 such score shall be announced prior to the date of the
29 promotion process and it must be an aggregate of all
30 components of the testing process. All candidates shall be
31 allowed to participate in all components of the testing
32 process irrespective of their score on any one component.

1 Section 35. Written examinations.

2 (a) The appointing authority may not condition
3 eligibility to take the written examination on the
4 candidate's score on any of the previous components of the
5 examination. The written examination for a particular rank
6 shall consist of matters relating to the duties regularly
7 performed by persons holding that rank within the department.
8 The examination shall be based only on the contents of
9 written materials that the appointing authority has
10 identified and made readily available to potential examinees
11 at least 90 days before the examination is administered. The
12 test questions and material must be pertinent to the
13 particular rank for which the examination is being given. The
14 written examination shall be administered after the
15 determination and posting of the seniority list, ascertained
16 merit points, and subjective evaluation scores. The written
17 examination shall be administered, the test materials opened,
18 and the results scored and tabulated only in the presence of
19 the observers appointed under Section 25 and only in
20 accordance with subsection (b) of this Section.

21 (b) Written examinations shall be graded at the
22 examination site on the day of the examination immediately
23 upon completion of the test in front of the observers if such
24 observers are appointed under Section 25, or if the tests
25 are graded offsite by a bona fide testing agency, the
26 observers shall witness the sealing and the shipping of the
27 tests for grading and the subsequent opening of the scores
28 upon the return from the testing agency. Every examinee shall
29 have the right (i) to obtain his or her score on the
30 examination on the day of the examination or upon the day of
31 its return from the testing agency (or the appointing
32 authority shall require the testing agency to mail the
33 individual scores to any address submitted by the candidates
34 on the day of the examination); and (ii) to review the

1 answers to the examination that the examiners consider
2 correct. The appointing authority may hold a review session
3 after the examination for the purpose of gathering feedback
4 on the examination from the candidates.

5 (c) Sample written examinations may be examined by the
6 appointing authority and members of the department, but no
7 person in the department or the appointing authority
8 (including the Chief, Civil Service Commissioners, Board of
9 Fire and Police Commissioners, Board of Fire Commissioners,
10 or Fire Protection District Board of Trustees and other
11 appointed or elected officials) may see or examine the
12 specific questions on the actual written examination before
13 the examination is administered. If a sample examination is
14 used, actual test questions shall not be included. It is a
15 violation of this Act for any member of the department or the
16 appointing authority to obtain or divulge foreknowledge of
17 the contents of the written examination before it is
18 administered.

19 (d) Each department shall maintain reading and study
20 materials for its current written examination and the reading
21 list for the last 2 written examinations for each rank and
22 shall make these materials available and accessible at each
23 duty station.

24 Section 40. Seniority points.

25 (a) Seniority points shall be based only upon service
26 with the affected department and shall be calculated as of
27 the date of the written examination. The weight of this
28 component and its computation shall be determined by the
29 appointing authority or through a collective bargaining
30 agreement.

31 (b) A seniority list shall be posted before the written
32 examination is given and before the preliminary promotion
33 list is compiled. The seniority list shall include the

1 seniority date, any breaks in service, the total number of
2 eligible years, and the number of seniority points.

3 Section 45. Ascertained merit.

4 (a) The promotion test may include points for
5 ascertained merit. Ascertained merit points may be awarded
6 for education, training, and certification in subjects and
7 skills related to the fire service. The basis for granting
8 ascertained merit points, after the effective date of this
9 Act, shall be published at least one year prior to the date
10 ascertained merit points are awarded and all persons eligible
11 to compete for promotion shall be given an equal opportunity
12 to obtain ascertained merit points unless otherwise agreed to
13 in a collective bargaining agreement.

14 (b) Total points awarded for ascertained merit shall be
15 posted before the written examination is administered and
16 before the promotion list is compiled.

17 Section 50. Subjective evaluation.

18 (a) A promotion test may include a subjective evaluation
19 component. Subjective evaluations may include an oral
20 interview, tactical evaluation, performance evaluation, or
21 other component based on subjective evaluation of the
22 examinee. The methods used for subjective evaluations may
23 include using any employee assessment centers, evaluation
24 systems, chief's points, or other methods.

25 (b) Any subjective component shall be identified to all
26 candidates prior to its application, be job-related, and be
27 applied uniformly to all candidates. Every examinee shall
28 have the right to documentation of (i) his or her score on
29 the subjective component upon the completion of the
30 subjective examination component or its application and (ii)
31 an explanation of the basis or reasons for the score awarded.
32 Where chief's points or other subjective methods are employed

1 that are not amenable to monitoring, monitors shall not be
2 required, but any disputes as to the results of such methods
3 shall be subject to resolution in accordance with any
4 collectively bargained grievance procedure in effect at the
5 time of the test.

6 (c) Where performance evaluations are used as a basis
7 for promotions, they shall be given annually and made readily
8 available to each candidate for review and they shall include
9 any disagreement or documentation the employee provides to
10 refute or contest the evaluation.

11 (d) Total points awarded for subjective components shall
12 be posted before the written examination is administered and
13 before the promotion list is compiled.

14 Section 55. Veterans' preference. A person on a
15 preliminary promotion list who is eligible for veteran's
16 preference under any law or agreement applicable to an
17 affected department may file a written application for that
18 preference within 10 days after the initial posting of the
19 preliminary promotion list. The veteran's preference shall
20 be calculated as provided in the applicable law and added to
21 the applicant's total score on the preliminary promotion
22 list. Any person who has received a promotion from a
23 promotion list on which his or her position was adjusted for
24 veteran's preference, under this Act or any other law, shall
25 not be eligible for any subsequent veteran's preference under
26 this Act.

27 Section 60. Right to review. Any affected person or party
28 who believes that an error has been made with respect to
29 eligibility to take an examination, examination result,
30 placement or position on a promotion list, or veteran's
31 preference shall be entitled to a review of the matter by the
32 appointing authority or as otherwise provided by law in this

1 Act. This Section is not exclusive and does not limit any
2 right to seek review or redress under any other law or
3 agreement.

4 Section 65. Violations.

5 (a) A person who knowingly divulges or receives test
6 questions or answers before a written examination, or
7 otherwise knowingly violates or subverts any requirement of
8 this Act commits a violation of this Act and may be subject
9 to charges for official misconduct.

10 (b) A person who is the knowing recipient of test
11 information in advance of the examination shall be
12 disqualified from the promotion examination or demoted from
13 the rank to which he was promoted, as applicable and
14 otherwise subjected to disciplinary actions.

15 Section 900. The State Mandates Act is amended by adding
16 Section 8.27 as follows:

17 (30 ILCS 805/8.27 new)

18 Sec. 8.27. Exempt mandate. Notwithstanding Sections 6
19 and 8 of this Act, no reimbursement by the State is required
20 for the implementation of any mandate created by this
21 amendatory Act of the 93rd General Assembly.

22 Section 999. Effective date. This Act takes effect upon
23 becoming law.