

1 An Act concerning firefighters.

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.

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

20 "Promotion" means any appointment or advancement to a  
21 rank within the affected department for which an examination  
22 was required before the effective date of this Act.

23 "Promotion" does not include appointments (i) that are for  
24 less than 180 days; (ii) to the positions of Superintendent,  
25 Chief, or other chief executive officer; (iii) to an  
26 exclusively administrative or executive rank for which an  
27 examination is not required; (iv) to a rank that has  
28 previously been exempted by a home rule municipality,  
29 provided that after the effective date of this Act no home  
30 rule municipality may exempt any future or existing ranks  
31 from the provisions of this Act; or (v) to an administrative

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

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

24 "Final adjusted promotion list" means the promotion list  
25 for the position that is in effect on the date the position  
26 is created or the vacancy occurs. If there is no final  
27 adjusted promotion list in effect for that position on that  
28 date, or if all persons on the current final adjusted  
29 promotion list for that position refuse the promotion, the  
30 affected department shall not make a permanent promotion  
31 until a new final adjusted promotion list has been prepared  
32 in accordance with this Act, but may make a temporary  
33 appointment to fill the vacancy. Temporary appointments shall  
34 not exceed 180 days.

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

6           Section 10. Applicability.

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

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

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

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

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

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

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

13 Section 15. Promotion process.

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

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

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

1 after the component is completed.

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

12 Section 20. Promotion lists.

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

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

1 modified or agreed to as provided by paragraph (1) or (2) of  
2 subsection (e) of Section 10. The use of physical criteria,  
3 including but not limited to, fitness testing, agility  
4 testing, or medical evaluations is specifically barred from  
5 being used in the promotion process.

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

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

31 A vacancy shall be deemed to occur in a position on the  
32 date upon which the position is vacated, and on that same  
33 date, a vacancy shall occur in all ranks inferior to that  
34 rank, provided that the position or positions continue to be

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

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

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

24 Section 25. Monitoring.

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

32 (b) Two impartial persons who are not members of the  
33 affected department shall be selected to act as observers as

1 follows: by the exclusive bargaining agent or if there is no  
2 exclusive bargaining agent, then by a majority of the  
3 candidates participating in the promotion process. The  
4 corporate authorities may also select 2 additional impartial  
5 observers.

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

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

31 Section 35. Written examinations.

32 (a) The appointing authority may not condition



1 eligibility to take the written examination on the  
2 candidate's score on any of the previous components of the  
3 examination. The written examination for a particular rank  
4 shall consist of matters relating to the duties regularly  
5 performed by persons holding that rank within the department.  
6 The examination shall be based only on the contents of  
7 written materials that the appointing authority has  
8 identified and made readily available to potential examinees  
9 at least 90 days before the examination is administered. The  
10 test questions and material must be pertinent to the  
11 particular rank for which the examination is being given. The  
12 written examination shall be administered after the  
13 determination and posting of the seniority list, ascertained  
14 merit points, and subjective evaluation scores. The written  
15 examination shall be administered, the test materials opened,  
16 and the results scored and tabulated only in the presence of  
17 the observers appointed under Section 25 and only in  
18 accordance with subsection (b) of this Section.

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

1 after the examination for the purpose of gathering feedback  
2 on the examination from the candidates.

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

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

22 Section 40. Seniority points.

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

29 (b) A seniority list shall be posted before the written  
30 examination is given and before the preliminary promotion  
31 list is compiled. The seniority list shall include the  
32 seniority date, any breaks in service, the total number of  
33 eligible years, and the number of seniority points.

1 Section 45. Ascertained merit.

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

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

15 Section 50. Subjective evaluation.

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

23 (b) Any subjective component shall be identified to all  
24 candidates prior to its application, be job related, and be  
25 applied uniformly to all candidates. Every examinee shall  
26 have the right to documentation of (i) his or her score on  
27 the subjective component upon the completion of the  
28 subjective examination component or its application and (ii)  
29 an explanation of the basis or reasons for the score awarded.  
30 Where chief's points or other subjective methods are employed  
31 that are not amenable to monitoring, monitors shall not be  
32 required, but any disputes as to the results of such methods  
33 shall be subject to resolution in accordance with any

1 collectively bargained grievance procedure in effect at the  
2 time of the test.

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

8 (d) Total points awarded for subjective components shall  
9 be posted before the written examination is administered and  
10 before the promotion list is compiled.

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

24 Section 60. Right to review. Any affected person or party  
25 who believes that an error has been made with respect to  
26 eligibility to take an examination, examination result,  
27 placement or position on a promotion list, or veteran's  
28 preference shall be entitled to a review of the matter by the  
29 appointing authority or as otherwise provided by law in this  
30 Act. This Section is not exclusive and does not limit any  
31 right to seek review or redress under any other law or  
32 agreement.

1 Section 65. Violations.

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

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

12 Section 900. The State Mandates Act is amended by adding  
13 Section 8.25 as follows:

14 (30 ILCS 805/8.25 new)

15 Sec. 8.25. Exempt mandate. Notwithstanding Sections 6  
16 and 8 of this Act, no reimbursement by the State is required  
17 for the implementation of any mandate created by this  
18 amendatory Act of the 92nd General Assembly.

19 Section 999. Effective date. This Act takes effect upon  
20 becoming law.