

AN ACT concerning local government.

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

Section 5. The Fire Department Promotion Act is amended by changing Sections 20 and 50 as follows:

(50 ILCS 742/20)

Sec. 20. Promotion lists.

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

(b) A person's position on the preliminary promotion list shall be determined by a combination of factors which may include any of the following: (i) the person's score on the written examination for that rank, determined in accordance with Section 35; (ii) the person's seniority within the department, determined in accordance with Section 40; (iii) the person's ascertained merit, determined in accordance with Section 45; and (iv) the person's score on the subjective evaluation, determined in accordance with Section 50.

Candidates shall be ranked on the list in rank order based on the highest to the lowest total points scored on all of the components of the test. Promotional components, as defined herein, shall be determined and administered in accordance with the referenced Section, unless otherwise modified or agreed to as provided by paragraph (1) or (2) of subsection (d) ~~(e)~~ of Section 10. The use of physical criteria, including but not limited to fitness testing, agility testing, and medical evaluations, is specifically barred from the promotion process.

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

(d) Whenever a promotional rank is created or becomes vacant due to resignation, discharge, promotion, death, or the granting of a disability or retirement pension, or any other

cause, the appointing authority shall appoint to that position the person with the highest ranking on the final promotion list for that rank, except that the appointing authority shall have the right to pass over that person and appoint the next highest ranked person on the list if the appointing authority has reason to conclude that the highest ranking person has demonstrated substantial shortcomings in work performance or has engaged in misconduct affecting the person's ability to perform the duties of the promoted rank since the posting of the promotion list. If the highest ranking person is passed over, the appointing authority shall document its reasons for its decision to select the next highest ranking person on the list. Unless the reasons for passing over the highest ranking person are not remediable ~~remedial~~, no person who is the highest ranking person on the list at the time of the vacancy shall be passed over more than once. Any dispute as to the selection of the first or second highest-ranking person shall be subject to resolution in accordance with any grievance procedure in effect covering the employee.

A vacancy shall be deemed to occur in a position on the date upon which the position is vacated, and on that same date, a vacancy shall occur in all ranks inferior to that rank, provided that the position or positions continue to be funded and authorized by the corporate authorities. If a vacated position is not filled due to a lack of funding or authorization and is subsequently reinstated, the final

promotion list shall be continued in effect until all positions vacated have been filled or for a period up to 5 years beginning from the date on which the position was vacated. In such event, the candidate or candidates who would have otherwise been promoted when the vacancy originally occurred shall be promoted.

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

(e) A final adjusted promotion list shall remain valid and unaltered for a period of not less than 2 nor more than 3 years after the date of the initial posting. Integrated lists are prohibited and when a list expires it shall be void, except as provided in subsection (d) of this Section. If a promotion list is not in effect, a successor list shall be prepared and distributed within 180 days after a vacancy, as defined in subsection (d) of this Section.

(f) This Section 20 does not apply to the initial hiring list.

(Source: P.A. 93-411, eff. 8-4-03.)

(50 ILCS 742/50)

Sec. 50. Subjective evaluation.

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

(b) Any subjective component shall be identified to all candidates prior to its application, be job-related, and be applied uniformly to all candidates. Every examinee shall have the right to documentation of his or her score on the subjective component upon the completion of the subjective examination component or its application. A designated representative of the contracting union party shall be notified and be entitled to be present to monitor any preliminary meeting between certified assessors or representatives of a testing agency and representatives of the appointing authority held prior to the administration of the test to candidates for promotion.

(c) Where chief's points or other subjective methods are employed that are not amenable to monitoring, monitors shall not be required, but any disputes as to the results of such methods shall be subject to resolution in accordance with any collectively bargained grievance procedure in effect at the time of the test.

(d) Where performance evaluations are used as a basis for

promotions, they shall be given annually and made readily available to each candidate for review and they shall include any disagreement or documentation the employee provides to refute or contest the evaluation. These annual evaluations are not subject to grievance procedures, unless used for points in the promotion process.

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

(f) Persons selected to grade candidates for promotion during an assessment center process shall be impartial professionals who have undergone training to be certified assessors. The training and certification requirements shall, at a minimum, provide that, to obtain and maintain certification, assessors shall complete a course of basic training, subscribe to a code of ethical conduct, complete continuing education, and satisfy minimum activity levels.

(g) The standards for certification shall be established by a Joint Labor and Management Committee (JLMC) composed of 4 members: 2 designated by a statewide association whose membership is predominantly fire chiefs representing management interests of the Illinois fire service, and 2 designated by a statewide labor organization that is a representative of sworn or commissioned firefighters in Illinois. Members may serve terms of one year subject to reappointment.

For the purposes of this Section, the term "statewide labor organization" has the meaning ascribed to it in Section 10-3-12 of the Illinois Municipal Code.

In developing certification standards the JLMC may seek the advice and counsel of professionals and experts and may appoint an advisory committee.

The JLMC's initial certification standards shall be submitted to the Office of the State Fire Marshal by January 1, 2009. The JLMC may provisionally certify persons who have prior experience as assessors on promotional examinations in the fire service. Effective January 1, 2010 only those persons who meet the certification standards developed by the JLMC and submitted to the Office of the State Fire Marshal may be selected to grade candidates on a subjective component of a promotional examination conducted under the authority of this Act; provided this requirement shall be waived for persons employed or appointed by the jurisdiction administering the examination.

The JLMC shall annually:

(1) issue public notice offering persons who are interested in qualifying as certified assessors the opportunity to enroll in training; and

(2) submit to the Office of the State Fire Marshal an amended list of persons who remain certified, are newly certified, or who are no longer certified.

(h) The Office of the State Fire Marshal shall support the program by adopting certification standards based on those

submitted by the JLMC and by establishing a roster of certified assessors composed of persons certified by the JLMC.

If the parties have not agreed to contract with a particular testing company to provide certified assessors, either party may request the Office to provide the names of certified assessors. Within 7 days after receiving a request from either party for a list of certified assessors, the Office shall select at random from the roster of certified assessors a panel numbering not less than 2 times the number of assessors required. The parties shall augment the number by a factor of 50% by designating assessors who may serve as alternates to the primary assessors.

The parties shall select assessors from the list or lists provided by the Office or from the panel obtained by the testing company as provided above. Within 7 days following the receipt of the list, the parties shall notify the Office of the assessors they have selected. Unless the parties agree on an alternate selection procedure, they shall alternatively strike names from the list provided by the Office until only the number of required assessors remain. A coin toss shall determine which party strikes the first name. If the parties fail to notify the Office in a timely manner of their selection of assessors, the Office shall appoint the assessors required from the roster of certified assessors. In the event an assessor is not able to participate in the assessment center process for which he was selected, either of the parties

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involved in the promotion process may request that additional names of certified assessors be provided by the Office.

(Source: P.A. 93-411, eff. 8-4-03.)

Section 99. Effective date. This Act takes effect upon becoming law.