

1 AN ACT in relation to public bodies.

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 full-time
8 municipal fire department that is subject to a collective
9 bargaining agreement or the fire department operated by a
10 full-time fire protection district. The terms do not include
11 fire departments operated by the State, a university, or a
12 municipality with a population over 1,000,000 or any unit of
13 local government other than a municipality or fire protection
14 district. The terms also do not include a combined department
15 that was providing both police and firefighting services on
16 January 1, 2002.

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

23 "Promotion" means any appointment or advancement to a
24 rank within the affected department (1) for which an
25 examination was required before January 1, 2002; (2) that is
26 included within a bargaining unit; or (3) that is the next
27 rank immediately above the highest rank included within a
28 bargaining unit, provided such rank is not the only rank
29 between the Fire Chief and the highest rank included within
30 the bargaining unit, or is a rank otherwise excepted under
31 item (i), (ii), (iii), (iv), or (v) of this definition.

1 "Promotion" does not include appointments (i) that are for
2 fewer than 180 days; (ii) to the positions of Superintendent,
3 Chief, or other chief executive officer; (iii) to an
4 exclusively administrative or executive rank for which an
5 examination is not required; (iv) to a rank that was exempted
6 by a home rule municipality prior to January 1, 2002,
7 provided that after the effective date of this Act no home
8 rule municipality may exempt any future or existing ranks
9 from the provisions of this Act; or (v) to an administrative
10 rank immediately below the Superintendent, Chief, or other
11 chief executive officer of an affected department, provided
12 such rank shall not be held by more than 2 persons and there
13 is a promoted rank immediately below it. Notwithstanding the
14 exceptions to the definition of "promotion" set forth in
15 items (i), (ii), (iii), (iv), and (v) of this definition,
16 promotions shall include any appointments to ranks covered by
17 the terms of a collective bargaining agreement in effect on
18 the effective date of this Act.

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

33 "Rank" means any position within the chain of command of
34 a fire department to which employees are regularly assigned

1 to perform duties related to providing fire suppression, fire
2 prevention, or emergency services.

3 "Final adjusted promotion list" means the promotion list
4 for the position that is in effect on the date the position
5 is created or the vacancy occurs. If there is no final
6 adjusted promotion list in effect for that position on that
7 date, or if all persons on the current final adjusted
8 promotion list for that position refuse the promotion, the
9 affected department shall not make a permanent promotion
10 until a new final adjusted promotion list has been prepared
11 in accordance with this Act, but may make a temporary
12 appointment to fill the vacancy. Temporary appointments shall
13 not exceed 180 days.

14 Each component of the promotional test shall be scored on
15 a scale of 100 points. The component scores shall then be
16 reduced by the weighting factor assigned to the component on
17 the test and the scores of all components shall be added to
18 produce a total score based on a scale of 100 points.

19 Section 10. Applicability.

20 (a) This Act shall apply to all positions in an affected
21 department, except those specifically excluded in items (i),
22 (ii), (iii), (iv), and (v) of the definition of "promotion"
23 in Section 5 unless such positions are covered by a
24 collective bargaining agreement in force on the effective
25 date of this Act. Existing promotion lists shall continue to
26 be valid until their expiration dates, or up to a maximum of
27 3 years after the effective date of this Act.

28 (b) Notwithstanding any statute, ordinance, rule, or
29 other laws to the contrary, all promotions in an affected
30 department to which this Act applies shall be administered in
31 the manner provided for in this Act. Provisions of the
32 Illinois Municipal Code, the Fire Protection District Act,
33 municipal ordinances, or rules adopted pursuant to such

1 authority and other laws relating to promotions in affected
2 departments shall continue to apply to the extent they are
3 compatible with this Act, but in the event of conflict
4 between this Act and any other law, this Act shall control.

5 (c) A home rule or non-home rule municipality may not
6 administer its fire department promotion process in a manner
7 that is inconsistent with this Act. This Section is a
8 limitation under subsection (i) of Section 6 of Article VII
9 of the Illinois Constitution on the concurrent exercise by
10 home rule units of the powers and functions exercised by the
11 State.

12 (d) This Act is intended to serve as a minimum standard
13 and shall be construed to authorize and not to limit:

14 (1) An appointing authority from establishing
15 different or supplemental promotional criteria or
16 components, provided that the criteria are job-related
17 and applied uniformly.

18 (2) The negotiation by an employer and an exclusive
19 bargaining representative of clauses within a collective
20 bargaining agreement relating to conditions, criteria, or
21 procedures for the promotion of employees who are members
22 of bargaining units.

23 (3) The negotiation by an employer and an exclusive
24 bargaining representative of provisions within a
25 collective bargaining agreement to achieve affirmative
26 action objectives, provided that such clauses are
27 consistent with applicable law.

28 (e) Local authorities and exclusive bargaining agents
29 affected by this Act may agree to waive one or more of its
30 provisions and bargain on the contents of those provisions,
31 provided that any such waivers shall be considered permissive
32 subjects of bargaining.

33 Section 15. Promotion process.

1 (a) For the purpose of granting promotion to any rank to
2 which this Act applies, the appointing authority shall from
3 time to time, as necessary, administer a promotion process in
4 accordance with this Act.

5 (b) Eligibility requirements to participate in the
6 promotional process may include a minimum requirement as to
7 the length of employment, education, training, and
8 certification in subjects and skills related to fire
9 fighting. After the effective date of this Act, any such
10 eligibility requirements shall be published at least one year
11 prior to the date of the beginning of the promotional process
12 and all members of the affected department shall be given an
13 equal opportunity to meet those eligibility requirements.

14 (c) All aspects of the promotion process shall be
15 equally accessible to all eligible employees of the
16 department. Every component of the testing and evaluation
17 procedures shall be published to all eligible candidates when
18 the announcement of promotional testing is made. The scores
19 for each component of the testing and evaluation procedures
20 shall be disclosed to each candidate as soon as practicable
21 after the component is completed.

22 (d) The appointing authority shall provide a separate
23 promotional examination for each rank that is filled by
24 promotion. All examinations for promotion shall be
25 competitive among the members of the next lower rank who meet
26 the established eligibility requirements and desire to submit
27 themselves to examination. The appointing authority may
28 employ consultants to design and administer promotion
29 examinations or may adopt any job-related examinations or
30 study materials that may become available, so long as they
31 comply with the requirements of this Act.

32 Section 20. Promotion lists.

33 (a) For the purpose of granting a promotion to any rank

1 to which this Act applies, the appointing authority shall
2 from time to time, as necessary, prepare a preliminary
3 promotion list in accordance with this Act. The preliminary
4 promotion list shall be distributed, posted, or otherwise
5 made conveniently available by the appointing authority to
6 all members of the department.

7 (b) A person's position on the preliminary promotion
8 list shall be determined by a combination of factors which
9 may include any of the following: (i) the person's score on
10 the written examination for that rank, determined in
11 accordance with Section 35; (ii) the person's seniority
12 within the department, determined in accordance with Section
13 40; (iii) the person's ascertained merit, determined in
14 accordance with Section 45; and (iv) the person's score on
15 the subjective evaluation, determined in accordance with
16 Section 50. Candidates shall be ranked on the list in rank
17 order based on the highest to the lowest total points scored
18 on all of the components of the test. Promotional components,
19 as defined herein, shall be determined and administered in
20 accordance with the referenced Section, unless otherwise
21 modified or agreed to as provided by paragraph (1) or (2) of
22 subsection (e) of Section 10. The use of physical criteria,
23 including but not limited to fitness testing, agility
24 testing, and medical evaluations, is specifically barred from
25 the promotion process.

26 (c) A person on the preliminary promotion list who is
27 eligible for a veteran's preference under the laws and
28 agreements applicable to the department may file a written
29 application for that preference within 10 days after the
30 initial posting of the preliminary promotion list. The
31 preference shall be calculated as provided under Section 55
32 and added to the total score achieved by the candidate on the
33 test. The appointing authority shall then make adjustments
34 to the rank order of the preliminary promotion list based on

1 any veteran's preferences awarded. The final adjusted
2 promotion list shall then be distributed, posted, or
3 otherwise made conveniently available by the appointing
4 authority to all members of the department.

5 (d) Whenever a promotional rank is created or becomes
6 vacant due to resignation, discharge, promotion, death, or
7 the granting of a disability or retirement pension, or any
8 other cause, the appointing authority shall appoint to that
9 position the person with the highest ranking on the final
10 promotion list for that rank, except that the appointing
11 authority shall have the right to pass over that person and
12 appoint the next highest ranked person on the list if the
13 appointing authority has reason to conclude that the highest
14 ranking person has demonstrated substantial shortcomings in
15 work performance or has engaged in misconduct affecting the
16 person's ability to perform the duties of the promoted rank
17 since the posting of the promotion list. If the highest
18 ranking person is passed over, the appointing authority shall
19 document its reasons for its decision to select the next
20 highest ranking person on the list. Unless the reasons for
21 passing over the highest ranking person are not remedial, no
22 person who is the highest ranking person on the list at the
23 time of the vacancy shall be passed over more than once. Any
24 dispute as to the selection of the first or second
25 highest-ranking person shall be subject to resolution in
26 accordance with any grievance procedure in effect covering
27 the employee.

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

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

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

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

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

23 Section 25. Monitoring.

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

31 (b) Two impartial persons who are not members of the
32 affected department shall be selected to act as observers by
33 the exclusive bargaining agent. The appointing authorities

1 may also select 2 additional impartial observers.

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

11 (d) The provisions of this Section do not apply to the
12 extent that they are inconsistent with provisions otherwise
13 agreed to in a collective bargaining agreement.

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 component included in a test may be set at the
20 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 The provisions of this Section do not apply to the extent
32 that they are inconsistent with provisions otherwise agreed
33 to in a collective bargaining agreement.

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.

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 or for a period of 5
20 years, whichever is less, for each rank and shall make these
21 materials available and accessible at each duty station.

22 (e) The provisions of this Section do not apply to the
23 extent that they are in conflict with provisions otherwise
24 agreed to in a collective bargaining agreement.

25 Section 40. Seniority points.

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

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

1 list is compiled. The seniority list shall include the
2 seniority date, any breaks in service, the total number of
3 eligible years, and the number of seniority points.

4 Section 45. Ascertained merit.

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

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

18 Section 50. Subjective evaluation.

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

26 (b) Any subjective component shall be identified to all
27 candidates prior to its application, be job-related, and be
28 applied uniformly to all candidates. Every examinee shall
29 have the right to documentation of his or her score on the
30 subjective component upon the completion of the subjective
31 examination component or its application.

32 (c) Where chief's points or other subjective methods are

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

6 (d) 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. These annual evaluations
11 are not subject to grievance procedures, unless used for
12 points in the promotion process.

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

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

29 Section 60. Right to review. Any affected person or party
30 who believes that an error has been made with respect to
31 eligibility to take an examination, examination result,
32 placement or position on a promotion list, or veteran's

1 preference shall be entitled to a review of the matter by the
2 appointing authority or as otherwise provided by law.

3 Section 65. Violations.

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

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

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

16 (30 ILCS 805/8.27 new)

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

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