

1 AMENDMENT TO HOUSE BILL 988

2 AMENDMENT NO. _____. Amend House Bill 988 by replacing
3 everything after the enacting clause with the following:

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.

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

28 "Preliminary promotion list" means the rank order of
29 eligible candidates established in accordance with subsection
30 (b) of Section 20 prior to applicable veteran's preference
31 points. A person on the preliminary promotion list who is
32 eligible for veteran's preference under the laws and
33 agreements applicable to the appointing authority may file a
34 written application for that preference within 10 days after

1 the initial posting of the preliminary promotion list. The
2 preference shall be calculated in accordance with Section 55
3 and applied as an addition to the person's total point score
4 on the examination. The appointing authority shall make
5 adjustments to the preliminary promotion list based on any
6 veteran's preference claimed and the final adjusted promotion
7 list shall then be posted by the appointing authority.

8 "Rank" means any position within the chain of command of
9 a fire department to which employees are regularly assigned
10 to perform duties related to providing fire suppression, fire
11 prevention, or emergency services.

12 "Final adjusted promotion list" means the promotion list
13 for the position that is in effect on the date the position
14 is created or the vacancy occurs. If there is no final
15 adjusted promotion list in effect for that position on that
16 date, or if all persons on the current final adjusted
17 promotion list for that position refuse the promotion, the
18 affected department shall not make a permanent promotion
19 until a new final adjusted promotion list has been prepared
20 in accordance with this Act, but may make a temporary
21 appointment to fill the vacancy. Temporary appointments shall
22 not exceed 180 days.

23 Each component of the promotional test shall be scored on
24 a scale of 100 points. The component scores shall then be
25 reduced by the weighting factor assigned to the component on
26 the test and the scores of all components shall be added to
27 produce a total score based on a scale of 100 points.

28 Section 10. Applicability.

29 (a) This Act shall apply to all positions in an affected
30 department, except those specifically excluded in items (i),
31 (ii), (iii), (iv), and (v) of the definition of "promotion"
32 in Section 5 unless such positions are covered by a
33 collective bargaining agreement in force on the effective

1 date of this Act. Existing promotion lists shall continue to
2 be valid until their expiration dates, or up to a maximum of
3 3 years after the effective date of this Act.

4 (b) Notwithstanding any statute, ordinance, rule, or
5 other laws to the contrary, all promotions in an affected
6 department to which this Act applies shall be administered in
7 the manner provided for in this Act. Provisions of the
8 Illinois Municipal Code, the Fire Protection District Act,
9 municipal ordinances, or rules adopted pursuant to such
10 authority and other laws relating to promotions in affected
11 departments shall continue to apply to the extent they are
12 compatible with this Act, but in the event of conflict
13 between this Act and any other law, this Act shall control.

14 (c) A home rule or non-home rule municipality may not
15 administer its fire department promotion process in a manner
16 that is inconsistent with this Act. This Section is a
17 limitation under subsection (i) of Section 6 of Article VII
18 of the Illinois Constitution on the concurrent exercise by
19 home rule units of the powers and functions exercised by the
20 State.

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

23 (1) An appointing authority from establishing
24 different or supplemental promotional criteria or
25 components, provided that the criteria are job-related
26 and applied uniformly.

27 (2) The negotiation by an employer and an exclusive
28 bargaining representative of clauses within a collective
29 bargaining agreement relating to conditions, criteria, or
30 procedures for the promotion of employees who are members
31 of bargaining units.

32 (3) The negotiation by an employer and an exclusive
33 bargaining representative of provisions within a
34 collective bargaining agreement to achieve affirmative

1 action objectives, provided that such clauses are
2 consistent with applicable law.

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

8 Section 15. Promotion process.

9 (a) For the purpose of granting promotion to any rank to
10 which this Act applies, the appointing authority shall from
11 time to time, as necessary, administer a promotion process in
12 accordance with this Act.

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

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

30 (d) The appointing authority shall provide a separate
31 promotional examination for each rank that is filled by
32 promotion. All examinations for promotion shall be
33 competitive among the members of the next lower rank who meet

1 the established eligibility requirements and desire to submit
2 themselves to examination. The appointing authority may
3 employ consultants to design and administer promotion
4 examinations or may adopt any job-related examinations or
5 study materials that may become available, so long as they
6 comply with the requirements of this Act.

7 Section 20. Promotion lists.

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

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

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

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

1 accordance with any grievance procedure in effect covering
2 the employee.

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

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

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

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

32 Section 25. Monitoring.

33 (a) All aspects of the promotion process, including

1 without limitation the administration, scoring, and posting
2 of scores for the written examination and subjective
3 evaluation and the determination and posting of seniority and
4 ascertained merit scores, shall be subject to monitoring and
5 review in accordance with this Section and Sections 30 and
6 50.

7 (b) Two impartial persons who are not members of the
8 affected department shall be selected to act as observers by
9 the exclusive bargaining agent. The appointing authorities
10 may also select 2 additional impartial observers.

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

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

23 Section 30. Promotion examination components. Promotion
24 examinations that include components consisting of written
25 examinations, seniority points, ascertained merit, or
26 subjective evaluations shall be administered as provided in
27 Sections 35, 40, 45 and 50. The weight, if any, that is
28 given to any component included in a test may be set at the
29 discretion of the appointing authority provided that such
30 weight shall be subject to modification by the terms of any
31 collective bargaining agreement in effect on the effective
32 date of this Act or thereafter by negotiations between the
33 employer and an exclusive bargaining representative. If the

1 appointing authority establishes a minimum passing score,
2 such score shall be announced prior to the date of the
3 promotion process and it must be an aggregate of all
4 components of the testing process. All candidates shall be
5 allowed to participate in all components of the testing
6 process irrespective of their score on any one component.
7 The provisions of this Section do not apply to the extent
8 that they are inconsistent with provisions otherwise agreed
9 to in a collective bargaining agreement.

10 Section 35. Written examinations.

11 (a) The appointing authority may not condition
12 eligibility to take the written examination on the
13 candidate's score on any of the previous components of the
14 examination. The written examination for a particular rank
15 shall consist of matters relating to the duties regularly
16 performed by persons holding that rank within the department.
17 The examination shall be based only on the contents of
18 written materials that the appointing authority has
19 identified and made readily available to potential examinees
20 at least 90 days before the examination is administered. The
21 test questions and material must be pertinent to the
22 particular rank for which the examination is being given. The
23 written examination shall be administered after the
24 determination and posting of the seniority list, ascertained
25 merit points, and subjective evaluation scores. The written
26 examination shall be administered, the test materials opened,
27 and the results scored and tabulated.

28 (b) Written examinations shall be graded at the
29 examination site on the day of the examination immediately
30 upon completion of the test in front of the observers if such
31 observers are appointed under Section 25, or if the tests
32 are graded offsite by a bona fide testing agency, the
33 observers shall witness the sealing and the shipping of the

1 tests for grading and the subsequent opening of the scores
2 upon the return from the testing agency. Every examinee shall
3 have the right (i) to obtain his or her score on the
4 examination on the day of the examination or upon the day of
5 its return from the testing agency (or the appointing
6 authority shall require the testing agency to mail the
7 individual scores to any address submitted by the candidates
8 on the day of the examination); and (ii) to review the
9 answers to the examination that the examiners consider
10 correct. The appointing authority may hold a review session
11 after the examination for the purpose of gathering feedback
12 on the examination from the candidates.

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

27 (d) Each department shall maintain reading and study
28 materials for its current written examination and the reading
29 list for the last 2 written examinations or for a period of 5
30 years, whichever is less, for each rank and shall make these
31 materials available and accessible at each duty station.

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

1 Section 40. Seniority points.

2 (a) Seniority points shall be based only upon service
3 with the affected department and shall be calculated as of
4 the date of the written examination. The weight of this
5 component and its computation shall be determined by the
6 appointing authority or through a collective bargaining
7 agreement.

8 (b) A seniority list shall be posted before the written
9 examination is given and before the preliminary promotion
10 list is compiled. The seniority list shall include the
11 seniority date, any breaks in service, the total number of
12 eligible years, and the number of seniority points.

13 Section 45. Ascertained merit.

14 (a) The promotion test may include points for
15 ascertained merit. Ascertained merit points may be awarded
16 for education, training, and certification in subjects and
17 skills related to the fire service. The basis for granting
18 ascertained merit points, after the effective date of this
19 Act, shall be published at least one year prior to the date
20 ascertained merit points are awarded and all persons eligible
21 to compete for promotion shall be given an equal opportunity
22 to obtain ascertained merit points unless otherwise agreed to
23 in a collective bargaining agreement.

24 (b) Total points awarded for ascertained merit shall be
25 posted before the written examination is administered and
26 before the promotion list is compiled.

27 Section 50. Subjective evaluation.

28 (a) A promotion test may include subjective evaluation
29 components. Subjective evaluations may include an oral
30 interview, tactical evaluation, performance evaluation, or
31 other component based on subjective evaluation of the
32 examinee. The methods used for subjective evaluations may

1 include using any employee assessment centers, evaluation
2 systems, chief's points, or other methods.

3 (b) Any subjective component shall be identified to all
4 candidates prior to its application, be job-related, and be
5 applied uniformly to all candidates. Every examinee shall
6 have the right to documentation of his or her score on the
7 subjective component upon the completion of the subjective
8 examination component or its application.

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

15 (d) Where performance evaluations are used as a basis
16 for promotions, they shall be given annually and made readily
17 available to each candidate for review and they shall include
18 any disagreement or documentation the employee provides to
19 refute or contest the evaluation. These annual evaluations
20 are not subject to grievance procedures, unless used for
21 points in the promotion process.

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

25 Section 55. Veterans' preference. A person on a
26 preliminary promotion list who is eligible for veteran's
27 preference under any law or agreement applicable to an
28 affected department may file a written application for that
29 preference within 10 days after the initial posting of the
30 preliminary promotion list. The veteran's preference shall
31 be calculated as provided in the applicable law and added to
32 the applicant's total score on the preliminary promotion
33 list. Any person who has received a promotion from a

1 promotion list on which his or her position was adjusted for
2 veteran's preference, under this Act or any other law, shall
3 not be eligible for any subsequent veteran's preference under
4 this Act.

5 Section 60. Right to review. Any affected person or party
6 who believes that an error has been made with respect to
7 eligibility to take an examination, examination result,
8 placement or position on a promotion list, or veteran's
9 preference shall be entitled to a review of the matter by the
10 appointing authority or as otherwise provided by law.

11 Section 65. Violations.

12 (a) A person who knowingly divulges or receives test
13 questions or answers before a written examination, or
14 otherwise knowingly violates or subverts any requirement of
15 this Act commits a violation of this Act and may be subject
16 to charges for official misconduct.

17 (b) A person who is the knowing recipient of test
18 information in advance of the examination shall be
19 disqualified from the promotion examination or demoted from
20 the rank to which he was promoted, as applicable and
21 otherwise subjected to disciplinary actions.

22 Section 900. The State Mandates Act is amended by adding
23 Section 8.27 as follows:

24 (30 ILCS 805/8.27 new)

25 Sec. 8.27. Exempt mandate. Notwithstanding Sections 6
26 and 8 of this Act, no reimbursement by the State is required
27 for the implementation of any mandate created by this
28 amendatory Act of the 93rd General Assembly.

29 Section 999. Effective date. This Act takes effect upon

1 becoming law.".