



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5271

by Rep. LaShawn K. Ford

SYNOPSIS AS INTRODUCED:

15 ILCS 310/10b.1	from Ch. 124, par. 110b.1
15 ILCS 410/10b.1	from Ch. 15, par. 426
20 ILCS 415/8b.1	from Ch. 127, par. 63b108b.1
65 ILCS 5/10-1-7	from Ch. 24, par. 10-1-7

Amends the Secretary of State Merit Employment Code, the Comptroller Merit Employment Code, the Personnel Code, and the Illinois Municipal Code. Removes the list of misdemeanors that disqualify a convicted person from civil service testing and appointment under those Acts.

LRB095 18327 JAM 44411 b

1 AN ACT concerning public employment.

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

4 Section 5. The Secretary of State Merit Employment Code is
5 amended by changing Section 10b.1 as follows:

6 (15 ILCS 310/10b.1) (from Ch. 124, par. 110b.1)

7 Sec. 10b.1. Competitive examinations.

8 (a) For open competitive examinations to test the relative
9 fitness of applicants for the respective positions. Tests shall
10 be designed to eliminate those who are not qualified for
11 entrance into the Office of the Secretary of State and to
12 discover the relative fitness of those who are qualified. The
13 Director may use any one of or any combination of the following
14 examination methods which in his judgment best serves this end:
15 investigation of education and experience; test of cultural
16 knowledge; test of capacity; test of knowledge; test of manual
17 skill; test of linguistic ability; test of character; test of
18 physical skill; test of psychological fitness. No person with a
19 record of misdemeanor convictions ~~except those under Sections~~
20 ~~11-6, 11-7, 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 12-2,~~
21 ~~12-6, 12-15, 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3,~~
22 ~~31-1, 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, 32-8 and~~
23 ~~sub sections 1, 6 and 8 of Section 24-1 of the Criminal Code of~~

1 ~~1961~~, or arrested for any cause but not convicted thereon shall
2 be disqualified from taking such examinations or subsequent
3 appointment unless the person is attempting to qualify for a
4 position which would give him the powers of a peace officer, in
5 which case the person's conviction or arrest record may be
6 considered as a factor in determining the person's fitness for
7 the position. All examinations shall be announced publicly at
8 least 2 weeks in advance of the date of examinations and may be
9 advertised through the press, radio or other media.

10 The Director may, at his discretion, accept the results of
11 competitive examinations conducted by any merit system
12 established by Federal law or by the law of any State, and may
13 compile eligible lists therefrom or may add the names of
14 successful candidates in examinations conducted by those merit
15 systems to existing eligible lists in accordance with their
16 respective ratings. No person who is a non-resident of the
17 State of Illinois may be appointed from those eligible lists,
18 however, unless the requirement that applicants be residents of
19 the State of Illinois is waived by the Director of Personnel
20 and unless there are less than 3 Illinois residents available
21 for appointment from the appropriate eligible list. The results
22 of the examinations conducted by other merit systems may not be
23 used unless they are comparable in difficulty and
24 comprehensiveness to examinations conducted by the Department
25 of Personnel for similar positions. Special linguistic options
26 may also be established where deemed appropriate.

1 (b) The Director of Personnel may require that each person
2 seeking employment with the Secretary of State, as part of the
3 application process, authorize an investigation to determine
4 if the applicant has ever been convicted of a crime and if so,
5 the disposition of those convictions; this authorization shall
6 indicate the scope of the inquiry and the agencies which may be
7 contacted. Upon this authorization, the Director of Personnel
8 may request and receive information and assistance from any
9 federal, state or local governmental agency as part of the
10 authorized investigation. The investigation shall be
11 undertaken after the fingerprinting of an applicant in the form
12 and manner prescribed by the Department of State Police. The
13 investigation shall consist of a criminal history records check
14 performed by the Department of State Police and the Federal
15 Bureau of Investigation, or some other entity that has the
16 ability to check the applicant's fingerprints against the
17 fingerprint records now and hereafter filed in the Department
18 of State Police and Federal Bureau of Investigation criminal
19 history records databases. If the Department of State Police
20 and the Federal Bureau of Investigation conduct an
21 investigation directly for the Secretary of State's Office,
22 then the Department of State Police shall charge a fee for
23 conducting the criminal history records check, which shall be
24 deposited in the State Police Services Fund and shall not
25 exceed the actual cost of the records check. The Department of
26 State Police shall provide information concerning any criminal

1 convictions, and their disposition, brought against the
2 applicant or prospective employee of the Secretary of State
3 upon request of the Department of Personnel when the request is
4 made in the form and manner required by the Department of State
5 Police. The information derived from this investigation,
6 including the source of this information, and any conclusions
7 or recommendations derived from this information by the
8 Director of Personnel shall be provided to the applicant or
9 prospective employee, or his designee, upon request to the
10 Director of Personnel prior to any final action by the Director
11 of Personnel on the application. No information obtained from
12 such investigation may be placed in any automated information
13 system. Any criminal convictions and their disposition
14 information obtained by the Director of Personnel shall be
15 confidential and may not be transmitted outside the Office of
16 the Secretary of State, except as required herein, and may not
17 be transmitted to anyone within the Office of the Secretary of
18 State except as needed for the purpose of evaluating the
19 application. The only physical identity materials which the
20 applicant or prospective employee can be required to provide
21 the Director of Personnel are photographs or fingerprints;
22 these shall be returned to the applicant or prospective
23 employee upon request to the Director of Personnel, after the
24 investigation has been completed and no copy of these materials
25 may be kept by the Director of Personnel or any agency to which
26 such identity materials were transmitted. Only information and

1 standards which bear a reasonable and rational relation to the
2 performance of an employee shall be used by the Director of
3 Personnel. The Secretary of State shall adopt rules and
4 regulations for the administration of this Section. Any
5 employee of the Secretary of State who gives or causes to be
6 given away any confidential information concerning any
7 criminal convictions and their disposition of an applicant or
8 prospective employee shall be guilty of a Class A misdemeanor
9 unless release of such information is authorized by this
10 Section.

11 (Source: P.A. 95-331, eff. 8-21-07.)

12 Section 10. The Comptroller Merit Employment Code is
13 amended by changing Section 10b.1 as follows:

14 (15 ILCS 410/10b.1) (from Ch. 15, par. 426)

15 Sec. 10b.1. Competitive examinations. For open competitive
16 examinations to test the relative fitness of applicants for the
17 respective positions. Tests shall be designed to eliminate
18 those who are not qualified for entrance into the Office of the
19 Comptroller and to discover the relative fitness of those who
20 are qualified. The Director may use any one of or any
21 combination of the following examination methods which in his
22 judgment best serves this end: investigation of education and
23 experience; test of cultural knowledge; test of capacity; test
24 of knowledge; test of manual skill; test of linguistic ability;

1 test of character; test of physical skill; test of
2 psychological fitness. No person with a record of misdemeanor
3 convictions ~~except those under Sections 11-6, 11-7, 11-9,~~
4 ~~11-14, 11-15, 11-17, 11-18, 11-19, 12-2, 12-6, 12-15, 14-4,~~
5 ~~16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4, 31-6, 31-7,~~
6 ~~32-1, 32-2, 32-3, 32-4, 32-8 and sub sections 1, 6 and 8 of~~
7 ~~Section 24-1 of the Criminal Code of 1961,~~ or arrested for any
8 cause but not convicted thereon shall be disqualified from
9 taking such examinations or subsequent appointment unless the
10 person is attempting to qualify for a position which entails
11 financial responsibilities, in which case the person's
12 conviction or arrest record may be considered as a factor in
13 determining the person's fitness for the position. All
14 examinations shall be announced publicly at least 2 weeks in
15 advance of the date of examinations and may be advertised
16 through the press, radio or other media.

17 The Director may, at his or her discretion, accept the
18 results of competitive examinations conducted by any merit
19 system established by Federal law or by the law of any State,
20 and may compile eligible lists therefrom or may add the names
21 of successful candidates in examinations conducted by those
22 merit systems to existing eligible lists in accordance with
23 their respective ratings. No person who is a non-resident of
24 the State of Illinois may be appointed from those eligible
25 lists, however, unless the requirement that applicants be
26 residents of the State of Illinois is waived by the Director of

1 Human Resources and unless there are less than 3 Illinois
2 residents available for appointment from the appropriate
3 eligible list. The results of the examinations conducted by
4 other merit systems may not be used unless they are comparable
5 in difficulty and comprehensiveness to examinations conducted
6 by the Department of Human Resources for similar positions.
7 Special linguistic options may also be established where deemed
8 appropriate.

9 (Source: P.A. 90-24, eff. 6-20-97.)

10 Section 15. The Personnel Code is amended by changing
11 Section 8b.1 as follows:

12 (20 ILCS 415/8b.1) (from Ch. 127, par. 63b108b.1)

13 Sec. 8b.1. For open competitive examinations to test the
14 relative fitness of applicants for the respective positions.

15 Tests shall be designed to eliminate those who are not
16 qualified for entrance into or promotion within the service,
17 and to discover the relative fitness of those who are
18 qualified. The Director may use any one of or any combination
19 of the following examination methods which in his judgment best
20 serves this end: investigation of education; investigation of
21 experience; test of cultural knowledge; test of capacity; test
22 of knowledge; test of manual skill; test of linguistic ability;
23 test of character; test of physical fitness; test of
24 psychological fitness. No person with a record of misdemeanor

1 convictions ~~except those under Sections 11-6, 11-7, 11-9,~~
2 ~~11-14, 11-15, 11-17, 11-18, 11-19, 12-2, 12-6, 12-15, 14-4,~~
3 ~~16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4, 31-6, 31-7,~~
4 ~~32-1, 32-2, 32-3, 32-4, 32-8 and sub sections 1, 6 and 8 of~~
5 ~~Section 24-1 of the Criminal Code of 1961~~ or arrested for any
6 cause but not convicted thereon shall be disqualified from
7 taking such examinations or subsequent appointment, unless the
8 person is attempting to qualify for a position which would give
9 him the powers of a peace officer, in which case the person's
10 conviction or arrest record may be considered as a factor in
11 determining the person's fitness for the position. The
12 eligibility conditions specified for the position of Assistant
13 Director of Healthcare and Family Services in the Department of
14 Healthcare and Family Services in Section 5-230 of the
15 Departments of State Government Law (20 ILCS 5/5-230) shall be
16 applied to that position in addition to other standards, tests
17 or criteria established by the Director. All examinations shall
18 be announced publicly at least 2 weeks in advance of the date
19 of the examinations and may be advertised through the press,
20 radio and other media. The Director may, however, in his
21 discretion, continue to receive applications and examine
22 candidates long enough to assure a sufficient number of
23 eligibles to meet the needs of the service and may add the
24 names of successful candidates to existing eligible lists in
25 accordance with their respective ratings.

26 The Director may, in his discretion, accept the results of

1 competitive examinations conducted by any merit system
2 established by federal law or by the law of any State, and may
3 compile eligible lists therefrom or may add the names of
4 successful candidates in examinations conducted by those merit
5 systems to existing eligible lists in accordance with their
6 respective ratings. No person who is a non-resident of the
7 State of Illinois may be appointed from those eligible lists,
8 however, unless the requirement that applicants be residents of
9 the State of Illinois is waived by the Director of Central
10 Management Services and unless there are less than 3 Illinois
11 residents available for appointment from the appropriate
12 eligible list. The results of the examinations conducted by
13 other merit systems may not be used unless they are comparable
14 in difficulty and comprehensiveness to examinations conducted
15 by the Department of Central Management Services for similar
16 positions. Special linguistic options may also be established
17 where deemed appropriate.

18 (Source: P.A. 95-331, eff. 8-21-07.)

19 Section 20. The Illinois Municipal Code is amended by
20 changing Section 10-1-7 as follows:

21 (65 ILCS 5/10-1-7) (from Ch. 24, par. 10-1-7)

22 Sec. 10-1-7. Examination of applicants; disqualifications.

23 (a) All applicants for offices or places in the classified
24 service, except those mentioned in Section 10-1-17, are subject

1 to examination. The examination shall be public, competitive,
2 and open to all citizens of the United States, with specified
3 limitations as to residence, age, health, habits and moral
4 character.

5 (b) Residency requirements in effect at the time an
6 individual enters the fire or police service of a municipality
7 (other than a municipality that has more than 1,000,000
8 inhabitants) cannot be made more restrictive for that
9 individual during his or her period of service for that
10 municipality, or be made a condition of promotion, except for
11 the rank or position of Fire or Police Chief.

12 (c) No person with a record of misdemeanor convictions
13 ~~except those under Sections 11-6, 11-7, 11-9, 11-14, 11-15,~~
14 ~~11-17, 11-18, 11-19, 12-2, 12-6, 12-15, 14-4, 16-1, 21.1-3,~~
15 ~~24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4, 31-6, 31-7, 32-1, 32-2,~~
16 ~~32-3, 32-4, 32-8, and subsections (1), (6) and (8) of Section~~
17 ~~24-1 of the Criminal Code of 1961~~ or arrested for any cause but
18 not convicted on that cause shall be disqualified from taking
19 the examination on grounds of habits or moral character, unless
20 the person is attempting to qualify for a position on the
21 police department, in which case the conviction or arrest may
22 be considered as a factor in determining the person's habits or
23 moral character.

24 (d) Persons entitled to military preference under Section
25 10-1-16 shall not be subject to limitations specifying age
26 unless they are applicants for a position as a fireman or a

1 policeman having no previous employment status as a fireman or
2 policeman in the regularly constituted fire or police
3 department of the municipality, in which case they must not
4 have attained their 35th birthday, except any person who has
5 served as an auxiliary police officer under Section 3.1-30-20
6 for at least 5 years and is under 40 years of age.

7 (e) All employees of a municipality of less than 500,000
8 population (except those who would be excluded from the
9 classified service as provided in this Division 1) who are
10 holding that employment as of the date a municipality adopts
11 this Division 1, or as of July 17, 1959, whichever date is the
12 later, and who have held that employment for at least 2 years
13 immediately before that later date, and all firemen and
14 policemen regardless of length of service who were either
15 appointed to their respective positions by the board of fire
16 and police commissioners under the provisions of Division 2 of
17 this Article or who are serving in a position (except as a
18 temporary employee) in the fire or police department in the
19 municipality on the date a municipality adopts this Division 1,
20 or as of July 17, 1959, whichever date is the later, shall
21 become members of the classified civil service of the
22 municipality without examination.

23 (f) The examinations shall be practical in their character,
24 and shall relate to those matters that will fairly test the
25 relative capacity of the persons examined to discharge the
26 duties of the positions to which they seek to be appointed. The

1 examinations shall include tests of physical qualifications,
2 health, and (when appropriate) manual skill. If an applicant is
3 unable to pass the physical examination solely as the result of
4 an injury received by the applicant as the result of the
5 performance of an act of duty while working as a temporary
6 employee in the position for which he or she is being examined,
7 however, the physical examination shall be waived and the
8 applicant shall be considered to have passed the examination.
9 No questions in any examination shall relate to political or
10 religious opinions or affiliations. Results of examinations
11 and the eligible registers prepared from the results shall be
12 published by the commission within 60 days after any
13 examinations are held.

14 (g) The commission shall control all examinations, and may,
15 whenever an examination is to take place, designate a suitable
16 number of persons, either in or not in the official service of
17 the municipality, to be examiners. The examiners shall conduct
18 the examinations as directed by the commission and shall make a
19 return or report of the examinations to the commission. If the
20 appointed examiners are in the official service of the
21 municipality, the examiners shall not receive extra
22 compensation for conducting the examinations. The commission
23 may at any time substitute any other person, whether or not in
24 the service of the municipality, in the place of any one
25 selected as an examiner. The commission members may themselves
26 at any time act as examiners without appointing examiners. The

1 examiners at any examination shall not all be members of the
2 same political party.

3 (h) In municipalities of 500,000 or more population, no
4 person who has attained his or her 35th birthday shall be
5 eligible to take an examination for a position as a fireman or
6 a policeman unless the person has had previous employment
7 status as a policeman or fireman in the regularly constituted
8 police or fire department of the municipality, except as
9 provided in this Section.

10 (i) In municipalities of more than 5,000 but not more than
11 200,000 inhabitants, no person who has attained his or her 35th
12 birthday shall be eligible to take an examination for a
13 position as a fireman or a policeman unless the person has had
14 previous employment status as a policeman or fireman in the
15 regularly constituted police or fire department of the
16 municipality, except as provided in this Section.

17 (j) In all municipalities, applicants who are 20 years of
18 age and who have successfully completed 2 years of law
19 enforcement studies at an accredited college or university may
20 be considered for appointment to active duty with the police
21 department. An applicant described in this subsection (j) who
22 is appointed to active duty shall not have power of arrest, nor
23 shall the applicant be permitted to carry firearms, until he or
24 she reaches 21 years of age.

25 (k) In municipalities of more than 500,000 population,
26 applications for examination for and appointment to positions

1 as firefighters or police shall be made available at various
2 branches of the public library of the municipality.

3 (1) No municipality having a population less than 1,000,000
4 shall require that any fireman appointed to the lowest rank
5 serve a probationary employment period of longer than one year.
6 The limitation on periods of probationary employment provided
7 in this amendatory Act of 1989 is an exclusive power and
8 function of the State. Pursuant to subsection (h) of Section 6
9 of Article VII of the Illinois Constitution, a home rule
10 municipality having a population less than 1,000,000 must
11 comply with this limitation on periods of probationary
12 employment, which is a denial and limitation of home rule
13 powers. Notwithstanding anything to the contrary in this
14 Section, the probationary employment period limitation may be
15 extended for a firefighter who is required, as a condition of
16 employment, to be a certified paramedic, during which time the
17 sole reason that a firefighter may be discharged without a
18 hearing is for failing to meet the requirements for paramedic
19 certification.

20 (Source: P.A. 94-135, eff. 7-7-05; 94-984, eff. 6-30-06.)