

# SB3518



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB3518

Introduced 2/14/2014, by Sen. Daniel Biss

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/10-2.1-6.3

Amends the Illinois Municipal Code. Provides that any applicable preference credits to a firefighter candidate shall be applied at the time of the written examination and before the posting or publication of the initial eligibility list or register.

LRB098 15907 JLK 55396 b

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Illinois Municipal Code is amended by  
5 changing Section 10-2.1-6.3 as follows:

6 (65 ILCS 5/10-2.1-6.3)

7 Sec. 10-2.1-6.3. Original appointments; full-time fire  
8 department.

9 (a) Applicability. Unless a commission elects to follow the  
10 provisions of Section 10-2.1-6.4, this Section shall apply to  
11 all original appointments to an affected full-time fire  
12 department. Existing registers of eligibles shall continue to  
13 be valid until their expiration dates, or up to a maximum of 2  
14 years after the effective date of this amendatory Act of the  
15 97th General Assembly.

16 Notwithstanding any statute, ordinance, rule, or other law  
17 to the contrary, all original appointments to an affected  
18 department to which this Section applies shall be administered  
19 in the manner provided for in this Section. Provisions of the  
20 Illinois Municipal Code, municipal ordinances, and rules  
21 adopted pursuant to such authority and other laws relating to  
22 initial hiring of firefighters in affected departments shall  
23 continue to apply to the extent they are compatible with this

1 Section, but in the event of a conflict between this Section  
2 and any other law, this Section shall control.

3 A home rule or non-home rule municipality may not  
4 administer its fire department process for original  
5 appointments in a manner that is less stringent than this  
6 Section. This Section is a limitation under subsection (i) of  
7 Section 6 of Article VII of the Illinois Constitution on the  
8 concurrent exercise by home rule units of the powers and  
9 functions exercised by the State.

10 A municipality that is operating under a court order or  
11 consent decree regarding original appointments to a full-time  
12 fire department before the effective date of this amendatory  
13 Act of the 97th General Assembly is exempt from the  
14 requirements of this Section for the duration of the court  
15 order or consent decree.

16 Notwithstanding any other provision of this subsection  
17 (a), this Section does not apply to a municipality with more  
18 than 1,000,000 inhabitants.

19 (b) Original appointments. All original appointments made  
20 to an affected fire department shall be made from a register of  
21 eligibles established in accordance with the processes  
22 established by this Section. Only persons who meet or exceed  
23 the performance standards required by this Section shall be  
24 placed on a register of eligibles for original appointment to  
25 an affected fire department.

26 Whenever an appointing authority authorizes action to hire

1 a person to perform the duties of a firefighter or to hire a  
2 firefighter-paramedic to fill a position that is a new position  
3 or vacancy due to resignation, discharge, promotion, death, the  
4 granting of a disability or retirement pension, or any other  
5 cause, the appointing authority shall appoint to that position  
6 the person with the highest ranking on the final eligibility  
7 list. If the appointing authority has reason to conclude that  
8 the highest ranked person fails to meet the minimum standards  
9 for the position or if the appointing authority believes an  
10 alternate candidate would better serve the needs of the  
11 department, then the appointing authority has the right to pass  
12 over the highest ranked person and appoint either: (i) any  
13 person who has a ranking in the top 5% of the register of  
14 eligibles or (ii) any person who is among the top 5 highest  
15 ranked persons on the list of eligibles if the number of people  
16 who have a ranking in the top 5% of the register of eligibles  
17 is less than 5 people.

18 Any candidate may pass on an appointment once without  
19 losing his or her position on the register of eligibles. Any  
20 candidate who passes a second time may be removed from the list  
21 by the appointing authority provided that such action shall not  
22 prejudice a person's opportunities to participate in future  
23 examinations, including an examination held during the time a  
24 candidate is already on the municipality's register of  
25 eligibles.

26 The sole authority to issue certificates of appointment

1 shall be vested in the board of fire and police commissioners.  
2 All certificates of appointment issued to any officer or member  
3 of an affected department shall be signed by the chairperson  
4 and secretary, respectively, of the board upon appointment of  
5 such officer or member to the affected department by action of  
6 the board. Each person who accepts a certificate of appointment  
7 and successfully completes his or her probationary period shall  
8 be enrolled as a firefighter and as a regular member of the  
9 fire department.

10 For the purposes of this Section, "firefighter" means any  
11 person who has been prior to, on, or after the effective date  
12 of this amendatory Act of the 97th General Assembly appointed  
13 to a fire department or fire protection district or employed by  
14 a State university and sworn or commissioned to perform  
15 firefighter duties or paramedic duties, or both, except that  
16 the following persons are not included: part-time  
17 firefighters; auxiliary, reserve, or voluntary firefighters,  
18 including paid-on-call firefighters; clerks and dispatchers or  
19 other civilian employees of a fire department or fire  
20 protection district who are not routinely expected to perform  
21 firefighter duties; and elected officials.

22 (c) Qualification for placement on register of eligibles.  
23 The purpose of establishing a register of eligibles is to  
24 identify applicants who possess and demonstrate the mental  
25 aptitude and physical ability to perform the duties required of  
26 members of the fire department in order to provide the highest

1 quality of service to the public. To this end, all applicants  
2 for original appointment to an affected fire department shall  
3 be subject to examination and testing which shall be public,  
4 competitive, and open to all applicants unless the municipality  
5 shall by ordinance limit applicants to residents of the  
6 municipality, county or counties in which the municipality is  
7 located, State, or nation. Municipalities may establish  
8 educational, emergency medical service licensure, and other  
9 pre-requisites for participation in an examination or for hire  
10 as a firefighter. Any municipality may charge a fee to cover  
11 the costs of the application process.

12 Residency requirements in effect at the time an individual  
13 enters the fire service of a municipality cannot be made more  
14 restrictive for that individual during his or her period of  
15 service for that municipality, or be made a condition of  
16 promotion, except for the rank or position of fire chief and  
17 for no more than 2 positions that rank immediately below that  
18 of the chief rank which are appointed positions pursuant to the  
19 Fire Department Promotion Act.

20 No person who is 35 years of age or older shall be eligible  
21 to take an examination for a position as a firefighter unless  
22 the person has had previous employment status as a firefighter  
23 in the regularly constituted fire department of the  
24 municipality, except as provided in this Section. The age  
25 limitation does not apply to:

26 (1) any person previously employed as a full-time

1 firefighter in a regularly constituted fire department of  
2 (i) any municipality or fire protection district located in  
3 Illinois, (ii) a fire protection district whose  
4 obligations were assumed by a municipality under Section 21  
5 of the Fire Protection District Act, or (iii) a  
6 municipality whose obligations were taken over by a fire  
7 protection district, or

8 (2) any person who has served a municipality as a  
9 regularly enrolled volunteer, paid-on-call, or part-time  
10 firefighter for the 5 years immediately preceding the time  
11 that the municipality begins to use full-time firefighters  
12 to provide all or part of its fire protection service.

13 No person who is under 21 years of age shall be eligible  
14 for employment as a firefighter.

15 No applicant shall be examined concerning his or her  
16 political or religious opinions or affiliations. The  
17 examinations shall be conducted by the commissioners of the  
18 municipality or their designees and agents.

19 No municipality shall require that any firefighter  
20 appointed to the lowest rank serve a probationary employment  
21 period of longer than one year of actual active employment,  
22 which may exclude periods of training, or injury or illness  
23 leaves, including duty related leave, in excess of 30 calendar  
24 days. Notwithstanding anything to the contrary in this Section,  
25 the probationary employment period limitation may be extended  
26 for a firefighter who is required, as a condition of

1 employment, to be a certified paramedic, during which time the  
2 sole reason that a firefighter may be discharged without a  
3 hearing is for failing to meet the requirements for paramedic  
4 certification.

5 In the event that any applicant who has been found eligible  
6 for appointment and whose name has been placed upon the final  
7 eligibility register provided for in this Section has not been  
8 appointed to a firefighter position within one year after the  
9 date of his or her physical ability examination, the commission  
10 may cause a second examination to be made of that applicant's  
11 physical ability prior to his or her appointment. If, after the  
12 second examination, the physical ability of the applicant shall  
13 be found to be less than the minimum standard fixed by the  
14 rules of the commission, the applicant shall not be appointed.  
15 The applicant's name may be retained upon the register of  
16 candidates eligible for appointment and when next reached for  
17 certification and appointment that applicant may be again  
18 examined as provided in this Section, and if the physical  
19 ability of that applicant is found to be less than the minimum  
20 standard fixed by the rules of the commission, the applicant  
21 shall not be appointed, and the name of the applicant shall be  
22 removed from the register.

23 (d) Notice, examination, and testing components. Notice of  
24 the time, place, general scope, merit criteria for any  
25 subjective component, and fee of every examination shall be  
26 given by the commission, by a publication at least 2 weeks



1 preceding the examination: (i) in one or more newspapers  
2 published in the municipality, or if no newspaper is published  
3 therein, then in one or more newspapers with a general  
4 circulation within the municipality, or (ii) on the  
5 municipality's Internet website. Additional notice of the  
6 examination may be given as the commission shall prescribe.

7 The examination and qualifying standards for employment of  
8 firefighters shall be based on: mental aptitude, physical  
9 ability, preferences, moral character, and health. The mental  
10 aptitude, physical ability, and preference components shall  
11 determine an applicant's qualification for and placement on the  
12 final register of eligibles. The examination may also include a  
13 subjective component based on merit criteria as determined by  
14 the commission. Scores from the examination must be made  
15 available to the public.

16 (e) Mental aptitude. No person who does not possess at  
17 least a high school diploma or an equivalent high school  
18 education shall be placed on a register of eligibles.  
19 Examination of an applicant's mental aptitude shall be based  
20 upon a written examination. The examination shall be practical  
21 in character and relate to those matters that fairly test the  
22 capacity of the persons examined to discharge the duties  
23 performed by members of a fire department. Written examinations  
24 shall be administered in a manner that ensures the security and  
25 accuracy of the scores achieved.

26 (f) Physical ability. All candidates shall be required to

1 undergo an examination of their physical ability to perform the  
2 essential functions included in the duties they may be called  
3 upon to perform as a member of a fire department. For the  
4 purposes of this Section, essential functions of the job are  
5 functions associated with duties that a firefighter may be  
6 called upon to perform in response to emergency calls. The  
7 frequency of the occurrence of those duties as part of the fire  
8 department's regular routine shall not be a controlling factor  
9 in the design of examination criteria or evolutions selected  
10 for testing. These physical examinations shall be open,  
11 competitive, and based on industry standards designed to test  
12 each applicant's physical abilities in the following  
13 dimensions:

14 (1) Muscular strength to perform tasks and evolutions  
15 that may be required in the performance of duties including  
16 grip strength, leg strength, and arm strength. Tests shall  
17 be conducted under anaerobic as well as aerobic conditions  
18 to test both the candidate's speed and endurance in  
19 performing tasks and evolutions. Tasks tested may be based  
20 on standards developed, or approved, by the local  
21 appointing authority.

22 (2) The ability to climb ladders, operate from heights,  
23 walk or crawl in the dark along narrow and uneven surfaces,  
24 and operate in proximity to hazardous environments.

25 (3) The ability to carry out critical, time-sensitive,  
26 and complex problem solving during physical exertion in

1 stressful and hazardous environments. The testing  
2 environment may be hot and dark with tightly enclosed  
3 spaces, flashing lights, sirens, and other distractions.

4 The tests utilized to measure each applicant's  
5 capabilities in each of these dimensions may be tests based on  
6 industry standards currently in use or equivalent tests  
7 approved by the Joint Labor-Management Committee of the Office  
8 of the State Fire Marshal.

9 Physical ability examinations administered under this  
10 Section shall be conducted with a reasonable number of proctors  
11 and monitors, open to the public, and subject to reasonable  
12 regulations of the commission.

13 (g) Scoring of examination components. Appointing  
14 authorities may create a preliminary eligibility register. A  
15 person shall be placed on the list based upon his or her  
16 passage of the written examination and any applicable  
17 preference credits or the passage of the written examination,  
18 any applicable preference credits, and the physical ability  
19 component. Passage of the written examination means a score  
20 that is at or above the median score for all applicants  
21 participating in the written test after adding any applicable  
22 preference credits as described in subsection (h). The  
23 appointing authority may conduct the physical ability  
24 component and any subjective components subsequent to the  
25 posting of the preliminary eligibility register.

26 The examination components for an initial eligibility

1 register shall be graded on a 100-point scale. A person's  
2 position on the list shall be determined by the following: (i)  
3 the person's score on the written examination, (ii) the person  
4 successfully passing the physical ability component, and (iii)  
5 the person's results on any subjective component as described  
6 in subsection (d), and (iv) any applicable preference credits  
7 as described in subsection (h).

8 In order to qualify for placement on the final eligibility  
9 register, an applicant's score on the written examination,  
10 after ~~before~~ any applicable preference points ~~or subjective~~  
11 ~~points~~ are applied, shall be at or above the median score. The  
12 local appointing authority may prescribe the score to qualify  
13 for placement on the final eligibility register, but the score  
14 shall not be less than the median score.

15 The commission shall prepare and keep a register of persons  
16 whose total score is not less than the minimum fixed by this  
17 Section and who have passed the physical ability examination.  
18 These persons shall take rank upon the register as candidates  
19 in the order of their relative excellence based on the highest  
20 to the lowest total points scored on the mental aptitude,  
21 subjective component, and preference components of the test  
22 administered in accordance with this Section. No more than 60  
23 days after each examination, an initial eligibility list shall  
24 be posted by the commission. The list shall include the final  
25 grades of the candidates without reference to priority of the  
26 time of examination ~~and subject to claim for preference credit.~~

1 Commissions may conduct additional examinations, including  
2 without limitation a polygraph test, after a final eligibility  
3 register is established and before it expires with the  
4 candidates ranked by total score without regard to date of  
5 examination. No more than 60 days after each examination, an  
6 initial eligibility list shall be posted by the commission  
7 showing the final grades of the candidates without reference to  
8 priority of time of examination ~~and subject to claim for~~  
9 ~~preference credit.~~

10 (h) Preferences. The following are preferences:

11 (1) Veteran preference. Persons who were engaged in the  
12 military service of the United States for a period of at  
13 least one year of active duty and who were honorably  
14 discharged therefrom, or who are now or have been members  
15 on inactive or reserve duty in such military or naval  
16 service, shall be preferred for appointment to and  
17 employment with the fire department of an affected  
18 department.

19 (2) Fire cadet preference. Persons who have  
20 successfully completed 2 years of study in fire techniques  
21 or cadet training within a cadet program established under  
22 the rules of the Joint Labor and Management Committee  
23 (JLMC), as defined in Section 50 of the Fire Department  
24 Promotion Act, may be preferred for appointment to and  
25 employment with the fire department.

26 (3) Educational preference. Persons who have

1           successfully obtained an associate's degree in the field of  
2           fire service or emergency medical services, or a bachelor's  
3           degree from an accredited college or university may be  
4           preferred for appointment to and employment with the fire  
5           department.

6           (4) Paramedic preference. Persons who have obtained  
7           certification as an Emergency Medical Technician-Paramedic  
8           (EMT-P) shall be preferred for appointment to and  
9           employment with the fire department of an affected  
10          department providing emergency medical services.

11          (5) Experience preference. All persons employed by a  
12          municipality who have been paid-on-call or part-time  
13          certified Firefighter II, State of Illinois or nationally  
14          licensed EMT-B or EMT-I, or any combination of those  
15          capacities shall be awarded 0.5 point for each year of  
16          successful service in one or more of those capacities, up  
17          to a maximum of 5 points. Certified Firefighter III and  
18          State of Illinois or nationally licensed paramedics shall  
19          be awarded one point per year up to a maximum of 5 points.  
20          Applicants from outside the municipality who were employed  
21          as full-time firefighters or firefighter-paramedics by a  
22          fire protection district or another municipality for at  
23          least 2 years shall be awarded 5 experience preference  
24          points. These additional points presuppose a rating scale  
25          totaling 100 points available for the eligibility list. If  
26          more or fewer points are used in the rating scale for the

1 eligibility list, the points awarded under this subsection  
2 shall be increased or decreased by a factor equal to the  
3 total possible points available for the examination  
4 divided by 100.

5 Upon request by the commission, the governing body of  
6 the municipality or in the case of applicants from outside  
7 the municipality the governing body of any fire protection  
8 district or any other municipality shall certify to the  
9 commission, within 10 days after the request, the number of  
10 years of successful paid-on-call, part-time, or full-time  
11 service of any person. ~~A candidate may not receive the full  
12 amount of preference points under this subsection if the  
13 amount of points awarded would place the candidate before a  
14 veteran on the eligibility list. If more than one candidate  
15 receiving experience preference points is prevented from  
16 receiving all of their points due to not being allowed to  
17 pass a veteran, the candidates shall be placed on the list  
18 below the veteran in rank order based on the totals  
19 received if all points under this subsection were to be  
20 awarded.~~ Any remaining ties on the list shall be determined  
21 by lot.

22 (6) Residency preference. Applicants whose principal  
23 residence is located within the fire department's  
24 jurisdiction shall be preferred for appointment to and  
25 employment with the fire department.

26 (7) Additional preferences. Up to 5 additional

1 preference points may be awarded for unique categories  
2 based on an applicant's experience or background as  
3 identified by the commission.

4 (8) Scoring of preferences. The commission shall give  
5 preference for original appointment to persons designated  
6 in item (1) by adding to the written examination score  
7 ~~final grade~~ that they receive 5 points for the recognized  
8 preference achieved. The commission shall determine the  
9 number of preference points for each category except (1).  
10 The number of preference points for each category shall  
11 range from 0 to 5. In determining the number of preference  
12 points, the commission shall prescribe that if a candidate  
13 earns the maximum number of preference points in all  
14 categories, that number may not be less than 10 nor more  
15 than 30. The commission shall give preference for original  
16 appointment to persons designated in items (2) through (7)  
17 by adding the requisite number of points to the written  
18 examination score ~~final grade~~ for each recognized  
19 preference achieved. The numerical result thus attained  
20 shall be applied by the commission in determining the  
21 preliminary, initial, and final eligibility lists ~~list~~ and  
22 appointment from the eligibility list. The local  
23 appointing authority may prescribe the total number of  
24 preference points awarded under this Section, but the total  
25 number of preference points shall not be less than 10  
26 points or more than 30 points.



1       A candidate may not receive the full amount of preference  
2 points under this subsection if the amount of points awarded  
3 would place the candidate before a veteran on the eligibility  
4 list. If more than one candidate receiving experience  
5 preference points is prevented from receiving all of their  
6 points due to not being allowed to pass a veteran, the  
7 candidates shall be placed on the list below the veteran in  
8 rank order based on the totals received if all points under  
9 this subsection were to be awarded.

10       Persons ~~No person~~ entitled to any preference shall be  
11 required to claim the credit before any examination held under  
12 the provisions of this Section, but the preference shall be  
13 given before ~~after~~ the posting or publication of the initial  
14 eligibility list or register, and ~~at the request of a person~~  
15 ~~entitled to a credit~~ before any certification or appointments  
16 are made from the eligibility register, upon the furnishing of  
17 verifiable evidence and proof of qualifying preference credit.  
18 ~~Candidates who are eligible for preference credit shall make a~~  
19 ~~claim in writing within 10 days after the posting of the~~  
20 ~~initial eligibility list, or the claim shall be deemed waived.~~  
21 Preliminary, initial, and final ~~Final~~ eligibility registers  
22 shall be established after the awarding of verified preference  
23 points. All employment shall be subject to the commission's  
24 initial hire background review including, but not limited to,  
25 criminal history, employment history, moral character, oral  
26 examination, and medical and psychological examinations, all

1 on a pass-fail basis. The medical and psychological  
2 examinations must be conducted last, and may only be performed  
3 after a conditional offer of employment has been extended.

4 Any person placed on an eligibility list who exceeds the  
5 age requirement before being appointed to a fire department  
6 shall remain eligible for appointment until the list is  
7 abolished, or his or her name has been on the list for a period  
8 of 2 years. No person who has attained the age of 35 years  
9 shall be inducted into a fire department, except as otherwise  
10 provided in this Section.

11 The commission shall strike off the names of candidates for  
12 original appointment after the names have been on the list for  
13 more than 2 years.

14 (i) Moral character. No person shall be appointed to a fire  
15 department unless he or she is a person of good character; not  
16 a habitual drunkard, a gambler, or a person who has been  
17 convicted of a felony or a crime involving moral turpitude.  
18 However, no person shall be disqualified from appointment to  
19 the fire department because of the person's record of  
20 misdemeanor convictions except those under Sections 11-6,  
21 11-7, 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 12-2, 12-6,  
22 12-15, 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1,  
23 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, 32-8, and subsections  
24 1, 6, and 8 of Section 24-1 of the Criminal Code of 1961 or the  
25 Criminal Code of 2012, or arrest for any cause without  
26 conviction thereon. Any such person who is in the department

1 may be removed on charges brought for violating this subsection  
2 and after a trial as hereinafter provided.

3 A classifiable set of the fingerprints of every person who  
4 is offered employment as a certificated member of an affected  
5 fire department whether with or without compensation, shall be  
6 furnished to the Illinois Department of State Police and to the  
7 Federal Bureau of Investigation by the commission.

8 Whenever a commission is authorized or required by law to  
9 consider some aspect of criminal history record information for  
10 the purpose of carrying out its statutory powers and  
11 responsibilities, then, upon request and payment of fees in  
12 conformance with the requirements of Section 2605-400 of the  
13 State Police Law of the Civil Administrative Code of Illinois,  
14 the Department of State Police is authorized to furnish,  
15 pursuant to positive identification, the information contained  
16 in State files as is necessary to fulfill the request.

17 (j) Temporary appointments. In order to prevent a stoppage  
18 of public business, to meet extraordinary exigencies, or to  
19 prevent material impairment of the fire department, the  
20 commission may make temporary appointments, to remain in force  
21 only until regular appointments are made under the provisions  
22 of this Division, but never to exceed 60 days. No temporary  
23 appointment of any one person shall be made more than twice in  
24 any calendar year.

25 (k) A person who knowingly divulges or receives test  
26 questions or answers before a written examination, or otherwise

1 knowingly violates or subverts any requirement of this Section,  
2 commits a violation of this Section and may be subject to  
3 charges for official misconduct.

4 A person who is the knowing recipient of test information  
5 in advance of the examination shall be disqualified from the  
6 examination or discharged from the position to which he or she  
7 was appointed, as applicable, and otherwise subjected to  
8 disciplinary actions.

9 (Source: P.A. 97-251, eff. 8-4-11; 97-898, eff. 8-6-12;  
10 97-1150, eff. 1-25-13.)