

BILL ANALYSIS

Senate Research Center

S.B. 1050
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Current law provides for promotion procedures for fire fighters and police officers. Within these procedures are vague provisions relating to the application of seniority points applied after a person takes a written examination. Also, the date a vacancy occurs in a non-entry position is not defined in Chapter 145, Local Government Code. Furthermore, courts have recently created a distinction between "disciplinary" and "non-disciplinary" passovers.

S.B. 1050 clarifies that the award of seniority points after a person takes a promotional examination is made if the person scores a 70 or above, and defines that a vacancy occurs in a non-entry position on the date a person resigns, retires, dies, or is promoted to a higher classification or is indefinitely suspended. Finally, S.B. 1050 clarifies the appeal options available to a fire fighter or police officer, when appealing a promotional passover.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 143, Local Government Code, by adding Section 143.0051, as follows:

Sec. 143.0051. STATUS OF EMPLOYEES IN CERTAIN FIRE DEPARTMENTS. (a) Provides that this section applies only to a fire department employee employed by a municipality with a population of 150,000 or more and with a governing body of five or fewer members.

(b) Provides that notwithstanding any other provision of this chapter, a previously nonclassified fire department employee who serves in a certain position has the status of a civil service employee and is not required to take a competitive examination to remain in the employee's position if certain criteria are met.

(c) Provides that the civil service status of an employee to which Subsection (b) applies is effective on the date that the ordinance amending the municipality's classification system to include the employee's position takes effect.

(d) Authorizes a fire department employee who has civil service status under Subsection (b) to be promoted only if certain criteria are met.

(e) Prohibits a fire department employee who has civil service status under Subsection (b) from supervising or evaluating classified civil service personnel assigned to fire suppression or emergency medical operations; or laterally transferring to fire suppression or emergency medical operations.

(f) Requires a person selected to fill that position, if a fire department employee who has civil service status under Subsection (b) leaves the employee's position for any reason, to be selected in accordance with the competitive civil service procedures prescribed in this chapter.

SECTION 2. Amends Section 143.027(a), Local Government Code, as follows:

- (a) Authorizes Fire Fighters' and Police Officers' Civil Service Commission by rule, in a municipality with a population of less than 1.9 million, to extend the probationary period by not more than six months for a certain person.

SECTION 3. Amends Section 143.033(c), Local Government Code, to require the grade that must be placed on the eligibility list for each police officer or fire fighter, unless a different procedure is adopted under an alternate promotional system as provided by Section 143.035 (Alternate Promotional System in Police Department), to be computed by adding the applicant's points for seniority to the applicant's grade on the written examination, but for a fire fighter applicant only if the applicant scores a passing grade on the written examination. Requires that in a municipality with a population of less than 1.5 million, all police officer applicants who receive a grade of at least 70 points be determined to have passed the examination and all fire fighter applicants who receive a grade on the written examination of at least 70 points be determined to have passed the examination. Makes conforming changes.

SECTION 4. Amends Sections 143.036(a) and (f), Local Government Code, as follows:

- (a) Provides that a vacancy in a position described by this subsection occurs on the date the position is vacated in one of several certain ways.

- (f) Requires the department head to file in writing the reason for not appointing an eligible promotional candidate and to provide the person with a copy of the written notice. Provides that on application of the bypassed eligible promotional candidate, the reason the department head did not appoint that person is subject to review by the Fire Fighters and Police Officers Civil Service Commission (commission) or, on the written request of the person being bypassed, by an independent third party hearing examiner under Section 143.057.

SECTION 5. Amends Section 143.057(a) Local Government Code, to require the written notice for a promotional bypass or the letter, as applicable, issued to a fire fighter or police officer, in addition to the other notice requirements prescribed by this chapter, to state that in an appeal of an indefinite suspension, a suspension, a promotional bypass, rather than passover, or a recommended demotion, the appealing fire fighter or police officer may elect to appeal to an independent third party hearing examiner instead of the commission.

SECTION 6. Makes application of Sections 143.033 and 143.057, Local Government Code, as amended by this Act, prospective.

SECTION 7. Effective date: September 1, 2005.