

By: Bailey

H.B. No. 2173

Substitute the following for H.B. No. 2173:

By: Talton

C.S.H.B. No. 2173

A BILL TO BE ENTITLED

AN ACT

relating to the promotional system for municipal civil service fire fighters.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 143.033(c), Local Government Code, is amended to read as follows:

(c) Unless a different procedure is adopted under an alternate promotional system as provided by Section 143.035, the grade that must be placed on the eligibility list for each police officer or fire fighter shall 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. Each applicant's grade on the written examination is based on a maximum grade of 100 points and is determined entirely by the correctness of the applicant's answers to the questions. The passing grade ~~[score]~~ in a municipality with a population of 1.5 million or more is prescribed by Section 143.108. 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 shall 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 shall be determined to have passed the examination. If a tie score occurs, the commission shall determine a method to break the tie.

SECTION 2. Sections 143.036(a) and (f), Local Government Code, are amended to read as follows:

(a) When a vacancy occurs in a nonentry position that is not appointed by the department head as provided by Sections 143.014 and 143.102, the vacancy shall be filled as prescribed by this section and Section 143.108, as applicable. A vacancy in a fire fighter position described by this subsection occurs on the date the position is vacated by:

(1) resignation;  
(2) retirement;  
(3) death;  
(4) promotion; or  
(5) issuance of an indefinite suspension in accordance with Section 143.052(b).

(f) Unless the department head has a valid reason for not appointing the person, the department head shall appoint the eligible promotional candidate having the highest grade on the eligibility list. If the department head has a valid reason for not appointing the eligible promotional candidate having the highest grade, the department head shall personally discuss the reason with the person being bypassed before appointing another person. The department head shall also file the reason in writing with the commission and, if the person being bypassed is a fire fighter, shall provide the person with a copy of the written notice. On application of the bypassed eligible promotional candidate, the reason the department head did not appoint that person is subject to review by the commission or, on the written request of the person

1 being bypassed, by an independent third party hearing examiner  
2 under Section 143.057.

3 SECTION 3. Section 143.057(a), Local Government Code, is  
4 amended to read as follows:

5 (a) In addition to the other notice requirements prescribed  
6 by this chapter, the written notice for a promotional bypass of a  
7 fire fighter or the letter of disciplinary action, as applicable,  
8 issued to a fire fighter or police officer must state that in an  
9 appeal of an indefinite suspension, a suspension, a promotional  
10 bypass [~~passover~~], or a recommended demotion, the appealing fire  
11 fighter or police officer may elect to appeal to an independent  
12 third party hearing examiner instead of to the commission. The  
13 letter must also state that if the fire fighter or police officer  
14 elects to appeal to a hearing examiner, the person waives all rights  
15 to appeal to a district court except as provided by Subsection (j).

16 SECTION 4. (a) The change in law made by this Act to Section  
17 143.033, Local Government Code, applies only in relation to a  
18 promotional examination given to a fire fighter on or after the  
19 effective date of this Act. A promotional examination given before  
20 the effective date of this Act and matters dependent on the  
21 promotional examination are governed by the law in effect at the  
22 time the examination was given, and the prior law is continued in  
23 effect for this purpose.

24 (b) The changes in law made by this Act to Sections 143.036  
25 and 143.057, Local Government Code, apply only in relation to a  
26 promotional bypass of a fire fighter that occurs on or after the  
27 effective date of this Act.

1           SECTION 5.   This Act takes effect September 1, 2005.