

AN ACT

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

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

SECTION 1. Subchapter A, Chapter 143, Local Government Code, is amended by adding Section 143.0051 to read as follows:

Sec. 143.0051. STATUS OF EMPLOYEES IN CERTAIN FIRE DEPARTMENTS. (a) 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) Notwithstanding any other provision of this chapter, a previously nonclassified fire department employee who serves in a position described by Section 143.003(4)(B), (D), (G), or (J) 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:

(1) the employee was appointed to that position on or before May 1, 2005, and was serving in that position on the date described by Subsection (c); and

(2) the municipality's governing body by ordinance amends the municipality's existing classification of fire department employees to include the employee's position as provided by Section 143.021.

(c) The civil service status of an employee to which Subsection (b) applies is effective on the date that the ordinance

1 amending the municipality's classification system to include the  
2 employee's position takes effect.

3 (d) A fire department employee who has civil service status  
4 under Subsection (b) may be promoted only:

5 (1) by competitive examination in accordance with the  
6 competitive civil service procedures prescribed in this chapter;  
7 and

8 (2) within the employee's existing division.

9 (e) A fire department employee who has civil service status  
10 under Subsection (b) may not:

11 (1) supervise or evaluate classified civil service  
12 personnel assigned to fire suppression or emergency medical  
13 operations; or

14 (2) laterally transfer to fire suppression or  
15 emergency medical operations.

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

21 SECTION 2. Subsection (a), Section 143.027, Local  
22 Government Code, is amended to read as follows:

23 (a) A person appointed to a beginning position in the fire  
24 or police department must serve a probationary period of one year  
25 beginning on that person's date of employment as a fire fighter,  
26 police officer, or academy trainee. In a municipality with a  
27 population of less than 1.9 million, the commission by rule may

1 extend the probationary period by not more than six months for a  
2 person who:

3 (1) is not employed by a department currently or  
4 previously covered by a collective bargaining agreement or a  
5 meet-and-confer agreement; and

6 (2) is required to attend a basic training academy for  
7 initial certification by the Texas Commission on Fire Protection or  
8 the Commission on Law Enforcement Officer Standards and Education.

9 SECTION 3. Subsection (c), Section 143.033, Local  
10 Government Code, is amended to read as follows:

11 (c) Unless a different procedure is adopted under an  
12 alternate promotional system as provided by Section 143.035, the  
13 grade that must be placed on the eligibility list for each police  
14 officer or fire fighter shall be computed by adding the applicant's  
15 points for seniority to the applicant's grade on the written  
16 examination, but for a fire fighter applicant only if the applicant  
17 scores a passing grade on the written examination. Each  
18 applicant's grade on the written examination is based on a maximum  
19 grade of 100 points and is determined entirely by the correctness of  
20 the applicant's answers to the questions. The passing grade  
21 [~~score~~] in a municipality with a population of 1.5 million or more  
22 is prescribed by Section 143.108. In a municipality with a  
23 population of less than 1.5 million, all police officer applicants  
24 who receive a grade of at least 70 points shall be determined to  
25 have passed the examination and all fire fighter applicants who  
26 receive a grade on the written examination of at least 70 points  
27 shall be determined to have passed the examination. If a tie score

1 occurs, the commission shall determine a method to break the tie.

2 SECTION 4. Subsections (a) and (f), Section 143.036, Local  
3 Government Code, are amended to read as follows:

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

10 (1) resignation;

11 (2) retirement;

12 (3) death;

13 (4) promotion; or

14 (5) issuance of an indefinite suspension in accordance  
15 with Section 143.052(b).

16 (f) Unless the department head has a valid reason for not  
17 appointing the person, the department head shall appoint the  
18 eligible promotional candidate having the highest grade on the  
19 eligibility list. If the department head has a valid reason for not  
20 appointing the eligible promotional candidate having the highest  
21 grade, the department head shall personally discuss the reason with  
22 the person being bypassed before appointing another person. The  
23 department head shall also file the reason in writing with the  
24 commission and shall provide the person with a copy of the written  
25 notice. On application of the bypassed eligible promotional  
26 candidate, the reason the department head did not appoint that  
27 person is subject to review by the commission or, on the written

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

3 SECTION 5. Subsection (a), Section 143.057, Local  
4 Government Code, is 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 or the  
7 letter of disciplinary action, as applicable, issued to a fire  
8 fighter or police officer must state that in an appeal of an  
9 indefinite suspension, a suspension, a promotional bypass  
10 [~~passover~~], or a recommended demotion, the appealing fire fighter  
11 or police officer may elect to appeal to an independent third party  
12 hearing examiner instead of to the commission. The letter must also  
13 state that if the fire fighter or police officer elects to appeal to  
14 a hearing examiner, the person waives all rights to appeal to a  
15 district court except as provided by Subsection (j).

16 SECTION 6. (a) The change in law made by this Act to  
17 Section 143.033, Local Government Code, applies only in relation to  
18 a promotional examination given on or after the effective date of  
19 this Act. A promotional examination given before the effective  
20 date of this Act and matters dependent on the promotional  
21 examination are governed by the law in effect at the time the  
22 examination was given, and the prior law is continued in effect for  
23 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 that occurs on or after the effective date of  
27 this Act.

1 SECTION 7. This Act takes effect September 1, 2005.

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 1050 passed the Senate on April 29, 2005, by the following vote: Yeas 28, Nays 1; May 13, 2005, Senate refused to concur in House amendments and May 18, 2005, requested appointment of Conference Committee; May 20, 2005, House granted request of the Senate; May 26, 2005, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

I hereby certify that S.B. No. 1050 passed the House, with amendments, on May 11, 2005, by a non-record vote; May 20, 2005, House granted request of the Senate for appointment of Conference Committee; May 27, 2005, House adopted Conference Committee Report by the following vote: Yeas 142, Nays 0, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor