

By: Van de Putte

S.B. No. 1050

A BILL TO BE ENTITLED

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

23 (c) Unless a different procedure is adopted under an
24 alternate promotional system as provided by Section 143.035, the
25 grade that must be placed on the eligibility list for each police
26 officer or fire fighter shall be computed by adding the applicant's
27 points for seniority to the applicant's grade on the written

1 examination, but for a fire fighter applicant only if the applicant
2 scores a passing grade on the written examination. Each
3 applicant's grade on the written examination is based on a maximum
4 grade of 100 points and is determined entirely by the correctness of
5 the applicant's answers to the questions. The passing grade
6 [~~score~~] in a municipality with a population of 1.5 million or more
7 is prescribed by Section 143.108. In a municipality with a
8 population of less than 1.5 million, all police officer applicants
9 who receive a grade of at least 70 points shall be determined to
10 have passed the examination and all fire fighter applicants who
11 receive a grade on the written examination of at least 70 points
12 shall be determined to have passed the examination. If a tie score
13 occurs, the commission shall determine a method to break the tie.

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

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

- 22 (1) resignation;
23 (2) retirement;
24 (3) death;
25 (4) promotion; or
26 (5) issuance of an indefinite suspension in accordance
27 with Section 143.052(b).

1 (f) Unless the department head has a valid reason for not
2 appointing the person, the department head shall appoint the
3 eligible promotional candidate having the highest grade on the
4 eligibility list. If the department head has a valid reason for not
5 appointing the eligible promotional candidate having the highest
6 grade, the department head shall personally discuss the reason with
7 the person being bypassed before appointing another person. The
8 department head shall also file the reason in writing with the
9 commission and, if the person being bypassed is a fire fighter,
10 shall provide the person with a copy of the written notice. On
11 application of the bypassed eligible promotional candidate, the
12 reason the department head did not appoint that person is subject to
13 review by the commission or, on the written request of the person
14 being bypassed, by an independent third party hearing examiner
15 under Section 143.057.

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

18 (a) In addition to the other notice requirements prescribed
19 by this chapter, the written notice for a promotional bypass of a
20 fire fighter or the letter of disciplinary action, as applicable,
21 issued to a fire fighter or police officer must state that in an
22 appeal of an indefinite suspension, a suspension, a promotional
23 bypass [~~passover~~], or a recommended demotion, the appealing fire
24 fighter or police officer may elect to appeal to an independent
25 third party hearing examiner instead of to the commission. The
26 letter must also state that if the fire fighter or police officer
27 elects to appeal to a hearing examiner, the person waives all rights

1 to appeal to a district court except as provided by Subsection (j).

2 SECTION 5. (a) The change in law made by this Act to
3 Section 143.033, Local Government Code, applies only in relation to
4 a promotional examination given to a fire fighter on or after the
5 effective date of this Act. A promotional examination given before
6 the effective date of this Act and matters dependent on the
7 promotional examination are governed by the law in effect at the
8 time the examination was given, and the prior law is continued in
9 effect for this purpose.

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

14 SECTION 6. This Act takes effect September 1, 2005.