

1-1 By: Van de Putte S.B. No. 1050
1-2 (In the Senate - Filed March 7, 2005; March 21, 2005, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 26, 2005, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-6 April 26, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1050 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the promotional system for municipal civil service fire
1-11 fighters.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (c), Section 143.033, Local
1-14 Government Code, is amended to read as follows:

1-15 (c) Unless a different procedure is adopted under an
1-16 alternate promotional system as provided by Section 143.035, the
1-17 grade that must be placed on the eligibility list for each police
1-18 officer or fire fighter shall be computed by adding the applicant's
1-19 points for seniority to the applicant's grade on the written
1-20 examination, but for a fire fighter applicant only if the applicant
1-21 scores a passing grade on the written examination. Each
1-22 applicant's grade on the written examination is based on a maximum
1-23 grade of 100 points and is determined entirely by the correctness of
1-24 the applicant's answers to the questions. The passing grade
1-25 [~~score~~] in a municipality with a population of 1.5 million or more
1-26 is prescribed by Section 143.108. In a municipality with a
1-27 population of less than 1.5 million, all police officer applicants
1-28 who receive a grade of at least 70 points shall be determined to
1-29 have passed the examination and all fire fighter applicants who
1-30 receive a grade on the written examination of at least 70 points
1-31 shall be determined to have passed the examination. If a tie score
1-32 occurs, the commission shall determine a method to break the tie.

1-33 SECTION 2. Subsections (a) and (f), Section 143.036, Local
1-34 Government Code, are amended to read as follows:

1-35 (a) When a vacancy occurs in a nonentry position that is not
1-36 appointed by the department head as provided by Sections 143.014
1-37 and 143.102, the vacancy shall be filled as prescribed by this
1-38 section and Section 143.108, as applicable. A vacancy in a fire
1-39 fighter position described by this subsection occurs on the date
1-40 the position is vacated by:

1-41 (1) resignation;
1-42 (2) retirement;
1-43 (3) death;
1-44 (4) promotion; or
1-45 (5) issuance of an indefinite suspension in accordance
1-46 with Section 143.052(b).

1-47 (f) Unless the department head has a valid reason for not
1-48 appointing the person, the department head shall appoint the
1-49 eligible promotional candidate having the highest grade on the
1-50 eligibility list. If the department head has a valid reason for not
1-51 appointing the eligible promotional candidate having the highest
1-52 grade, the department head shall personally discuss the reason with
1-53 the person being bypassed before appointing another person. The
1-54 department head shall also file the reason in writing with the
1-55 commission and, if the person being bypassed is a fire fighter,
1-56 shall provide the person with a copy of the written notice. On
1-57 application of the bypassed eligible promotional candidate, the
1-58 reason the department head did not appoint that person is subject to
1-59 review by the commission or, on the written request of the person
1-60 being bypassed, by an independent third party hearing examiner
1-61 under Section 143.057.

1-62 SECTION 3. Subsection (a), Section 143.057, Local
1-63 Government Code, is amended to read as follows:

2-1 (a) In addition to the other notice requirements prescribed
2-2 by this chapter, the written notice for a promotional bypass of a
2-3 fire fighter or the letter of disciplinary action, as applicable,
2-4 issued to a fire fighter or police officer must state that in an
2-5 appeal of an indefinite suspension, a suspension, a promotional
2-6 bypass [~~passover~~], or a recommended demotion, the appealing fire
2-7 fighter or police officer may elect to appeal to an independent
2-8 third party hearing examiner instead of to the commission. The
2-9 letter must also state that if the fire fighter or police officer
2-10 elects to appeal to a hearing examiner, the person waives all rights
2-11 to appeal to a district court except as provided by Subsection (j).

2-12 SECTION 4. (a) The change in law made by this Act to
2-13 Section 143.033, Local Government Code, applies only in relation to
2-14 a promotional examination given to a fire fighter on or after the
2-15 effective date of this Act. A promotional examination given before
2-16 the effective date of this Act and matters dependent on the
2-17 promotional examination are governed by the law in effect at the
2-18 time the examination was given, and the prior law is continued in
2-19 effect for this purpose.

2-20 (b) The changes in law made by this Act to Sections 143.036
2-21 and 143.057, Local Government Code, apply only in relation to a
2-22 promotional bypass of a fire fighter that occurs on or after the
2-23 effective date of this Act.

2-24 SECTION 5. This Act takes effect September 1, 2005.

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