

By: England

H.B. No. 3905

A BILL TO BE ENTITLED

AN ACT

relating to the hiring of applicants for a beginning position in the fire department or police department in certain municipalities.

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

SECTION 1. Sections 143.025(a), (b), (c), (h), and (j), Local Government Code, are amended to read as follows:

(a) The commission shall provide for open, competitive, and free entrance examinations to add applicants to the applicable ~~provide~~ eligibility list ~~lists~~ for a beginning position ~~positions~~ in the fire or ~~and~~ police department ~~departments~~. The examinations are open to each person who makes a proper application and meets the requirements prescribed by this chapter.

(b) The ~~An~~ eligibility list for a beginning position in the fire or police department may be created only as a result of a competitive examination ~~held in the presence of each applicant for the position, except as provided by Subsections (d) and (e)]~~. The examination must be based on the person's general knowledge and aptitude and must inquire into the applicant's general education and mental ability. A person may not be appointed to the fire or police department except as a result of the examination.

(c) The commission shall adopt rules to standardize the procedures for entrance examinations. The rules must provide:

(1) procedures for administering the exam:

(A) in the department; or

1 (B) at a professional testing site in this state
2 or in another state; and

3 (2) security protocols to prevent an unfair advantage
4 to any applicant. [~~An applicant may not take an examination unless~~
5 ~~at least one other applicant taking the examination is present.~~]

6 (h) The commission shall keep each applicant who passes the
7 examination on the eligibility list for a beginning position in the
8 fire department or on the eligibility list for a beginning position
9 in the police department, as applicable, [in-effect] for a period of
10 not less than six months or more than 12 months, unless the
11 applicant is appointed to a beginning position in [names of all
12 applicants on the list have been referred to] the appropriate
13 department. The commission shall determine the length of the
14 period. The commission shall give new examinations at times the
15 commission considers necessary to provide required staffing for
16 scheduled fire or police training academies.

17 (j) Notwithstanding Subsection (i), each applicant who is
18 either a natural-born or adopted child of a fire fighter who
19 previously suffered a line-of-duty death while covered by this
20 chapter shall be ranked at the top of the [any] eligibility list if
21 the [in which said] applicant receives a minimum passing grade on
22 the [that respective] eligibility exam. The deceased fire
23 fighter's applicant child must otherwise satisfy all of the
24 requirements for eligibility for a beginning position in a fire
25 department contained in this chapter. The [This] commission shall
26 promulgate rules to identify and verify each applicant's
27 eligibility for applicability of this subsection.

1 SECTION 2. Section 143.026, Local Government Code, is
2 amended to read as follows:

3 Sec. 143.026. PROCEDURE FOR FILLING BEGINNING POSITIONS.

4 (a) When a vacancy occurs in a beginning position in a fire or
5 police department, ~~[the department head shall request in writing~~
6 ~~from the commission the names of suitable persons from the~~
7 ~~eligibility list. The director shall certify to the municipality's~~
8 ~~chief executive the names of the three persons having the highest~~
9 ~~grades on the eligibility list.~~

10 ~~[(b) From the three names certified,]~~ the municipality's
11 chief executive shall appoint the person having the highest grade
12 on the entrance examination unless there is a valid reason not to
13 ~~[why the person having the second or third highest grade should be~~
14 ~~appointed].~~

15 (b) ~~[(c)]~~ If the chief executive does not appoint the person
16 having the highest grade, the chief executive shall clearly set
17 forth in writing the good and sufficient reason why the person or
18 persons having a higher ~~[the highest]~~ grade than the person
19 appointed were ~~[was]~~ not appointed.

20 (c) ~~[(d)]~~ The reason required by Subsection (b) ~~[(c)]~~ shall
21 be filed with the commission and a copy provided to any ~~[the]~~ person
22 having a higher ~~[the highest]~~ grade than the person appointed. ~~[If~~
23 ~~the chief executive appoints the person having the third highest~~
24 ~~grade, a copy of the report shall also be furnished to the person~~
25 ~~having the second highest grade.]~~

26 SECTION 3. The heading to Section 143.083, Local Government
27 Code, is amended to read as follows:

1 Sec. 143.083. EMERGENCY APPOINTMENT OF TEMPORARY FIRE
2 FIGHTERS [~~AND POLICE OFFICERS~~].

3 SECTION 4. Section 143.083(a), Local Government Code, is
4 amended to read as follows:

5 (a) If a municipality is unable to recruit qualified fire
6 fighters [~~or police officers~~] because of the maximum age limit
7 prescribed by Section 143.023 and the municipality's governing body
8 finds that this inability creates an emergency, the commission
9 shall recommend to the governing body additional rules governing
10 the temporary employment of persons who are 36 years of age or
11 older.

12 SECTION 5. Sections 143.023(c), 143.024(b), and
13 143.025(d), (e), and (g), Local Government Code, are repealed.

14 SECTION 6. (a) The changes in law made by this Act to
15 Section 143.025, Local Government Code, apply to an entrance
16 examination administered on or after the effective date of this
17 Act. An entrance examination administered before the effective
18 date of this Act is governed by the law in effect on the date that
19 examination was administered with respect to the procedures for
20 taking the examination, and the former law is continued in effect
21 for that purpose. However, the changes in law made by this Act
22 regarding the creation of a continuous eligibility list for a
23 beginning position in a fire or police department apply on the
24 effective date of this Act in relation to an examination given
25 before, on, or after the effective date of this Act.

26 (b) The change in law made by this Act to Section 143.026,
27 Local Government Code, applies only to an appointment made on or

1 after the effective date of this Act. An appointment made before
2 the effective date of this Act is governed by the law in effect on
3 the date the appointment was made, and the former law is continued
4 in effect for that purpose.

5 SECTION 7. This Act takes effect September 1, 2009.