

# SB2070



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB2070

Introduced 2/14/2008, by Sen. Mike Jacobs

#### SYNOPSIS AS INTRODUCED:

50 ILCS 742/20  
50 ILCS 742/50

Amends the Fire Department Promotion Act. With respect to subjective evaluation of candidates for promotion, sets up a procedure for the parties to select impartial qualified professionals as promotional assessors from a roster established by the Office of the State Fire Marshal. Makes technical corrections. Effective immediately.

LRB095 18341 HLH 44425 b

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Fire Department Promotion Act is amended by  
5 changing Sections 20 and 50 as follows:

6 (50 ILCS 742/20)

7 Sec. 20. Promotion lists.

8 (a) For the purpose of granting a promotion to any rank to  
9 which this Act applies, the appointing authority shall from  
10 time to time, as necessary, prepare a preliminary promotion  
11 list in accordance with this Act. The preliminary promotion  
12 list shall be distributed, posted, or otherwise made  
13 conveniently available by the appointing authority to all  
14 members of the department.

15 (b) A person's position on the preliminary promotion list  
16 shall be determined by a combination of factors which may  
17 include any of the following: (i) the person's score on the  
18 written examination for that rank, determined in accordance  
19 with Section 35; (ii) the person's seniority within the  
20 department, determined in accordance with Section 40; (iii) the  
21 person's ascertained merit, determined in accordance with  
22 Section 45; and (iv) the person's score on the subjective  
23 evaluation, determined in accordance with Section 50.

1 Candidates shall be ranked on the list in rank order based on  
2 the highest to the lowest total points scored on all of the  
3 components of the test. Promotional components, as defined  
4 herein, shall be determined and administered in accordance with  
5 the referenced Section, unless otherwise modified or agreed to  
6 as provided by paragraph (1) or (2) of subsection (d) ~~(e)~~ of  
7 Section 10. The use of physical criteria, including but not  
8 limited to fitness testing, agility testing, and medical  
9 evaluations, is specifically barred from the promotion  
10 process.

11 (c) A person on the preliminary promotion list who is  
12 eligible for a veteran's preference under the laws and  
13 agreements applicable to the department may file a written  
14 application for that preference within 10 days after the  
15 initial posting of the preliminary promotion list. The  
16 preference shall be calculated as provided under Section 55 and  
17 added to the total score achieved by the candidate on the test.  
18 The appointing authority shall then make adjustments to the  
19 rank order of the preliminary promotion list based on any  
20 veteran's preferences awarded. The final adjusted promotion  
21 list shall then be distributed, posted, or otherwise made  
22 conveniently available by the appointing authority to all  
23 members of the department.

24 (d) Whenever a promotional rank is created or becomes  
25 vacant due to resignation, discharge, promotion, death, or the  
26 granting of a disability or retirement pension, or any other

1 cause, the appointing authority shall appoint to that position  
2 the person with the highest ranking on the final promotion list  
3 for that rank, except that the appointing authority shall have  
4 the right to pass over that person and appoint the next highest  
5 ranked person on the list if the appointing authority has  
6 reason to conclude that the highest ranking person has  
7 demonstrated substantial shortcomings in work performance or  
8 has engaged in misconduct affecting the person's ability to  
9 perform the duties of the promoted rank since the posting of  
10 the promotion list. If the highest ranking person is passed  
11 over, the appointing authority shall document its reasons for  
12 its decision to select the next highest ranking person on the  
13 list. Unless the reasons for passing over the highest ranking  
14 person are not remediable ~~remedial~~, no person who is the  
15 highest ranking person on the list at the time of the vacancy  
16 shall be passed over more than once. Any dispute as to the  
17 selection of the first or second highest-ranking person shall  
18 be subject to resolution in accordance with any grievance  
19 procedure in effect covering the employee.

20 A vacancy shall be deemed to occur in a position on the  
21 date upon which the position is vacated, and on that same date,  
22 a vacancy shall occur in all ranks inferior to that rank,  
23 provided that the position or positions continue to be funded  
24 and authorized by the corporate authorities. If a vacated  
25 position is not filled due to a lack of funding or  
26 authorization and is subsequently reinstated, the final

1 promotion list shall be continued in effect until all positions  
2 vacated have been filled or for a period up to 5 years  
3 beginning from the date on which the position was vacated. In  
4 such event, the candidate or candidates who would have  
5 otherwise been promoted when the vacancy originally occurred  
6 shall be promoted.

7 Any candidate may refuse a promotion once without losing  
8 his or her position on the final adjusted promotion list. Any  
9 candidate who refuses promotion a second time shall be removed  
10 from the final adjusted promotion list, provided that such  
11 action shall not prejudice a person's opportunities to  
12 participate in future promotion examinations.

13 (e) A final adjusted promotion list shall remain valid and  
14 unaltered for a period of not less than 2 nor more than 3 years  
15 after the date of the initial posting. Integrated lists are  
16 prohibited and when a list expires it shall be void, except as  
17 provided in subsection (d) of this Section. If a promotion list  
18 is not in effect, a successor list shall be prepared and  
19 distributed within 180 days after a vacancy, as defined in  
20 subsection (d) of this Section.

21 (f) This Section 20 does not apply to the initial hiring  
22 list.

23 (Source: P.A. 93-411, eff. 8-4-03.)

24 (50 ILCS 742/50)

25 Sec. 50. Subjective evaluation.

1 (a) A promotion test may include subjective evaluation  
2 components. Subjective evaluations may include an oral  
3 interview, tactical evaluation, performance evaluation, or  
4 other component based on subjective evaluation of the examinee.  
5 The methods used for subjective evaluations may include using  
6 any employee assessment centers, evaluation systems, chief's  
7 points, or other methods.

8 (b) Any subjective component shall be identified to all  
9 candidates prior to its application, be job-related, and be  
10 applied uniformly to all candidates. Every examinee shall have  
11 the right to documentation of his or her score on the  
12 subjective component upon the completion of the subjective  
13 examination component or its application. A designated  
14 representative of the contracting union party shall be notified  
15 and be entitled to be present to monitor any preliminary  
16 meeting between certified assessors or representatives of a  
17 testing agency and representatives of the appointing authority  
18 held prior to the administration of the test to candidates for  
19 promotion.

20 (c) Where chief's points or other subjective methods are  
21 employed that are not amenable to monitoring, monitors shall  
22 not be required, but any disputes as to the results of such  
23 methods shall be subject to resolution in accordance with any  
24 collectively bargained grievance procedure in effect at the  
25 time of the test.

26 (d) Where performance evaluations are used as a basis for

1 promotions, they shall be given annually and made readily  
2 available to each candidate for review and they shall include  
3 any disagreement or documentation the employee provides to  
4 refute or contest the evaluation. These annual evaluations are  
5 not subject to grievance procedures, unless used for points in  
6 the promotion process.

7 (e) Total points awarded for subjective components shall be  
8 posted before the written examination is administered and  
9 before the promotion list is compiled.

10 (f) Persons selected to grade candidates for promotion  
11 during an assessment center process shall be impartial  
12 professionals who have undergone training to be certified  
13 assessors. The training and certification requirements shall,  
14 at a minimum, provide that, to obtain and maintain  
15 certification, assessors shall complete a course of basis  
16 training, subscribe to a code of ethical conduct, complete  
17 continuing education, and satisfy minimum activity levels.

18 (g) The standards for certification shall be established by  
19 a Joint Labor and Management Committee (JLMC) composed of 4  
20 members: 2 designated by a statewide association whose  
21 membership is predominantly fire chiefs representing  
22 management interests of the Illinois fire service, and 2  
23 designated by a statewide labor organization that is a  
24 representative of sworn or commissioned firefighters in  
25 Illinois. Members may serve terms of one year subject to  
26 reappointment.

1       For the purposes of this Section, the term "statewide labor  
2 organization" has the meaning ascribed to it in Section 10-3-12  
3 of the Illinois Municipal Code.

4       In developing certification standards the JLMC may seek the  
5 advice and counsel of professionals and experts and may appoint  
6 an advisory committee.

7       The JLMC's initial certification standards shall be  
8 submitted to the Office of the State Fire Marshall by January  
9 1, 2009. The JLMC may provisionally certify persons who have  
10 prior experience as assessors on promotional examinations in  
11 the fire service. Effective January 1, 2010 only those persons  
12 who meet the certification standards developed by the JLMC and  
13 submitted to the Office of the State Fire Marshall may be  
14 selected to grade candidates on a subjective component of a  
15 promotional examination conducted under the authority of this  
16 Act; provided this requirement shall be waived for persons  
17 employed or appointed by the jurisdiction administering the  
18 examination.

19       The JLMC shall annually:

20           (1) issue public notice offering persons who are  
21 interested in qualifying as certified assessors the  
22 opportunity to enroll in training; and

23           (2) submit to the Office of the State Fire Marshall an  
24 amended list of persons who remain certified, are newly  
25 certified, or who are no longer certified.

26       (h) The Office of the State Fire Marshall shall support the



1 program by adopting certification standards based on those  
2 submitted by the JLMC and by establishing a roster of certified  
3 assessors composed of persons certified by the JLMC.

4 If the parties have not agreed to contract with a  
5 particular testing company to provide certified assessors,  
6 either party may request the Office to provide the names of  
7 certified assessors. Within 7 days after receiving a request  
8 from either party for a list of certified assessors, the Office  
9 shall select at random from the roster of certified assessors a  
10 panel numbering not less than 2 times the number of assessors  
11 required. The parties shall augment the number by a factor of  
12 50% by designating assessors who may serve as alternates to the  
13 primary assessors.

14 The parties shall select assessors from the list or lists  
15 provided by the Office or from the panel obtained by the  
16 testing company as provided above. Within 7 days following the  
17 receipt of the list, the parties shall notify the Office of the  
18 assessors they have selected. Unless the parties agree on an  
19 alternate selection procedure, they shall alternatively strike  
20 names from the list provided by the Office until only the  
21 number of required assessors remain. A coin toss shall  
22 determine which party strikes the first name. If the parties  
23 fail to notify the Office in a timely manner of their selection  
24 of assessors, the Office shall appoint the assessors required  
25 from the roster of certified assessors. In the event an  
26 assessor is not able to participate in the assessment center

1 process for which he was selected, either of the parties  
2 involved in the promotion process may request that additional  
3 names of certified assessors be provided by the Office.

4 (Source: P.A. 93-411, eff. 8-4-03.)

5 Section 99. Effective date. This Act takes effect upon  
6 becoming law.