

HB4741



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4741

by Rep. Donald L. Moffitt

SYNOPSIS AS INTRODUCED:

70 ILCS 705/16.06b

Amends the Fire Protection District Act. Provides that an individual who turned 35 while serving as a member of the active or reserve components of any of the branches of the Armed Forces of the United States or the National Guard of any state, whose service was characterized as honorable or under honorable, and is currently under the age of 40 is eligible to take an examination for a position as a firefighter. Effective immediately.

LRB098 16875 JLK 51948 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 Protection District Act is amended by
5 changing Section 16.06b as follows:

6 (70 ILCS 705/16.06b)

7 Sec. 16.06b. Original appointments; full-time fire
8 department.

9 (a) Applicability. Unless a commission elects to follow the
10 provisions of Section 16.06c, this Section shall apply to all
11 original appointments to an affected full-time fire
12 department. Existing registers of eligibles shall continue to
13 be valid until their expiration dates, or up to a maximum of 2
14 years after the effective date of this amendatory Act of the
15 97th General Assembly.

16 Notwithstanding any statute, ordinance, rule, or other law
17 to the contrary, all original appointments to an affected
18 department to which this Section applies shall be administered
19 in a no less stringent manner than the manner provided for in
20 this Section. Provisions of the Illinois Municipal Code, Fire
21 Protection District Act, fire district ordinances, and rules
22 adopted pursuant to such authority and other laws relating to
23 initial hiring of firefighters in affected departments shall

1 continue to apply to the extent they are compatible with this
2 Section, but in the event of a conflict between this Section
3 and any other law, this Section shall control.

4 A fire protection district that is operating under a court
5 order or consent decree regarding original appointments to a
6 full-time fire department before the effective date of this
7 amendatory Act of the 97th General Assembly is exempt from the
8 requirements of this Section for the duration of the court
9 order or consent decree.

10 (b) Original appointments. All original appointments made
11 to an affected fire department shall be made from a register of
12 eligibles established in accordance with the processes
13 required by this Section. Only persons who meet or exceed the
14 performance standards required by the Section shall be placed
15 on a register of eligibles for original appointment to an
16 affected fire department.

17 Whenever an appointing authority authorizes action to hire
18 a person to perform the duties of a firefighter or to hire a
19 firefighter-paramedic to fill a position that is a new position
20 or vacancy due to resignation, discharge, promotion, death, the
21 granting of a disability or retirement pension, or any other
22 cause, the appointing authority shall appoint to that position
23 the person with the highest ranking on the final eligibility
24 list. If the appointing authority has reason to conclude that
25 the highest ranked person fails to meet the minimum standards
26 for the position or if the appointing authority believes an

1 alternate candidate would better serve the needs of the
2 department, then the appointing authority has the right to pass
3 over the highest ranked person and appoint either: (i) any
4 person who has a ranking in the top 5% of the register of
5 eligibles or (ii) any person who is among the top 5 highest
6 ranked persons on the list of eligibles if the number of people
7 who have a ranking in the top 5% of the register of eligibles
8 is less than 5 people.

9 Any candidate may pass on an appointment once without
10 losing his or her position on the register of eligibles. Any
11 candidate who passes a second time may be removed from the list
12 by the appointing authority provided that such action shall not
13 prejudice a person's opportunities to participate in future
14 examinations, including an examination held during the time a
15 candidate is already on the fire district's register of
16 eligibles.

17 The sole authority to issue certificates of appointment
18 shall be vested in the board of fire commissioners, or board of
19 trustees serving in the capacity of a board of fire
20 commissioners. All certificates of appointment issued to any
21 officer or member of an affected department shall be signed by
22 the chairperson and secretary, respectively, of the commission
23 upon appointment of such officer or member to the affected
24 department by action of the commission. Each person who accepts
25 a certificate of appointment and successfully completes his or
26 her probationary period shall be enrolled as a firefighter and

1 as a regular member of the fire department.

2 For the purposes of this Section, "firefighter" means any
3 person who has been prior to, on, or after the effective date
4 of this amendatory Act of the 97th General Assembly appointed
5 to a fire department or fire protection district or employed by
6 a State university and sworn or commissioned to perform
7 firefighter duties or paramedic duties, or both, except that
8 the following persons are not included: part-time
9 firefighters; auxiliary, reserve, or voluntary firefighters,
10 including paid-on-call firefighters; clerks and dispatchers or
11 other civilian employees of a fire department or fire
12 protection district who are not routinely expected to perform
13 firefighter duties; and elected officials.

14 (c) Qualification for placement on register of eligibles.
15 The purpose of establishing a register of eligibles is to
16 identify applicants who possess and demonstrate the mental
17 aptitude and physical ability to perform the duties required of
18 members of the fire department in order to provide the highest
19 quality of service to the public. To this end, all applicants
20 for original appointment to an affected fire department shall
21 be subject to examination and testing which shall be public,
22 competitive, and open to all applicants unless the district
23 shall by ordinance limit applicants to residents of the
24 district, county or counties in which the district is located,
25 State, or nation. Districts may establish educational,
26 emergency medical service licensure, and other pre-requisites

1 for participation in an examination or for hire as a
2 firefighter. Any fire protection district may charge a fee to
3 cover the costs of the application process.

4 Residency requirements in effect at the time an individual
5 enters the fire service of a district cannot be made more
6 restrictive for that individual during his or her period of
7 service for that district, or be made a condition of promotion,
8 except for the rank or position of fire chief and for no more
9 than 2 positions that rank immediately below that of the chief
10 rank which are appointed positions pursuant to the Fire
11 Department Promotion Act.

12 No person who is 35 years of age or older shall be eligible
13 to take an examination for a position as a firefighter unless
14 the person has had previous employment status as a firefighter
15 in the regularly constituted fire department of the district,
16 except as provided in this Section. The age limitation does not
17 apply to:

18 (1) any person previously employed as a full-time
19 firefighter in a regularly constituted fire department of
20 (i) any municipality or fire protection district located in
21 Illinois, (ii) a fire protection district whose
22 obligations were assumed by a municipality under Section 21
23 of the Fire Protection District Act, or (iii) a
24 municipality whose obligations were taken over by a fire
25 protection district, or

26 (2) any person who has served a fire district as a

1 regularly enrolled volunteer, paid-on-call, or part-time
2 firefighter for the 5 years immediately preceding the time
3 that the district begins to use full-time firefighters to
4 provide all or part of its fire protection service; or -

5 (3) any person who turned 35 while serving as a member
6 of the active or reserve components of any of the branches
7 of the Armed Forces of the United States or the National
8 Guard of any state, whose service was characterized as
9 honorable or under honorable, if separated from the
10 military, and is currently under the age of 40.

11 No person who is under 21 years of age shall be eligible
12 for employment as a firefighter.

13 No applicant shall be examined concerning his or her
14 political or religious opinions or affiliations. The
15 examinations shall be conducted by the commissioners of the
16 district or their designees and agents.

17 No district shall require that any firefighter appointed to
18 the lowest rank serve a probationary employment period of
19 longer than one year of actual active employment, which may
20 exclude periods of training, or injury or illness leaves,
21 including duty related leave, in excess of 30 calendar days.
22 Notwithstanding anything to the contrary in this Section, the
23 probationary employment period limitation may be extended for a
24 firefighter who is required, as a condition of employment, to
25 be a certified paramedic, during which time the sole reason
26 that a firefighter may be discharged without a hearing is for

1 failing to meet the requirements for paramedic certification.

2 In the event that any applicant who has been found eligible
3 for appointment and whose name has been placed upon the final
4 eligibility register provided for in this Section has not been
5 appointed to a firefighter position within one year after the
6 date of his or her physical ability examination, the commission
7 may cause a second examination to be made of that applicant's
8 physical ability prior to his or her appointment. If, after the
9 second examination, the physical ability of the applicant shall
10 be found to be less than the minimum standard fixed by the
11 rules of the commission, the applicant shall not be appointed.
12 The applicant's name may be retained upon the register of
13 candidates eligible for appointment and when next reached for
14 certification and appointment that applicant may be again
15 examined as provided in this Section, and if the physical
16 ability of that applicant is found to be less than the minimum
17 standard fixed by the rules of the commission, the applicant
18 shall not be appointed, and the name of the applicant shall be
19 removed from the register.

20 (d) Notice, examination, and testing components. Notice of
21 the time, place, general scope, merit criteria for any
22 subjective component, and fee of every examination shall be
23 given by the commission, by a publication at least 2 weeks
24 preceding the examination: (i) in one or more newspapers
25 published in the district, or if no newspaper is published
26 therein, then in one or more newspapers with a general

1 circulation within the district, or (ii) on the fire protection
2 district's Internet website. Additional notice of the
3 examination may be given as the commission shall prescribe.

4 The examination and qualifying standards for employment of
5 firefighters shall be based on: mental aptitude, physical
6 ability, preferences, moral character, and health. The mental
7 aptitude, physical ability, and preference components shall
8 determine an applicant's qualification for and placement on the
9 final register of eligibles. The examination may also include a
10 subjective component based on merit criteria as determined by
11 the commission. Scores from the examination must be made
12 available to the public.

13 (e) Mental aptitude. No person who does not possess at
14 least a high school diploma or an equivalent high school
15 education shall be placed on a register of eligibles.
16 Examination of an applicant's mental aptitude shall be based
17 upon a written examination. The examination shall be practical
18 in character and relate to those matters that fairly test the
19 capacity of the persons examined to discharge the duties
20 performed by members of a fire department. Written examinations
21 shall be administered in a manner that ensures the security and
22 accuracy of the scores achieved.

23 (f) Physical ability. All candidates shall be required to
24 undergo an examination of their physical ability to perform the
25 essential functions included in the duties they may be called
26 upon to perform as a member of a fire department. For the

1 purposes of this Section, essential functions of the job are
2 functions associated with duties that a firefighter may be
3 called upon to perform in response to emergency calls. The
4 frequency of the occurrence of those duties as part of the fire
5 department's regular routine shall not be a controlling factor
6 in the design of examination criteria or evolutions selected
7 for testing. These physical examinations shall be open,
8 competitive, and based on industry standards designed to test
9 each applicant's physical abilities in the following
10 dimensions:

11 (1) Muscular strength to perform tasks and evolutions
12 that may be required in the performance of duties including
13 grip strength, leg strength, and arm strength. Tests shall
14 be conducted under anaerobic as well as aerobic conditions
15 to test both the candidate's speed and endurance in
16 performing tasks and evolutions. Tasks tested may be based
17 on standards developed, or approved, by the local
18 appointing authority.

19 (2) The ability to climb ladders, operate from heights,
20 walk or crawl in the dark along narrow and uneven surfaces,
21 and operate in proximity to hazardous environments.

22 (3) The ability to carry out critical, time-sensitive,
23 and complex problem solving during physical exertion in
24 stressful and hazardous environments. The testing
25 environment may be hot and dark with tightly enclosed
26 spaces, flashing lights, sirens, and other distractions.

1 The tests utilized to measure each applicant's
2 capabilities in each of these dimensions may be tests based on
3 industry standards currently in use or equivalent tests
4 approved by the Joint Labor-Management Committee of the Office
5 of the State Fire Marshal.

6 Physical ability examinations administered under this
7 Section shall be conducted with a reasonable number of proctors
8 and monitors, open to the public, and subject to reasonable
9 regulations of the commission.

10 (g) Scoring of examination components. Appointing
11 authorities may create a preliminary eligibility register. A
12 person shall be placed on the list based upon his or her
13 passage of the written examination or the passage of the
14 written examination and the physical ability component.
15 Passage of the written examination means a score that is at or
16 above the median score for all applicants participating in the
17 written test. The appointing authority may conduct the physical
18 ability component and any subjective components subsequent to
19 the posting of the preliminary eligibility register.

20 The examination components for an initial eligibility
21 register shall be graded on a 100-point scale. A person's
22 position on the list shall be determined by the following: (i)
23 the person's score on the written examination, (ii) the person
24 successfully passing the physical ability component, and (iii)
25 the person's results on any subjective component as described
26 in subsection (d).

1 In order to qualify for placement on the final eligibility
2 register, an applicant's score on the written examination,
3 before any applicable preference points or subjective points
4 are applied, shall be at or above the median score. The local
5 appointing authority may prescribe the score to qualify for
6 placement on the final eligibility register, but the score
7 shall not be less than the median score.

8 The commission shall prepare and keep a register of persons
9 whose total score is not less than the minimum fixed by this
10 Section and who have passed the physical ability examination.
11 These persons shall take rank upon the register as candidates
12 in the order of their relative excellence based on the highest
13 to the lowest total points scored on the mental aptitude,
14 subjective component, and preference components of the test
15 administered in accordance with this Section. No more than 60
16 days after each examination, an initial eligibility list shall
17 be posted by the commission. The list shall include the final
18 grades of the candidates without reference to priority of the
19 time of examination and subject to claim for preference credit.

20 Commissions may conduct additional examinations, including
21 without limitation a polygraph test, after a final eligibility
22 register is established and before it expires with the
23 candidates ranked by total score without regard to date of
24 examination. No more than 60 days after each examination, an
25 initial eligibility list shall be posted by the commission
26 showing the final grades of the candidates without reference to

1 priority of time of examination and subject to claim for
2 preference credit.

3 (h) Preferences. The following are preferences:

4 (1) Veteran preference. Persons who were engaged in the
5 military service of the United States for a period of at
6 least one year of active duty and who were honorably
7 discharged therefrom, or who are now or have been members
8 on inactive or reserve duty in such military or naval
9 service, shall be preferred for appointment to and
10 employment with the fire department of an affected
11 department.

12 (2) Fire cadet preference. Persons who have
13 successfully completed 2 years of study in fire techniques
14 or cadet training within a cadet program established under
15 the rules of the Joint Labor and Management Committee
16 (JLMC), as defined in Section 50 of the Fire Department
17 Promotion Act, may be preferred for appointment to and
18 employment with the fire department.

19 (3) Educational preference. Persons who have
20 successfully obtained an associate's degree in the field of
21 fire service or emergency medical services, or a bachelor's
22 degree from an accredited college or university may be
23 preferred for appointment to and employment with the fire
24 department.

25 (4) Paramedic preference. Persons who have obtained
26 certification as an Emergency Medical Technician-Paramedic

1 (EMT-P) may be preferred for appointment to and employment
2 with the fire department of an affected department
3 providing emergency medical services.

4 (5) Experience preference. All persons employed by a
5 district who have been paid-on-call or part-time certified
6 Firefighter II, certified Firefighter III, State of
7 Illinois or nationally licensed EMT-B or EMT-I, licensed
8 paramedic, or any combination of those capacities may be
9 awarded up to a maximum of 5 points. However, the applicant
10 may not be awarded more than 0.5 points for each complete
11 year of paid-on-call or part-time service. Applicants from
12 outside the district who were employed as full-time
13 firefighters or firefighter-paramedics by a fire
14 protection district or municipality for at least 2 years
15 may be awarded up to 5 experience preference points.
16 However, the applicant may not be awarded more than one
17 point for each complete year of full-time service.

18 Upon request by the commission, the governing body of
19 the district or in the case of applicants from outside the
20 district the governing body of any other fire protection
21 district or any municipality shall certify to the
22 commission, within 10 days after the request, the number of
23 years of successful paid-on-call, part-time, or full-time
24 service of any person. A candidate may not receive the full
25 amount of preference points under this subsection if the
26 amount of points awarded would place the candidate before a

1 veteran on the eligibility list. If more than one candidate
2 receiving experience preference points is prevented from
3 receiving all of their points due to not being allowed to
4 pass a veteran, the candidates shall be placed on the list
5 below the veteran in rank order based on the totals
6 received if all points under this subsection were to be
7 awarded. Any remaining ties on the list shall be determined
8 by lot.

9 (6) Residency preference. Applicants whose principal
10 residence is located within the fire department's
11 jurisdiction may be preferred for appointment to and
12 employment with the fire department.

13 (7) Additional preferences. Up to 5 additional
14 preference points may be awarded for unique categories
15 based on an applicant's experience or background as
16 identified by the commission.

17 (8) Scoring of preferences. The commission shall give
18 preference for original appointment to persons designated
19 in item (1) by adding to the final grade that they receive
20 5 points for the recognized preference achieved. The
21 commission shall determine the number of preference points
22 for each category except (1). The number of preference
23 points for each category shall range from 0 to 5. In
24 determining the number of preference points, the
25 commission shall prescribe that if a candidate earns the
26 maximum number of preference points in all categories, that

1 number may not be less than 10 nor more than 30. The
2 commission shall give preference for original appointment
3 to persons designated in items (2) through (7) by adding
4 the requisite number of points to the final grade for each
5 recognized preference achieved. The numerical result thus
6 attained shall be applied by the commission in determining
7 the final eligibility list and appointment from the
8 eligibility list. The local appointing authority may
9 prescribe the total number of preference points awarded
10 under this Section, but the total number of preference
11 points shall not be less than 10 points or more than 30
12 points.

13 No person entitled to any preference shall be required to
14 claim the credit before any examination held under the
15 provisions of this Section, but the preference shall be given
16 after the posting or publication of the initial eligibility
17 list or register at the request of a person entitled to a
18 credit before any certification or appointments are made from
19 the eligibility register, upon the furnishing of verifiable
20 evidence and proof of qualifying preference credit. Candidates
21 who are eligible for preference credit shall make a claim in
22 writing within 10 days after the posting of the initial
23 eligibility list, or the claim shall be deemed waived. Final
24 eligibility registers shall be established after the awarding
25 of verified preference points. All employment shall be subject
26 to the commission's initial hire background review including,

1 but not limited to, criminal history, employment history, moral
2 character, oral examination, and medical and psychological
3 examinations, all on a pass-fail basis. The medical and
4 psychological examinations must be conducted last, and may only
5 be performed after a conditional offer of employment has been
6 extended.

7 Any person placed on an eligibility list who exceeds the
8 age requirement before being appointed to a fire department
9 shall remain eligible for appointment until the list is
10 abolished, or his or her name has been on the list for a period
11 of 2 years. No person who has attained the age of 35 years
12 shall be inducted into a fire department, except as otherwise
13 provided in this Section.

14 The commission shall strike off the names of candidates for
15 original appointment after the names have been on the list for
16 more than 2 years.

17 (i) Moral character. No person shall be appointed to a fire
18 department unless he or she is a person of good character; not
19 a habitual drunkard, a gambler, or a person who has been
20 convicted of a felony or a crime involving moral turpitude.
21 However, no person shall be disqualified from appointment to
22 the fire department because of the person's record of
23 misdemeanor convictions except those under Sections 11-6,
24 11-7, 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 12-2, 12-6,
25 12-15, 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1,
26 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, 32-8, and subsections

1 1, 6, and 8 of Section 24-1 of the Criminal Code of 1961 or the
2 Criminal Code of 2012, or arrest for any cause without
3 conviction thereon. Any such person who is in the department
4 may be removed on charges brought for violating this subsection
5 and after a trial as hereinafter provided.

6 A classifiable set of the fingerprints of every person who
7 is offered employment as a certificated member of an affected
8 fire department whether with or without compensation, shall be
9 furnished to the Illinois Department of State Police and to the
10 Federal Bureau of Investigation by the commission.

11 Whenever a commission is authorized or required by law to
12 consider some aspect of criminal history record information for
13 the purpose of carrying out its statutory powers and
14 responsibilities, then, upon request and payment of fees in
15 conformance with the requirements of Section 2605-400 of the
16 State Police Law of the Civil Administrative Code of Illinois,
17 the Department of State Police is authorized to furnish,
18 pursuant to positive identification, the information contained
19 in State files as is necessary to fulfill the request.

20 (j) Temporary appointments. In order to prevent a stoppage
21 of public business, to meet extraordinary exigencies, or to
22 prevent material impairment of the fire department, the
23 commission may make temporary appointments, to remain in force
24 only until regular appointments are made under the provisions
25 of this Section, but never to exceed 60 days. No temporary
26 appointment of any one person shall be made more than twice in

1 any calendar year.

2 (k) A person who knowingly divulges or receives test
3 questions or answers before a written examination, or otherwise
4 knowingly violates or subverts any requirement of this Section,
5 commits a violation of this Section and may be subject to
6 charges for official misconduct.

7 A person who is the knowing recipient of test information
8 in advance of the examination shall be disqualified from the
9 examination or discharged from the position to which he or she
10 was appointed, as applicable, and otherwise subjected to
11 disciplinary actions.

12 (Source: P.A. 97-251, eff. 8-4-11; 97-898, eff. 8-6-12;
13 97-1150, eff. 1-25-13.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.