

As Introduced

**127th General Assembly
Regular Session
2007-2008**

S. B. No. 218

Senator Schuring

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A B I L L

To amend sections 124.44 and 124.45 of the Revised Code to permit the legislative authority of a city to grant the mayor authority to appoint the chief of the police or fire departments and to provide alternative procedures for the appointments.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 124.44 and 124.45 of the Revised Code be amended to read as follows:

Sec. 124.44. ~~No~~ The appointment of the chief of a police department is subject to divisions (A) and (B) of this section.

(A) No positions above the rank of patrol officer in the police department shall be filled by original appointment. Vacancies in positions above the rank of patrol officer in a police department shall be filled by promotion from among persons holding positions in a rank lower than the position to be filled. No position above the rank of patrol officer in a police department shall be filled by any person unless the person has first passed a competitive promotional examination. Promotion shall be by successive ranks insofar as practicable, and no person in a police department shall be promoted to a position in a higher rank who has not served at least twelve months in the next lower

rank. A municipal civil service commission may require a period of 21
service of longer than twelve months for promotion to the rank 22
immediately above the rank of patrol officer. 23

No competitive promotional examination shall be held unless 24
there are at least two persons eligible to compete. Whenever a 25
municipal or civil service township civil service commission 26
determines that there are less than two persons holding positions 27
in the rank next lower than the position to be filled, who are 28
eligible and willing to compete, the commission shall allow the 29
persons holding positions in the then next lower rank who are 30
eligible, to compete with the persons holding positions in the 31
rank lower than the position to be filled. 32

An increase in the salary or other compensation of anyone 33
holding a position in a police department, beyond that fixed for 34
the rank in which that position is classified, shall be deemed a 35
promotion, except as provided in section 124.491 of the Revised 36
Code. 37

If a vacancy occurs in a position above the rank of patrol 38
officer in a police department, and there is no eligible list for 39
such rank, the municipal or civil service township civil service 40
commission shall, within sixty days of that vacancy, hold a 41
competitive promotional examination. After the examination has 42
been held and an eligible list established, the commission shall 43
forthwith certify to the appointing officer the name of the person 44
on the list receiving the highest rating. Upon the certification, 45
the appointing officer shall appoint the person so certified 46
within thirty days from the date of the certification. If there is 47
a list, the commission shall, when there is a vacancy, immediately 48
certify the name of the person on the list having the highest 49
rating, and the appointing authority shall appoint that person 50
within thirty days from the date of the certification. 51

No credit for seniority, efficiency, or any other reason 52

shall be added to an applicant's examination grade unless the 53
applicant achieves at least the minimum passing grade on the 54
examination without counting that extra credit. 55

(B) The legislative authority of a city may, by a 56
three-fourths vote of its membership, adopt an ordinance that 57
grants the mayor of the city the authority to appoint the chief of 58
the police department, provides procedures for the appointment of 59
the chief of the police department that differ from the procedures 60
provided in this chapter so long as they comply with this 61
division, and that allows qualified law enforcement officers from 62
outside the police department to take the competitive promotional 63
examination for chief of the police department. 64

To be eligible to be appointed to the position of chief of 65
the police department, an applicant shall pass the competitive 66
promotional examination for that position. The mayor, however, may 67
appoint any eligible person, whether or not that person has 68
received the highest rating on the competitive promotional 69
examination, if the legislative authority has adopted an ordinance 70
that so provides. 71

Sec. 124.45. Vacancies The appointment of the chief of a fire 72
department is subject to divisions (A) and (B) of this section. 73

(A) Vacancies in positions above the rank of regular fire 75
fighter in a fire department shall be filled by competitive 76
promotional examinations, and promotions shall be by successive 77
ranks as provided in this section and sections 124.46 to 124.49 of 78
the Revised Code. Positions in which those vacancies occur shall 79
be called promoted ranks. 80

When a vacancy occurs in the promoted rank immediately above 81
the rank of regular fire fighter, no person shall be eligible to 82
take the examination unless the person has served forty-eight 83

months, not including the person's probationary period, in the 84
rank of regular fire fighter, provided that, in those cases when 85
there are less than two persons in the rank of regular fire 86
fighter who have served forty-eight months, not including the 87
person's probationary period, in that rank and who are willing to 88
take the examination, this service requirement does not apply. 89

When a vacancy occurs in a promoted rank, other than the 90
promoted rank immediately above the rank of regular fire fighter, 91
no person shall be eligible to take the examination unless the 92
person has served twelve months in the rank from which the 93
promotion is to be made, provided that, in those cases when there 94
are less than two persons in that next lower rank who have served 95
twelve months in that rank and who are willing to take the 96
examination, the twelve-month service requirement shall not apply. 97
If the nonapplication of the twelve-month service requirement to 98
persons in the next lower rank does not produce two persons 99
eligible and willing to compete, the same method shall be followed 100
by going to successively lower ranks until two or more persons are 101
eligible and willing to compete in an examination for the vacancy. 102
If this process of searching successively lower ranks reaches the 103
rank of regular fire fighter, the forty-eight-month service 104
requirement applies, provided that, in those cases when that 105
application still fails to produce two persons who are eligible 106
and willing to compete, the forty-eight-month service requirement 107
does not apply. If two persons are unwilling to compete for the 108
examination, the one person who is willing to compete shall be 109
appointed to fill the vacancy after passing a qualifying 110
examination. 111

Promotional examinations for positions within a fire 112
department shall relate to those matters that test the ability of 113
the person examined to discharge the particular duties of the 114
position sought, shall include a written testing component, and, 115

in examinations for positions requiring the operation of machines 116
or equipment, may include practical demonstration tests of the 117
operation of those machines or equipment as a part of the 118
examination. 119

Those persons who compete in a promotional examination in 120
accordance with the rules of the civil service commission shall 121
have added to their grade credit for seniority. Credit for 122
seniority shall be given as follows: one point shall be added for 123
each of the first four years of service, and six-tenths of a point 124
shall be added for each year for the next ten years of service. In 125
computing the credit for seniority, half of the credit specified 126
in this paragraph shall be given for a half year of service. 127
Credit for seniority shall be based only on service in the 128
municipal or civil service township fire department and the 129
service provided for in the next succeeding paragraph. 130

When service in a municipal or civil service township fire 131
department is interrupted by service in the armed forces of the 132
United States, seniority credit shall be granted in promotional 133
examinations for the time so served. No additional credit for 134
military service shall be allowed in promotional examinations. 135

Credit for efficiency may be given as an added credit, shall 136
be ten per cent of the member's efficiency rating for the last 137
year, and shall be based on the record of efficiency maintained in 138
the fire department in the manner established by the civil service 139
commission, provided the efficiency shall be graded by three 140
ranking officers of the fire department familiar with the work of 141
the member. In those cases when three such officers do not exist, 142
the ranking officers or officer familiar with the work of the 143
member shall grade the efficiency. 144

No credit for seniority, efficiency, or any other reason 145
shall be added to an applicant's grade unless the applicant 146
achieves at least the minimum passing grade on the examination 147

without counting that extra credit. 148

After the grading of examination papers, any participant in 149
the examination who considers the participant's examination papers 150
to have been erroneously graded shall have the right to appeal to 151
the commission, and the appeal shall be heard by the commission. 152
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The public notice of a holding of a promotional examination 154
for a position or positions in a fire department shall, unless 155
waived by all persons eligible to participate, be published not 156
less than thirty days prior to the examination and shall contain a 157
description of the source material from which the examination 158
questions are prepared. The source material shall be readily 159
accessible to the examinee. Failure to comply with this 160
requirement shall make void the pursuant examination. This 161
paragraph does not prohibit the use of questions having answers 162
based on experience in the fire service within the fire department 163
in which the promotional examination is being given. 164

(B) The legislative authority of a city may, by a 165
three-fourths vote of its membership, adopt an ordinance that 166
grants the mayor of the city the authority to appoint the chief of 167
the fire department, provides procedures for the appointment of 168
the chief of the fire department that differ from the procedures 169
provided in this chapter so long as they comply with this 170
division, and that allows qualified persons from outside the fire 171
department to take the competitive promotional examination for 172
chief of the fire department. 173

To be eligible to be appointed to the position of chief of 174
the fire department, an applicant shall pass the competitive 175
promotional examination for that position. The mayor, however, may 176
appoint any eligible person, whether or not that person has 177
received the highest rating on the competitive promotional 178
examination, if the legislative authority has adopted an ordinance 179

that so provides. 180

Section 2. That existing sections 124.44 and 124.45 of the 181

Revised Code are hereby repealed. 182