

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

# SENATE BILL

No. **438** Session of  
1961

---

INTRODUCED BY MR. STAISEY, MARCH 21, 1961.

---

---

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT,  
MARCH 21, 1961.

---

## AN ACT

Amending the act of July 28 1953 (P L 723) entitled "An act relating to counties of the second class amending revising consolidating and changing the laws relating thereto" providing a civil service system for firemen employed by second class counties regulating the appointment promotion suspension reduction removal and reinstatement of such firemen and imposing powers and duties upon the Civil Service Commission in relation thereto

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows

EXPLANATION—CAPITAL LETTERS indicate new matter added to bill. Matter stricken through is to be omitted from bill. Underscoring indicates new matter added to existing law. [Brackets] indicate matter stricken from existing law.

1 Section 1 The article heading and subarticle heading of Article XV  
2 section 1502 subsections (a) (b) and (c) of section 1509 sections 1510  
3 1512 1513 1514 1515 1516 and the section heading of section 1518  
4 act of July 28 1953 (P L 723) known as the "Second Class County  
5 Code" are amended to read

6 Article XV

7 Police Firemen and Employees of Jails and Workhouses

8 (a) Police and Firemen

9 \* \* \*

10 Section 1502 Exclusive System No member of the police force or  
11 fire department shall be appointed promoted reduced in rank suspended  
12 furloughed discharged or reinstated except in accordance with provi-  
13 sions of this article

14 Section 1509 General Provisions Relating to Examinations (a)

15 Each commission shall make rules and regulations to be approved as  
16 herein prescribed providing for the examination of applicants for posi-  
17 tions in the police force or fire department and promotions therein  
18 The rules and regulations shall prescribe the minimum qualifications  
19 of all applicants to be examined and the passing grades

1 (b) All examinations for positions or promotions in the police  
2 force or fire department shall be practical in character and shall relate  
3 to such matters and include such inquiries as will fairly test the merit  
4 and fitness of the persons examined to discharge the duties of the  
5 employment sought by them All examinations shall be open to all  
6 applicants who have the minimum qualifications required by the rules  
7 and regulations but in no case shall an applicant for promotion be  
8 considered until such applicant shall have first served three years in  
9 the police force or fire department in which he seeks promotion Each  
10 applicant for examination shall be subject to the rules adopted by  
11 the commission and shall be required to submit to a physical exam-  
12 ination before being admitted to the regular examination held by the  
13 commission

14 \* \* \*

15 (c) In cases of applications for position to the police force or fire  
16 department soldiers as defined by the act approved the twenty-second  
17 day of May one thousand nine hundred forty-five (Pamphlet Laws 837)  
18 entitled as amended "An act providing for and requiring in certain  
19 cases preference in appointments to and retention in public position  
20 or on public works for honorably discharged persons who served in

1 the military or naval service during any war in which the United  
2 States engaged and in certain cases for the widows and wives of such  
3 persons" shall be entitled to all the preferences and benefits therein  
4 provided so far as applicable

5 Section 1510 Application for Examination for Appointment to  
6 the Police Force or Fire Department Each person desiring appoint-  
7 ment to the police force or fire department shall apply to the commis-  
8 sion for examination and shall file with the commission a formal  
9 application as provided by it and shall state under oath or affirmation  
10 (1) his full name and residence or post office address (2) his citizenship  
11 place and date of birth (3) his condition of health and physical capacity  
12 for public service (4) his business or employment and his residence for  
13 the past five years and (5) such other information as may be required  
14 by the commission's rules and regulations showing the applicant's  
15 qualifications for the position for which he is being examined

16 No person shall be eligible to apply for examination unless he is  
17 more than twenty-one years of age at the date of application and has  
18 been a resident of the county for at least two years immediately pre-  
19 ceding his application unless no resident applicants are available

1 Section 1512 Manner of Making Appointments Every position of  
2 employment except that of superintendent of police or equivalent official  
3 and except that of fire chief or equivalent official unless filled by pro-  
4 motion or reinstatement shall be filled only in the following manner  
5 The county commissioners shall notify the commission of any vacancy  
6 in the police force or fire department which is to be filled and shall  
7 request the certification of a list of eligibles The commission shall  
8 certify for each existing vacancy from the eligible list the names of  
9 three persons thereon who have received the highest average in the  
10 last preceding examination held within a period of one year next pre-  
11 ceding the date of the request for such eligibles The county commis-  
12 sioners shall thereupon with sole reference to the merits and fitness  
13 of the candidates make an appointment from the three names certified  
14 unless they make objections to the commission as to one or more of  
15 the persons so certified for any of the reasons stated in the preceding  
16 section As each subsequent vacancy occurs in the same or another  
17 position precisely the same procedure shall be followed

18 Section 1513 Superintendent of Police or Fire Chief etc In the  
19 case of a vacancy in the office of superintendent of police or fire chief  
20 or equivalent official the county commissioners may nominate a person

1 to the commission It shall thereupon become the duty of the commis-  
2 sion to subject such person to a noncompetitive examination and if such  
3 person shall be certified by the commission as qualified he may then be  
4 appointed to such position and thereafter shall be subject to all the  
5 provisions of this article

6 Section 1514 Probationary Period All appointments to any position  
7 in the county police force or county fire department shall be for a  
8 probationary period of six months but during the probationary period  
9 an appointee may be dismissed only for cause as specified in section  
10 1511 of this act If at the close of the probationary period the conduct  
11 or fitness of the probationer has not been satisfactory to the board of  
12 county commissioners the probationer shall be notified in writing that  
13 he will not receive a permanent appointment Thereupon his appointment  
14 shall cease otherwise his retention shall be equivalent to a permanent  
15 appointment

16 Section 1515 Provisional Appointments Whenever there are urgent  
17 reasons for the filling of a vacancy in any position in the police force  
18 or fire department and there are no names on the eligible list for such  
19 appointment the board of county commissioners may nominate a person

1 to the commission for a noncompetitive examination and if such nominee  
2 shall be certified by the commission as qualified after such noncom-  
3 petitive examination he may be appointed provisionally to fill such  
4 vacancy until an examination for such position can be held It shall  
5 thereupon become the duty of the commission within three weeks from  
6 the date of provisional appointment to hold a competitive examination  
7 for such position and certify a list of eligibles to the board of county  
8 commissioners and they shall then make a regular appointment as pre-  
9 scribed in this article Nothing herein contained shall prevent the ap-  
10 pointment without examination of persons temporarily as police officers  
11 in emergency cases for the suppression of riots tumults in times of war  
12 pestilence conflagration or public celebration

13 Section 1516 Promotions Promotions shall be based on merit to  
14 be ascertained by written examinations to be prescribed by the board  
15 of county commissioners and held under the supervision of the com-  
16 mission All examinations for promotions shall be practical in character  
17 and such as will fairly test the merit and fitness of the persons seeking  
18 promotion No member of the county police force or fire department  
19 shall be eligible to take any promotional examination until after serv-  
20 ing three years in the county police force or fire department for which

1 such examination is held The board of commissioners shall have power  
2 to determine in each instance whether an increase in salary shall con-  
3 stitute a promotion

4 Section 1518 Policemen Reducing in Rank Suspension Furloughing  
5 Discharging \* \* \*

6 Section 2 The act is amended by adding after section 1518 a new  
7 section to read

8 Section 1518.1 Removal Discharge or Suspension of Firemen

9 (a) No employe in the fire department of the county shall be removed  
10 discharged or suspended for a period exceeding ten days as a penalty  
11 or reduced in rank or pay without his written consent except for just  
12 cause which shall not be religious or political nor in any event except  
13 by the decision of a court either of trial or inquiry duly determined  
14 and certified in writing to the commission and approved in writing by  
15 the commission which court shall be composed of three persons em-  
16 ployed in said fire department equal or superior in rank therein to the  
17 accused Such decision shall only be determined by trial of charges with  
18 plain specifications made by or lodged with the commission of which  
19 trial the accused shall have due notice and at which he shall have the

1 right to be present in person and also by a brother employe or an at-  
2 torney at law to act as his counsel The persons composing such court  
3 shall be appointed as hereinafter provided and shall be sworn by the  
4 commission to perform their duties impartially and without fear or  
5 favor and the person of highest rank in said court shall have the same  
6 authority to issue and enforce process to secure the attendance of wit-  
7 nesses and to administer oaths to witnesses as is possessed by any justice  
8 of the peace of this Commonwealth If said persons shall be equal in  
9 rank then the persons composing such court shall select one of their  
10 number to exercise said authority Such charges may be of disability  
11 for service in which case the court shall be one of inquiry whose deci-  
12 sion may be for the honorable discharge from the service of the em-  
13 ploye concerned or of neglect or violation of law or duty inefficiency  
14 intemperance disobedience of orders or unbecoming official or personal  
15 conduct in which cases the court shall be one of trial and its decision  
16 shall authorize the commission to impose fines and pecuniary penalties  
17 to be stopped from pay or to suspend from pay or duty or both for a  
18 period fixed by them not exceeding one year or to dismiss from the  
19 service It shall be lawful for the commission at its discretion to suspend  
20 from duty before trial any employe charged as aforesaid until such

1 trial can be had with or without pay as such court shall afterwards de-  
2 termine but no trial shall be delayed for more than one month after  
3 the charge has been made

4 (b) The members of such court of inquiry or trial shall be selected  
5 as follows The commission shall in the presence of the employe charged  
6 and his brother officer or attorney at law acting as his counsel as afore-  
7 said cause the names of at least fifty employes of fire department who  
8 hold a position in the competitive class equal or superior in rank to the  
9 employe under charges to be written upon separate slips of paper of the  
10 same size color and texture and folded or rolled so that the names there-  
11 on cannot be distinguished until drawn as hereinafter provided cause  
12 said slips to be placed in a box or other receptacle properly adapted  
13 for the drawing therefrom of names by law as hereinafter provided  
14 Said fifty names so deposited shall be provided as follows The county  
15 commissioners shall supply twenty-five thereof and the employe so  
16 charged shall supply twenty-five thereof When said names shall have  
17 been so deposited in said box or receptacle the same shall be thoroughly  
18 shaken by some disinterested person until said slips of paper shall have  
19 been thoroughly mixed and thereupon such disinterested person shall

1 draw therefrom singly and by law seven names and the county com-  
2 missioners and the person so charged shall each in order be entitled  
3 to exercise alternate challenges until the names of three persons are  
4 left and said three persons shall compose said court either of trial or  
5 inquiry as the case may be In the event that there should not be fifty  
6 employes of the fire department holding positions in the competitive  
7 class equal or superior in rank to the employe under charges then the  
8 names of all such employes equal or superior in rank to the employe  
9 under charges shall be so placed in said box and drawn therefrom and  
10 said court of trial or inquiry selected in the manner hereinabove de-  
11 scribed or as nearly in such manner as may be possible in the circum-  
12 stances Any employe so charged may waive by his written consent the  
13 selection of a board by agreeing to the board that has already been  
14 chosen Any employe so charged if he shall demand it in writing shall be  
15 furnished promptly without cost or expense to him a transcript of the  
16 testimony taken before said court of inquiry or trial duly certified by  
17 the official reporter

18 After said decision of said court shall have been duly determined  
19 certified in writing to the county commissioners and approved by them  
20 in writing the commission shall before imposing the penalty so deter-

1 mined furnish the person so charged with a written statement of the  
2 reasons for his said action and shall afford the person so charged a  
3 period of at least five days within which to make reply thereto if he  
4 so desires In every case of such removal discharge suspension reduc-  
5 tion or fine a copy of the statement of the reasons therefor and the  
6 written answer thereto of the person so sought to be penalized if any  
7 together with a transcript of the proceedings and decision of said trial  
8 court shall be furnished forthwith to the commission and entered  
9 upon its records If the employe affected shall demand it the com-  
10 mission shall upon his written request therefor grant him a public  
11 hearing which hearing shall be held within a period of fifteen days  
12 from his said request At such hearing the burden of proof shall be  
13 upon the removing officer to justify his action If the commission shall  
14 fail to sustain the action of the removing officer the person sought to  
15 be removed shall be reinstated with full pay for the entire period  
16 during which he may have been prevented from performing his usual  
17 employment and no charges shall be recorded against him A written  
18 record of all testimony taken at such hearing shall be kept and pre-  
19 served by the commission which record shall be sealed and not be

1 available for public inspection unless an appeal be taken by the em-  
2 ploye from the action of the commission Any employe so charged  
3 if he shall demand it in writing shall be furnished promptly without  
4 cost or expense to him a transcript of the testimony taken before said  
5 commission duly certified by the official reporter If the commission  
6 shall sustain the action of the removing officer the person removed  
7 shall have the right to appeal to the court of common pleas of the  
8 county which appeal shall be taken within ninety days from the entry  
9 by the commission of its final order When such appeal is so taken  
10 the commission shall not later than ten days after notice of such appeal  
11 shall have been served upon it by the employe appealing make and  
12 certify to the court of common pleas a complete record including the  
13 written charges the employe's answer thereto if any the testimony  
14 taken before the commission and all other papers and documents in its  
15 files in connection with said appeal The court of common pleas shall  
16 have the power to inspect said record and if it shall find the same to  
17 be incomplete or insufficient in any matter to order and direct the  
18 commission to supply such defect The court of common pleas shall pro-  
19 ceed to hear said appeal upon the record so certified and no additional  
20 evidence shall be introduced The court of common pleas shall have

1 the power to affirm or reverse the order of the commission or in its  
2 discretion to modify the same Any employe so charged who shall be  
3 dissatisfied with the decision of the court of common pleas shall have  
4 the right to appeal to the Supreme Court of Pennsylvania Neither the  
5 county the removing officer nor any person other than the employe  
6 so charged shall have any right to appeal either to the court of com-  
7 mon pleas or to the Supreme Court of Pennsylvania The power to  
8 suspend shall in no event be for minor or petty offenses or for political  
9 or religious reasons

10 Section 3 The act is amended by adding after section 1519 a new  
11 section to read

12 Section 1519.1 Reduction in Number of Firemen Reinstatement  
13 If for reasons of economy or other reasons it shall be deemed neces-  
14 sary by the board of county commissioners to reduce the number of  
15 firemen in the fire department then such reduction in numbers shall  
16 be made in the following manner (1) if there are any firemen eligible  
17 for retirement under the terms of any retirement or pension system  
18 or law then such reduction in numbers shall be made by retirement  
19 if the party to be retired has served in the fire department for a period

1 of at least twenty-five years and reached the age of fifty-five years  
2 or over (2) if the number of firemen eligible for retirement is in-  
3 sufficient to effect the reduction in numbers decided upon by the board  
4 of county commissioners or if no retirement or pension system or law  
5 exists or if there are no firemen eligible for retirement or pension  
6 then the reduction shall be made by furloughing the last policeman  
7 including the probationers that have been appointed to the fire depart-  
8 ment and continue in numerical order until the reduction decided upon  
9 by the board of county commissioners has been effected In any case  
10 where there has been more than one employe appointed at the same  
11 time then such furloughing shall be determined by the casting of  
12 lots In the event the said fire department shall again be increased in  
13 numbers then the employes furloughed shall be reinstated in the in-  
14 verse order of that in which they were furloughed before any new  
15 appointments shall be made to the fire department

16 Section 4 Sections 1520 1521 1522 and 1525 of the act are amended  
17 to read

18 Section 1520 Present Employes Exempted (a) All members (except  
19 superintendent of police) of the county police force upon the fourth day  
20 of May one thousand nine hundred forty-three shall continue to hold

1 their positions and shall not be required to take any examination under  
2 the provisions of this article except such as may be required for pro-  
3 motion Any member of a county police force who was dismissed from  
4 such force between the first day of January one thousand nine hundred  
5 forty-three and the fourth day of May one thousand nine hundred forty-  
6 three for any reason except those as specified in section 1511 of this  
7 act shall be reinstated to his former position in the police force without  
8 any examination whatsoever

9 (a.1) All members (except the fire chief) of the county fire depart-  
10 ment upon the effective date of this amending act shall continue to  
11 hold their positions and shall not be required to take any examination  
12 under the provisions of this article except such as may be required  
13 for promotion

14 (b) Each member of the county police force or county fire depart-  
15 ment now or hereafter serving in the armed forces of the United States  
16 during any war or any police action in which the United States is  
17 engaged shall upon his honorable discharge from such service and return  
18 to such police force or fire department be reinstated in the force or  
19 department in a position of equal grade to that which he held im-

1 mediate before entering the armed forces of the United States He  
2 shall continue to hold such position and shall not be required to take  
3 any examination under the provisions of this article except such as  
4 may be required for promotion

5 Section 1521 Discrimination on Account of Religious or Political  
6 Affiliations No question in any form of application for any examination  
7 or in any examination shall be so framed as to elicit information con-  
8 cerning the religious or political opinions of any applicant nor shall  
9 inquiry be made concerning such opinions or affiliations and all such  
10 disclosures thereof shall be discountenanced No discrimination shall be  
11 exercised threatened or promised by any person in or interested in the  
12 police force or fire department against or in favor of an applicant on  
13 the eligible list for appointment to or promotion in the police force  
14 or fire department because of his religious or political opinions or  
15 affiliations

16 Section 1522 Penalties Any county commissioner or anyone acting  
17 for the board of county commissioners who shall cause any person to  
18 be appointed to or promoted in the police force or fire department  
19 contrary to the provisions of this article or who violates any of the pro-

1 visions of this article shall be guilty of a misdemeanor and upon con-  
2 viction shall be sentenced to pay a fine of not more than five hundred  
3 dollars (\$500) or suffer imprisonment not exceeding one year or both

4 Section 1525 Compensation and Expenses to Policemen and Firemen

5 Injured or Ill Every member of the police force or fire department  
6 who may be injured or become sick through the performance of his  
7 duties and by reason thereof is temporarily incapacitated from per-  
8 forming his duties shall be paid by the county his full rate of salary  
9 as fixed by the salary board until the disability arising therefrom has  
10 ceased All medical and hospital bills incurred in connection with any  
11 such injury or sickness shall be paid by the county All benefits under  
12 the Workmen's Compensation Law which shall be received or collected  
13 by any such member during the period he has received salary for tem-  
14 porary disability shall be paid over to the county and paid into the  
15 treasury thereof If any such payment or payments shall not be so made  
16 by the member of the police force or fire department the amount so  
17 directed to be paid to the county shall be deducted from any salary which  
18 shall then or thereafter become due and owing to such member

We certify that this bill has passed the Senate and the House of Representatives.

.....  
Chief Clerk, Senate

.....  
President pro tempore, Senate

.....  
Speaker, House of Representatives

Approved The ..... day of ..... A. D. 1961.

.....  
Governor