

No. 226

AN ACT

SB 599

Amending the act of August 5, 1941 (P.L.752, No.286), entitled "An act regulating and improving the civil service of certain departments and agencies of the Commonwealth; vesting in the State Civil Service Commission and a Personnel Director certain powers and duties; providing for classification of positions, adoption of compensation schedules and certification of payrolls; imposing duties upon certain officers and employes of the Commonwealth; authorizing service to other State departments or agencies and political subdivisions of the Commonwealth in matters relating to civil service; defining certain crimes and misdemeanors; imposing penalties; making certain appropriations, and repealing certain acts and parts thereof," requiring certain reports; providing for legislative representation at collective bargaining negotiations; further providing for the promotion and furlough of employes.

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

Section 1. Section 203, act of August 5, 1941 (P.L.752, No.286), known as the "Civil Service Act," is amended by adding a clause and a section to read:

Section 203. Duties of Commission.—It shall be the duty of members of the commission as a body—

* * *

(5) To report on an annual basis, beginning June 1, 1975 and each June first, thereafter, to the General Assembly on all complaints, grievances, and cases arising from questions by veterans with regard to the application of and the results attained by use of the veterans' preference provisions of this act with regard to hiring, promotion, and firing of employes covered by this act.

Section 214. Legislative Representation for Collective Bargaining.—The President pro tempore of the Senate and the Speaker of the House of Representatives may jointly appoint a competent industrial relations specialist, who shall not be a member of the General Assembly, to represent the General Assembly at collective bargaining negotiations relating to persons in the classified service by observing the proceedings and submitting reports of the proceedings to the President pro tempore of the Senate and the Speaker of the House of Representatives.

Section 2. Sections 601 and 602 of the act, amended June 1, 1945 (P.L.1366, No.435), are amended to read:

Section 601. Certification.—Whenever a vacancy is likely to occur or is to be filled in a permanent position in the classified service, the appointing authority shall submit to the director a statement indicating the position to be filled. Unless the appointing authority elects to follow one of the alternative provisions of section five hundred one, ***or unless***

there is in existence a labor agreement covering promotions in permanent positions in the classified service, in which case the terms and procedures of such labor agreement relative to the procedures for promotions shall be controlling, the director shall thereupon certify to the appointing authority the names of the three eligibles willing to accept appointment who are highest on the appropriate promotion list or employment list, whichever is in existence, or from the one, which under the rules of the commission, has priority. If the appropriate list contains less than three eligibles who are willing to accept appointment, the names certified may be taken from the other appropriate list to make a certification of at least three eligibles. If there are less than three eligibles on appropriate eligible lists who are willing to accept appointment, the director shall certify all the names on these lists. If there is no appropriate eligible list, the director may certify from such other list or lists as he deems the next most nearly appropriate. If upon inquiry by the director any person on any promotion or employment list is found to be not available for promotion or appointment, his name shall not for the time being be considered among the names from which a promotion or appointment is to be made.

Section 602. Selection and Appointment of Eligibles.—Unless it is found to be in the interest of the service of the Commonwealth not to fill a vacant position, *or unless the terms of a collective bargaining agreement in existence provide alternative promotion filling procedures, in which case the terms of such labor agreement shall be controlling*, the appointing authority, within thirty days, shall appoint the person whose name is, or one of the persons whose names are, certified by the director. If the vacant position is to be filled from among the names of employes on the appropriate promotion list which have been submitted to the appointing authority, he shall select a person, provided he is among the three highest ranking persons on such list or that his final mark or grade is not more than one point below the mark or grade of the person ranking highest on such list *unless there is in existence a labor agreement covering promotions in which case the terms of such labor agreement shall be controlling*. In making the second, *third and any additional* promotion in the same class of position, the appointing authority in like manner shall select a person from among the three highest ranking persons remaining on such list, or he shall select a person whose final mark or grade is not more than one point below the mark or grade of the highest ranking person remaining on such list [**The third and any additional promotions in the same class of position shall be made in like manner**], *except where the terms of a collective bargaining agreement in existence provide otherwise, in which case the terms of the collective bargaining agreement shall be controlling*. If the vacant position is to be filled from among the names of persons certified from the employment list by the director to the

appointing authority, he shall select a person from among the three highest ranking persons for the class of position to be filled, ***unless there is in existence a labor agreement covering promotions in which case the terms of such labor agreement shall be controlling.*** For the second, ***third, and any additional*** vacancy in the same class of position the appointing authority shall make selection from among the three highest ranking persons remaining on such list who have not been within his reach for three separate vacancies. **[The third and any additional vacancies shall be filled in like manner]** After a name has been rejected three times by an appointing authority in favor of others on the same eligible list, such name shall not again be certified to that appointing authority, except upon written request from the appointing authority. Appointing authorities shall promptly report to the director the selection and appointment of eligibles whose names have been certified. If an eligible whose name has been certified shall refuse to accept an appointment offered to him, such refusal shall be promptly investigated by the director and, if it be found that the refusal has been made for improper or insufficient reasons, the director shall after giving ten days' notice to such person remove his name from the list.

Section 3. Section 802 of the act, amended August 27, 1963 (P.L.1257, No.520), is amended to read:

Section 802. Furlough.—In case a reduction in force is necessary in the classified service, no employe shall be furloughed while any probationary or provisional employe is employed in the same class in the same department or agency, and no probationary employe shall be furloughed while a provisional employe is employed in the same class in the same department or agency. An employe shall be furloughed only if at the time he is furloughed, he is within the lowest quarter among all employes of the employer in the same class on the basis of their last regular service ratings, and within this quarter he shall be furloughed in the order of seniority ***unless there is in existence a labor agreement covering the employes to be furloughed, in which case the terms of such labor agreement relative to a furlough procedure shall be controlling:*** Provided, That the appointing authority may limit the application of this provision in any particular instance to employes in the same class, ***classification series or other grouping of employes as referred to in any applicable labor agreement, and which are*** in the same department or agency with headquarters at a particular municipality, county or administrative district of the Commonwealth.

A furloughed employe shall have the right of return to any class and civil service status which he previously held, provided such class is contained in the current classification plan of the agency; or to any class and civil service status in the same or lower grade, provided that he meets the minimum qualifications given in the classification plan of the agency. The appointing authority shall promptly report to the director

the names of employes furloughed, together with the date the furlough of each is effective and the character of his services. Under the rules a regular employe furloughed shall for a period of one year be given preference for reemployment in the same class of position **[in the department]** from which he was furloughed and shall be eligible for appointment to a position of a similar class in other agencies under this act *unless the terms of an existing labor agreement preclude the employe from receiving the preferential treatment contained in this section in which event the terms of the labor agreement shall be controlling*, provided that in case of a promotion of another employe such preference shall not be effective if it necessitates furloughing such other employe *unless the terms of an existing labor agreement require that such preferential treatment shall be given to the furloughed employe*.

Section 4. Nothing contained in this amending act shall be construed to repeal or supersede the provisions of the act of May 22, 1945 (P.L.837, No.337), entitled, as amended, "An act providing for and requiring in certain cases preference in appointments to and retention in public position or on public works for honorably discharged persons who served in the military or naval service during any war or armed conflict in which the United States engaged or served therein since July 27, 1953, or hereafter so serves including service in Vietnam; and in certain cases for the widows and wives of such persons," or the provisions of the act of July 8, 1957 (P.L.557, No.309), known as the "Veterans Preference Act of 1957," or to detract from the preference given to any civil service employe who is a veteran or a veteran's widow or wife.

APPROVED—The 7th day of October, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 226.



Secretary of the Commonwealth.