

No. 2002-140

AN ACT

HB 590

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," providing for full-time State Civil Service Commission members; further providing for members' salaries and meeting times; providing for delegation of authority to director; further providing for residency and for recordkeeping requirements; eliminating the certification of payrolls; requiring members to submit annual report; revising the records retention period; deleting citizenship and oath requirements; further providing for the filling of vacancies; requiring citizenship to be the deciding factor in a case of equal qualifications; eliminating certain requirements for promotion without examination; further providing for the distribution of public notice of examinations and requirements for maintaining eligibility lists and for the procedure for certain eligibles who waive consideration for a promotion, for procedures for filling a position, for the requirements of the probationary period; providing for the expansion of the authority of the director to approve temporary assignments; eliminating certain performance standards; requiring probationary performance evaluations and evaluation forms; further providing for a period of removal from eligibility lists; authorizing the commissioner to impose penalties; providing copies and notices to the director; and making a repeal.

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

Section 1. Section 3(c), (h), (i), (r), (t) and (u) of the act of August 5, 1941 (P.L.752, No.286), known as the Civil Service Act, amended August 27, 1963 (P.L.1257, No.520) and June 26, 1989 (P.L.47, No.10), are amended to read:

Section 3. Definition of Terms.—In this act, unless the context otherwise clearly requires,—

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(c) "Unclassified service" includes all positions now existing or hereafter created in departments and agencies included in clause (d) of this section, which are held by:

(1) Heads of departments of the Commonwealth and the deputy heads thereof, bureau directors and division chiefs and all other supervisory personnel whose duties include participation in policy decisions.

(2) Members of boards and commissions.

(3) One secretary or one confidential clerk and not more than five (5) other personal assistants or aides to each state appointing authority, or each

member thereof, as the case may be, except the commission and the director.

(4) Any person appointed for the duration of a special study, project, or internship which is scheduled to be completed after a fixed or limited period of time and which, for reasons set forth in the minutes of the commission, should not be performed by persons in the classified service.

(5) Such attorney as the appointing authority shall appoint.

(6) Unskilled Labor.

(7) All professional positions attached to the department head's office which function [as] *in press and/or public relations [and], legislative [liaisons] liaison or development of executive policy.*

Notwithstanding any other provisions of this clause, any State program which is required to have its positions under a merit system because of the receipt of Federal grants-in-aid shall not have more positions in the unclassified service than are allowed by Federal merit system standards.

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(h) "Permanent position" means a position in the classified service which [is likely to be needed continuously for a period of six months or more] *does not have an expiration date.*

(i) "Temporary position" means a position in the classified service which arises out of temporary pressure of extra work and is likely to continue for a period of [less than six months] *twelve months or less.*

* * *

(r) "Demotion" means [a change to a position in a class carrying a lower maximum salary.] *the voluntary or involuntary movement of an employe to a class assigned to a pay range with a lower maximum salary.*

* * *

(t) "Probationary period" means a preliminary period of employment [prior to permanent appointment of an employe for the purpose of determining his fitness for permanent employment.] *the purpose of which is to determine the fitness of an employe for regular status.*

(u) "Promotion" means [a change to a position in a class carrying a higher maximum salary.] *the movement of an employe to another class in a pay range with a higher maximum salary.*

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Section 2. Section 201 of the act, amended June 26, 1989 (P.L.47, No.10), is amended to read:

Section 201. State Civil Service Commission.—(a) The State Civil Service Commission shall consist of three *full-time* members, not more than two of whom shall be of the same political affiliation, appointed by the Governor, with the advice and consent of a majority of the members elected to the Senate. Each appointment shall be for a term of six years or until a successor is appointed and qualified[, **but not longer than six months beyond the six-year term**]. The members of the commission shall hold no other public position to which a salary is attached. The Governor shall

designate one of the members as chairman. No commission member shall hold any office or position, the duties of which are incompatible with his official duties.

[(b) Each member of the commission shall receive actual traveling expenses and per diem compensation to a maximum of two hundred sixty days for the time actually devoted to the business of the commission.] (b) *The chairman of the commission shall receive a salary of sixty-five thousand dollars (\$65,000.00) per annum. Each other member of the commission shall receive a salary of sixty-two thousand five hundred dollars (\$62,500.00) per annum.*

(b.1) The commissioners shall receive annual cost-of-living increases under section 3(e) of the act of September 30, 1983 (P.L.160, No.39), known as the "Public Official Compensation Law." Each commissioner shall be entitled to receive actual traveling expenses.

(c) Any person appointed as a member of the commission shall be a citizen and legal resident of the Commonwealth for a period of not less than one year who is in sympathy with modern personnel methods and the application of merit principles to public employment. No person who, within one year preceding his appointment, has been an officer of a political party shall be eligible to serve as a commissioner. The Governor may remove any member of the commission, but only for incompetence, inefficiency, neglect of duty, malfeasance or misfeasance in office by giving such member a statement in writing of the charges against him and affording him, after notice of not less than ten days, an opportunity of making written answer and, upon request, being publicly heard in person and by counsel. A copy of the charges and answer of the Governor's findings and a transcript of the record shall be filed with the secretary of the commission.

Section 3. Section 202 of the act is amended to read:

Section 202. Meetings of Commission.—The commission shall meet at least once each month[, **except that meetings may be omitted during two summer months**]. ***Meetings may be canceled with appropriate public notice.*** The chairman of the commission shall cause reasonable notice to be given to each member of the commission and to the director of the time and place of each meeting. Meetings shall be held at the call of the chairman, the Governor, or any member of the commission. Two members of the commission shall constitute a quorum at any meeting.

Section 4. Section 203 of the act, amended August 27, 1963 (P.L.1257, No.520) and October 7, 1974 (P.L.676, No.226) and repealed in part July 31, 1968 (P.L.769, No.240), is amended to read:

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

(1) After public hearing, as hereinafter set forth, to establish, adopt and amend rules, either on its own motion or upon recommendation of the director, for making effective the provisions of this act.

(2) Upon request or on its own motion, as herein provided, in cases of demotion, furlough, suspension and removal to conduct investigations, hold public hearings, render decisions on appeals and record its findings and conclusions.

(3) To make investigations on its own motion and, in its discretion, on petition of a citizen concerning any matter touching the enforcement and effect of the provisions of this act and to require observance of the provisions of this act and the rules and regulations thereunder.

(4) To make such investigations as may be requested by the Governor or the legislature and to report thereon.

(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.

(6) Upon its own motion and subject to the specific terms and conditions imposed, to delegate authority to the director to promote the efficient and effective performance of the administrative duties of the commission.

Section 5. Sections 206 and 210 of the act, amended June 26, 1989 (P.L.47, No.10), are amended to read:

Section 206. Powers and Duties of Director.—Under the direction and supervision of the commission, the director, except as otherwise provided in this act, shall direct and supervise the administrative work of the commission. The director shall have power and the duty—

(1) To appoint [**from employment lists established under this act such examiners, investigators, clerks and other assistants**] *such staff to classified service positions* as may be necessary to carry out this act and to supervise and direct this work.

(2) To attend the meetings of the commission.

(3) To prepare and recommend to the commission rules and amendments thereto.

(4) To establish and maintain a record of all employes in the classified service, showing [**for each such person the date appointed or employed, the title of the position held, the rate of compensation and every change in his status, including increases and decreases in pay, changes in title transfers, and such other data as he may consider**] *such data as the director considers* desirable and pertinent. [**The director shall, within sixty calendar days after the effective date of this amending act, transfer all position classification records to the budget secretary.**]

(5) To administer and make effective the provisions of this act and of the rules made thereunder, including those relating to the preparation and conduct of examinations, the preparation of eligible lists, the certification of persons qualified for employment, the transfer, promotion, suspension,

demotion, removal, furlough, leave of absence and resignation of employes, the rating of employes' services, the requiring of health examinations at the discretion of appointing authorities as a condition of initial or continued employment[, **the checking and certification of pay-rolls before payment**].

(6) To investigate the effect of the administration of this act and of the rules made thereunder and to report his findings and recommendations to the commission.

(8) To make an annual report in writing, not later than **[September November]** first of each year, **[to the commission]** concerning the administrative *and legal* work **[of performed by]** the commission[, **including pertinent information and recommendations**] *during the preceding fiscal year.*

(9) To do any act or acts required by this act, or directed by the commission, or the rules made thereunder.

(10) To request assistance, from among the attorneys appointed under section 204.1, such legal counsel as may be necessary in the performance of his administrative duties.

Section 210. Records Open to the Public.—The minutes of the commission shall be preserved as permanent records. The correspondence, eligible lists **[and]**, other papers and records of the commission **[shall be preserved for four years. Applications]**, *applications*, examination records **[and]**, other documents submitted by candidates **[shall be maintained for a period equal to the candidate's eligibility, plus one year. Records]** *and records* of candidates who do not report for one or more parts of an examination shall be maintained **[for a period of six months after they did not report.]** *for periods established in the commission's records retention schedule, which may, upon publication of notice in the Pennsylvania Bulletin, be changed at the discretion of the commission to meet the criteria and needs of the commission.* The commission *and its director*, in its deliberations, may rely on computerized or **[photocopied]** *electronically or mechanically reproduced* records. On written request, supported by justification acceptable to the director, and subject to reasonable regulation, all records of the commission shall be open to public inspection during ordinary business hours, except as herein specifically otherwise provided. The director shall take all due precautions to prevent the securing in advance by any unauthorized person of questions or other material to be used in any test unless such questions or materials are available to all competitors. The director shall prevent the identification by any examiner or other persons, where identity is concealed, of papers or work of any competitor in an examination before the papers or work of all competitors in that examination have been rated. Statements of former employers of competitors in examinations shall be considered confidential and not open to inspection.

Section 6. Section 501 of the act, amended November 26, 1978 (P.L.1210, No.285), is amended to read:

Section 501. Examinations Requisite for Appointment and Promotion.—(a) Except as otherwise provided in this act, appointments of persons entering the classified service or promoted therein shall be from eligible lists established as the result of examinations given by the director to determine the relative merit of candidates. Such examinations may be written and shall be competitive and open to all persons who may be lawfully appointed to positions within the classes for which the examinations are held, except that persons in unskilled positions shall enter the classified service by promotion without examination provided: (1) such promotion is into a classified position immediately above the person's own position; (2) such promotion is based on seniority and meritorious service; (3) the person meets the minimum requirements for that position; and (4) the person satisfactorily completes a six month probationary period in the classified position. If no persons in such unskilled positions meet the preceding requirements, the vacant position may be filled pursuant to Article V.

(b) Persons applying for positions or promotions in the classified service shall be **[citizens of the United States and]** residents of the Commonwealth *or former residents of the Commonwealth who meet the requirements of this subsection*, and where applicable to the administrative district. *Former residents of the Commonwealth must have relocated out of State for academic or employment purposes, shall plan to establish Commonwealth residency within six months of beginning employment in the classified service and must have: (1) graduated from a public, private or nonpublic secondary school in the Commonwealth within five years of applying for a position in the classified service; or (2) attended a public, private or nonpublic school in the Commonwealth at least eighty percent of the time while enrolled in grades one through twelve and attended such school within five years of applying for a position in the classified service.* Notwithstanding any of the provisions of this act, whenever an appointing authority finds a lack of a sufficient number of qualified personnel available for appointment to any particular class or classes of positions, **[he] the appointing authority** may present evidence thereof to the director who may waive the residence **[and citizenship]** requirements for such class or classes of positions. **[A noncitizen appointed pursuant to the provisions of this section shall not be eligible for continued employment unless he files an application for citizenship as soon as he is eligible therefor, and thereafter diligently prosecutes the same.]**

(c) The director shall prepare the proper State and district employment and promotion eligible lists: Provided, That after an examination has been conducted for any class of positions, if there is no person with such legal residence in any administrative district, remaining on the register the director shall certify and the appointing authority may make the

appointment or promotion from the names of persons on an appropriate eligible list for the same class of positions of other administrative districts. Limitations as to age, sex, health, moral character, experience and other qualifications may be specified in the rules of the commission and in the announcements of the examinations. All applications for positions in the classified service shall be **[under oath. As far as is in the judgment of the commission consistent with the best interest of the Commonwealth, vacancies shall be filled by promotion.]** *subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).*

(d) The commission may limit competition in promotion examinations to employes in the classified service who have completed their probationary period in a class or classes designated in the public notice of the examinations, and may permit promotions to be accomplished by any one of the following plans: (1) by appointment from open competitive lists; or (2) by achieving a place on an eligible list after a promotional examination, such examination having been given at the request of the appointing authority; or (3) by promotion based upon meritorious service and seniority to be accomplished by appointment without examination, if [(i)] the person has completed [his] *the* probationary period in the next lower position[, (ii) he] *and* meets the minimum requirements for the higher position[, and (iii) he receives the unqualified recommendation of both his immediate superior and the appointing authority of his department or agency].

(e) *To the extent permitted by law, when all applicants for appointment or promotion to a position in the classified service are equally qualified, preference will be shown to applicants who are United States citizens over those who are not.*

Section 7. Sections 502, 504 and 506 of the act, amended August 27, 1963 (P.L.1257, No.520), are amended to read:

Section 502. Nature of Examinations.—The director shall give examinations to establish employment and promotion lists. **[The tests in such examination]** *Such examinations* may be written or oral, or a demonstration of skill, or an evaluation of experience and education, or a combination of these, which shall fairly appraise **[and determine the merit, qualifications,]** *the* fitness and ability of competitors. Such **[tests]** *examinations* shall be practical in character and shall relate to the duties and responsibilities of the position for which the applicant is being examined and shall fairly test the relative capacity and fitness of persons examined to perform the duties of the class of positions to which they seek to be appointed or promoted. An applicant may be required to possess scholastic education qualifications only if the position for which **[he]** *the applicant* is being examined requires professional or technical knowledges, skills and abilities[,] or if such scholastic qualifications are required to assure the continued eligibility of the Commonwealth for Federal grants-in-aid. No greater credit for experience gained during a provisional, emergency or temporary appointment under this act or acts repealed hereby

shall be given to any person in any examination than is given in such examination for experience in the same type of work performed in a similar position not under the provisions of this act or acts repealed hereby. In evaluating experience in order to compute the final rating in any examination to establish employment and promotion lists, persons discharged other than dishonorably, after active service during any war or armed conflict in which the United States engaged, from any branch of the armed service of the United States, or from any women's uniformed service directly connected therewith, shall not be given less credit for experience than would be given for continued experience in the position held at the time of induction in the service. No question in any examination shall relate to the race, *gender*, religion or political or labor union affiliation of the candidate.

Section 504. Public Notice of Examinations.—The director shall give public notice of all examinations for positions or promotions in the classified service at least two weeks in advance of the final date for filing applications [for such examinations by posting an appropriate notice on the bulletin board maintained in or near the commission's principal office, by furnishing at least twenty copies of such notice to the newspaper correspondents' office in the State Capitol, and at least one copy of such notice to each office throughout the State of all the departments set forth in Article I, section 3, clause (d) of this act, directing that such notice shall immediately be posted on a public bulletin board maintained in each such office. The director may give such further public notice as he deems advisable. Such notice shall give the schedule and general scope of examination, the weights to be given to each of the tests in the examination, the duties, pay, experience, education and other qualifications requisite for all positions in the class for which the examination is to be held and the manner and place in which application forms and detailed pertinent information may be obtained] *as prescribed by the rules of the commission.*

Section 506. Establishment of Eligible Lists.—The director shall establish and maintain such eligible lists [for the various classes of positions in the classified service] as are necessary or desirable to meet the needs of the service. These lists shall contain the names of [persons] *those persons who have been found qualified for and have successfully passed the examination and shall be arranged in the order of final earned ratings [who have been given at least such minimum rating or ratings as may be fixed for the whole examination or for the whole examination and for any one or more of the tests].*

Section 8. Section 601 of the act, amended June 26, 1989 (P.L.47, No.10), is 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] *procedures provided for in this act*, 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] *employment or promotion certification of eligibles* contains [less] fewer 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] or if there is no appropriate eligible list, *the appointing authority may appoint an available eligible from the approved list or request* the director [may] to certify from such other list or lists as [he] *the director* deems the next most nearly appropriate. If operational conditions of the appointing authority so dictate and it is found to be in the interest of the service to the Commonwealth, the commission may authorize selective certifications based on standards to be prescribed by the commission. [If upon inquiry by the director any] *Any person on any promotion or employment list [is found to be not available] who waives consideration for promotion or appointment[, his name shall not for the time being] need not* be considered among the names from which a promotion or appointment is to be made.

Section 9. Section 602 of the act, amended October 7, 1974 (P.L.676, No.226), is amended to read:

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, 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.] *If a vacant position is to be filled, an appointing authority may request the director to issue an appropriate certification of eligibles unless a labor agreement contains promotion procedures which are inconsistent with this act, in which case the terms of such labor agreement shall be controlling. The certification of eligibles shall be valid for sixty work days. If the vacant position is to be filled from an employment or promotion list, the appointing authority shall select a person who is among the three highest ranking available persons on the certification of eligibles. In making the second, third or any additional selection from the eligibles on an employment or promotional certification, each selection shall be from among the three highest scoring available persons remaining on such certification of eligibles.* After a [name] *person* has been rejected three times by an appointing authority in favor of others on the same eligible list, such [name] *person* 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] *who* have been certified. If [an] *a certified* eligible [whose name has been certified shall refuse] *refuses* to accept an [appointment offered to him,] *offer of employment*, 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] *the eligible* from the list.

Section 10. Sections 603 and 605 of the act, amended June 26, 1989 (P.L.47, No.10), are amended to read:

Section 603. Probationary Period.—(a) No appointment to a position in the classified service shall be deemed complete until after the expiration of a probationary period. The probationary period for each class of position shall

be prescribed in the rules of the commission and, except for trainee classes, shall in no case be less than six months or more than eighteen months. The probationary period for a trainee class shall be combined with that of the class for which the trainee is being trained. This combined probationary period shall be the same as the training period[, subject to limits of three months] and *shall not exceed* twenty-four months. [At such times during the probationary period, and in such manner as the director may require, the appointing authority shall report to the director an observation of the work of the employe and a judgment as to the willingness and ability of the employe to perform the duties satisfactorily and as to the employe's dependability.] At any time during the probationary period, the appointing authority may remove an employe if in the opinion of the appointing authority the probation indicates that such employe is unable or unwilling to perform the duties satisfactorily or that the employe's dependability does not merit continuance in the service. Upon such removal, the appointing authority shall [forthwith report this action to the director and to] *notify* the employe [so removed. No more than three employes shall be removed successively from the same position during their probationary periods without the approval of the director. The director, with the approval of the commission, shall remove an employe during the probationary period if it is found after the employe has been given notice and an opportunity to be heard that the employe was appointed as a result of fraud.] *in a manner prescribed by the rules of the commission.*

(b) [Ten working days prior to the expiration of an employe's probationary period the appointing authority shall notify the employe in writing whether the services of the employe have been satisfactory. A copy of such notice shall be given to the director. If the employe's work has been satisfactory, the employe shall at the completion of the probationary period become a classified service employe under the provisions hereof and continue in that position unless separated therefrom as herein provided.] *If the employe's work has been satisfactory, the employe shall be notified by the appointing authority in writing prior to the completion of the probationary period that the employe will attain regular status in the classified service upon completion of the probationary period.*

(c) If any employe is removed from a position during or at the end of the probationary period, and the director determines that the employe is suitable for appointment to another position, the employe's name may be restored to the list from which it was certified.

Section 605. Temporary Appointments to Extra Positions.—When from pressure of work an extra position in the classified service must be established for a period of [less than] twelve months *or less*, the appointing authority shall request the director [in writing] to certify the name of a qualified person from an appropriate list of eligibles *or by other means*

authorized by this act. In such request the appointing authority shall state the cause of the extra work, the probable length of employment and the duties which the appointee is to perform.

Section 11. Sections 607, 701 and 702 of the act are repealed.

Section 12. Section 704 of the act, amended June 21, 1947 (P.L.835, No.348), is amended to read:

Section 704. [Service Standards and Ratings.—In cooperation with appointing authorities the director shall establish and may from time to time amend standards of performance and output for employes in each class of positions in the classified service or for groups of classes and a system of service ratings based upon such standards. Service ratings]
Performance Ratings.—(a) Performance evaluations shall be considered for such purposes as the rules of the commission shall provide.

(b) Agencies shall evaluate the performance of their employes during their probationary period and at least once a year thereafter.

(c) Performance evaluation forms and procedures shall be reviewed and approved by the director prior to utilization.

Section 13. Section 705 of the act, amended June 26, 1989 (P.L.47, No. 10), is amended to read:

Section 705. [Transfers and Assignments.—An appointing authority may at any time assign a classified employe under its jurisdiction from one position to another in the same class, or in a similar class for which the employe qualifies. In every case the appointing authority shall give written notice of this action to the director, according to the rules of the commission. Transfer of a classified employe from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority may be made subject to such rules and with the approval of the director and of both appointing authorities concerned. Any transfer of an employe from a position in one class to a position in a class for which a higher maximum rate of compensation is prescribed shall be deemed a promotion and may be accomplished only in the manner hereinbefore provided for the making of promotions. No person shall ever be transferred from a position in the unclassified service to a position in the classified service unless appointed to such latter position after certification of the person's name from an eligible list in accordance with the provisions of this act.]

Transfers and Reassignments.—(a) The transfer of a classified service employe from a position under the jurisdiction of one appointing authority to a position in the same class under the jurisdiction of another appointing authority may be made with the approval of the director and both appointing authorities.

(b) An appointing authority may at any time reassign a classified service employe under its jurisdiction from one position to another in the same class or in a similar class at the same pay range for which the employe qualifies.

(c) Transfers and reassignments shall be accomplished in a manner prescribed in the rules of the commission.

(d) Any transfer or reassignment of an employe from a position in one class to a position in a class for which a higher maximum salary is prescribed shall be deemed a promotion and may be accomplished only in the manner provided for in this act.

(e) No person shall be transferred or reassigned from a position in the unclassified service to a position in the classified service unless appointed to such latter position after certification of the person's name from an eligible list in accordance with the provisions of this act.

Section 14. Section 705.1 of the act is repealed.

Section 15. Section 706 of the act, amended August 27, 1963 (P.L.1257, No.520), is amended to read:

Section 706. Demotions.—*(a)* An appointing authority may demote to a vacant position in a lower class any employe in the classified service who does not satisfactorily perform the duties of the position to which **[he] the employe** was appointed or promoted and who is able to perform the duties of the lower class. In case of such demotion the employe shall have all rights of appeal as provided in this act. No employe shall be demoted because of **[his] the employe's** race, *gender*, religion or political, partisan or labor union affiliation. [A demotion may also be made by an appointing authority with the approval of the director upon the written petition of the employe stating the reasons therefor and supported by such evidence as the director may require to show that the employe is able to perform the duties of the class of position to which he petitions that he be demoted.]

(b) A voluntary demotion may be made by an appointing authority upon written request of the employe and with the approval of the director.

Section 16. Sections 803 and 804.1 of the act, amended June 26, 1989 (P.L.47, No.10), are amended to read:

Section 803. Suspension.—An appointing authority may for good cause suspend without pay for disciplinary purposes an employe holding a position in the classified service. [Such suspension shall not exceed in the aggregate thirty working days in one calendar year.] *Suspensions, including suspensions pending internal investigation, shall not exceed sixty working days in one calendar year; however, suspensions pending investigation by external agencies may be maintained up to thirty working days after conclusion of the external investigation.* No person shall be suspended because of race, *gender*, religion or political, partisan or labor union affiliation. What shall constitute good cause for suspension may be stated in the rules. An appointing authority shall forthwith report to the director in writing every suspension, together with the reason or reasons therefor, and shall send a copy of such report to the suspended employe. Such report shall be made a part of the commission's public records.

Section 804.1. Rights of Promoted Employee During Probationary Period.—**[If the probationary period has resulted from a promotion, such removal shall not be from the classified service except for just cause. A classified employee during a probationary period resulting from promotion, shall, if the employee's performance is satisfactory, be returned to the position or class held immediately prior to such promotion without necessity of appeal or hearing.]***(a) An employe serving a probationary period which has resulted from a promotion may be removed from the classified service only for just cause.*

(b) During the first three months of the probationary period, the employe has the option to return to the position previously held. At any time after the first three months, an employe in probationary status may return to the previous position or classification with written consent of the appointing authorities.

(c) If the employe's performance during the probationary period is not satisfactory to the appointing authority, the employe shall be returned to the position or class held immediately prior to such promotion without necessity of appeal or hearing.

Section 17. Sections 805 and 901 of the act are repealed.

Section 18. Sections 902, 905.2(f) and 906 of the act, amended or added June 26, 1989 (P.L.47, No.10), are amended to read:

Section 902. False Statements Made under Oath Constitute Perjury.—Any false statement made under oath, either orally or in writing, in any application or other paper filed with the commission or in any proceeding before the commission or in any investigation conducted by or under the direction of the commission or by the director or in any proceedings arising under this act shall be perjury and punishable as such. Any person intentionally failing to disclose a material fact or in any manner concealing any information in order to obtain employment or promotion under this act shall, in addition to any other penalty herein provided, be removed from all eligible lists *for a period of time to be determined by the commissioners* and, if appointed or promoted, **[he shall]** be summarily removed.

Section 905.2. Political Activity.—* * *

(f) A person in the classified service who violates this section shall be removed from employment and funds appropriated for the position from which removed thereafter may not be used to pay the employe or individual: Provided, That, the commission at its discretion may impose a penalty of suspension without pay **[for at least thirty days, but] of** not more than one hundred twenty *working* days, if it finds that the violation does not warrant termination.

* * *

Section 906. Removal and Disqualification of Officers and Employes.—Except as otherwise provided in section 905.2, any person holding a position in the classified service who intentionally violates any of

the provisions of this act or of the rules made thereunder shall be immediately separated from the service. It shall be the duty of the appointing authority of the State Agency in which the offending person is employed to remove him at once in accordance with the provisions of this act. Any person removed under this section shall **[for a period of one year]** be ineligible for reappointment to any position in the classified service **for a period of time to be determined by the commissioners.**

Section 19. Section 950 of the act, added August 27, 1963 (P.L.1257, No.520), is amended to read:

Section 950. Notice.—**[Every person in the classified service shall be furnished with written]** *Written* notice of any personnel action taken **[with respect to him]** pursuant to the provisions of this act *shall be provided to the affected employe.* Such notice[, a copy of which shall be submitted to the commission,] shall be furnished within time limits prescribed by the rules of the commission. *Copies of such notices shall be provided to the director upon request.* The notice shall in the case of the permanent separation, suspension for cause, or *involuntary* demotion of a regular employe set forth the reason or reasons for the action.

Section 20. Section 3(b.1) of the act of September 30, 1983 (P.L.160, No.39), known as the Public Official Compensation Law, is repealed insofar as it relates to the Civil Service Commission.

Section 21. This act shall take effect immediately.

APPROVED—The 27th day of November, A.D. 2002.

MARK S. SCHWEIKER