

1 State of Arkansas As Engrossed: H3/2/11 H3/17/11 S3/28/11

2 88th General Assembly

# A Bill

3 Regular Session, 2011

HOUSE BILL 1739

4

5 By: Representative Leding

6

7

## For An Act To Be Entitled

8

*TO AMEND ARKANSAS LAW CONCERNING TEMPORARY*

9

*APPOINTMENTS BY A BOARD OF CIVIL SERVICE*

10

*COMMISSIONERS; AND FOR OTHER PURPOSES.*

11

12

13

## Subtitle

14

*CONCERNING TEMPORARY APPOINTMENTS BY A*

15

*BOARD OF CIVIL SERVICE COMMISSIONERS.*

16

17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

19

20 SECTION 1. Arkansas Code § 14-51-301(b), concerning rules of a board

21 of civil service commissioners, is amended to read as follows:

22 (b) These rules shall provide for:

23 (1)(A) The qualifications of each applicant for appointment to  
24 any position on the police or fire department.

25 (B)(i) No person shall be eligible for appointment to any  
26 position on the fire department who has not arrived at twenty-one (21) years  
27 of age or who, except as provided in subdivision (b)(1)(C) of this section,  
28 has arrived at thirty-five (35) years of age.

29 (ii) No person shall be eligible for appointment on  
30 the police department affected by this chapter who has not arrived at twenty-  
31 one (21) years of age.

32 (C) Provided, however, the maximum age limit for  
33 appointment to any position with a fire department in subdivision  
34 (b)(1)(B)(i) of this section shall not apply to:

35 (i) Any person who has at least two (2) years of  
36 previous experience as a paid firefighter with another fire department and



1 whose years of experience as a paid firefighter when subtracted from the  
2 person's age leaves a remainder of not more than thirty-two (32) years; or

3 (ii) Any person who is applying for a position with  
4 a fire department in which the primary functions of the job involve duties  
5 that are administrative, managerial, or supervisory in nature;

6 (2)(A) Open competitive examinations to test the relative  
7 fitness of applicants for the positions.

8 (B)(i) The examinations are to be protected from  
9 disclosure and copying, except that the civil service commission shall  
10 designate a period of time following the conclusion of testing in which an  
11 employee taking an examination shall be entitled to review his or her own  
12 test results.

13 (ii) During the employee review process, the  
14 employee may not copy test questions in any form whatsoever;

15 (3)(A) Public advertisement of all examinations by publication  
16 of notice in some newspaper having a bona fide circulation in the city and by  
17 posting of notice at the city hall at least ten (10) days before the date of  
18 the examinations.

19 (B) The examinations may be held on the first Monday in  
20 April or the first Monday in October, or both, and more often, if necessary,  
21 under such rules and regulations as may be prescribed by the *board*;

22 (4)(A)(i)(a) The creation and maintenance of current eligibles  
23 lists for each rank of employment in the departments, in which shall be  
24 entered the names of the successful candidates in the order of their standing  
25 *in the examination. However, for ranks in each department where there may*  
26 *not be openings during the effective period of a list, the board may*  
27 *establish rules to create the eligibles list on an ~~as-needed~~ as-needed basis.*

28 *(b) If the board creates an eligibles list on*  
29 *an as-needed basis and a vacancy is created as a result of death,*  
30 *termination, resignation, demotion, retirement, or promotion, the chief of*  
31 *the fire department or police department shall notify the board within five*  
32 *(5) business days, and the board shall schedule an examination to establish*  
33 *an eligibles list from which an appointment or promotion shall be made unless*  
34 *the position is determined to be eliminated or not funded by the governing*  
35 *body of the city.*

36 (ii)(a) No person shall be eligible for examination

1 for advancement from a lower rank to a higher rank until that person shall  
2 have served at least one (1) year in the lower rank, except in case of  
3 emergency, which emergency shall be decided by the board. The board shall  
4 determine the rank or ranks eligible to be examined for advancement to the  
5 higher rank.

6 (b) If the board designates an effective  
7 period for eligible lists of more than one (1) year under subdivision  
8 (b)(4)(B)(i) of this section, a person shall be eligible for examination for  
9 advancement from a lower rank to a higher rank if the person is within twelve  
10 (12) months of meeting the time in service requirement for eligibility.  
11 However, if that person takes the examination and then is placed on the  
12 eligible list for promotion, the person shall not be promoted from the  
13 eligible list until the person meets the minimum service time requirement in  
14 the lower rank as established by the board.

15 (B)(i)(a) Unless the board designates a longer effective  
16 period for eligible lists that is not less than one (1) year, nor more than  
17 two (2) years, all lists for appointments or promotions as certified by the  
18 board shall be effective for the period of one (1) year.

19 (b)(1) If the period of the eligible list is  
20 for more than one (1) year, the time period shall be established and  
21 certified before a component of the test is administered to an employee.

22 (2) After the eligible list is  
23 certified, the time period shall not be extended.

24 (ii) At the expiration of this period, all right of  
25 priority under the lists shall cease;

26 (5)(A) The rejection of candidates as eligibles who fail to  
27 comply with reasonable requirements of the board in regard to age, sex,  
28 physical condition, or who have been guilty of a felony, or who have  
29 attempted fraud or deception in connection with the examination.

30 (B)(i) All applicants for appointment and all applicants  
31 for reinstatement shall undergo a suitable physical examination.

32 (ii)(a) The examination shall be conducted in the  
33 manner and form as provided by law.

34 (b) If no provision has been made by existing  
35 law for such examination, then the board may adopt proper rules and  
36 regulations to carry this subdivision (b)(5) into effect;

1 (6) Certification to the department head of the three (3)  
2 standing highest on the eligibility list for appointment for that rank of  
3 service, and for the department head to select for appointment or promotion  
4 one (1) of the three (3) certified to him or her and notify the commission  
5 thereof;

6 (7)(A) A period of probation not to exceed twelve (12) months  
7 before any appointment is complete and six (6) months before any promotion is  
8 complete.

9 (B) During the period, the probationer may be discharged  
10 in case of an appointment or reduced in case of promotion by the chief of  
11 police or the chief of the fire department;

12 (8)(A) Temporary employees without examination with the consent  
13 of the commission, in cases of emergency, and pending appointment from the  
14 eligibles list.

15 (B)(i) Except as provided in subdivision (b)(8)(B)(iii) of  
16 this section, a temporary promotion or appointment for a vacancy created by  
17 death, termination, resignation, demotion, retirement, or promotion shall not  
18 be made for longer than sixty (60) days when there is a current eligibles  
19 list.

20 (ii) Except as provided in subdivision  
21 (b)(8)(B)(iii) of this section, in the absence of a current eligibles list, a  
22 temporary promotion or appointment may be allowed for a vacancy created by  
23 death, termination, resignation, demotion, retirement, or promotion until an  
24 eligibles list is certified unless the position is determined to be  
25 eliminated or not funded by the governing body of the city. A temporary  
26 promotion for a vacancy created by death, termination, resignation, demotion,  
27 retirement, or promotion shall not last longer than sixty (60) days.

28 (iii) If an appeal is filed in connection with a  
29 vacancy that is created by a termination or demotion, the vacancy may be  
30 filled by a temporary promotion until all appeals in connection with the  
31 termination or demotion are exhausted.

32 ~~(B) No temporary appointment of employment or promotion~~  
33 ~~shall continue longer than sixty (60) days, nor shall successive temporary~~  
34 ~~appointments be allowed except in times of grave danger of which the~~  
35 ~~commission shall decide~~

36 (C) A vacancy that is created by vacation, bereavement

1 leave, medical leave, military leave, or suspension on a day-to-day basis may  
2 be filled by a temporary promotion on a day-to-day basis as vacancies occur.

3 (D) An increase in salary beyond the limits fixed  
4 for the grade by the rules of the commission may be allowed while an employee  
5 is working outside of his or her grade while temporarily promoted to fill a  
6 vacancy under subdivision (b)(8) of this section.

7 (9)(A)(i) Establishing eligibility lists for promotion based  
8 upon open, competitive examinations.

9 (ii) The examinations are to be protected from  
10 disclosure and copying, except that the civil service commission shall  
11 designate a period of time following the conclusion of testing in which an  
12 employee taking an examination shall be entitled to review his or her own  
13 test results.

14 (iii) During the employee review process, the  
15 employee may not copy test questions in any form whatsoever.

16 (iv) The exams may include a rating of applicants  
17 based on results of written, oral, or practical examinations, length of  
18 service, efficiency ratings, and educational or vocational qualifications.

19 (v)(a) Lists shall be created for each rank of  
20 service and promotions made from the lists as provided in this section.

21 (b) Promotions shall be made within sixty (60)  
22 calendar days of a vacancy created by death, termination, resignation,  
23 demotion, retirement, or promotion unless the position is determined to be  
24 eliminated.

25 (B) Advancement in rank or increase in salary beyond the  
26 limits fixed for the grade by the rules of the commission shall constitute a  
27 promotion;

28 (10)(A) Suspension for not longer than thirty (30) calendar  
29 days; and

30 (B) Leave of absence;

31 (11)(A) Discharge or reduction in rank or compensation after  
32 promotion or appointment is complete, only after the person to be discharged  
33 or reduced has been presented with the reasons for the discharge or reduction  
34 in writing.

35 (B)(i) The person so discharged or reduced shall have the  
36 right, within ten (10) days from the date of notice of discharge or

1 reduction, to reply in writing.

2 (ii) Should the person deny the truth of the reasons  
3 upon which the discharge or reduction is predicated and demand a trial, the  
4 commission shall grant a trial as provided in this chapter.

5 (iii) The reasons and the reply shall constitute a  
6 part of the trial and be filed with the record;

7 (12) The adoption and amendment of rules after public notice and  
8 hearing;

9 (13) The preparation of a record of all hearings and other  
10 proceedings before it, which shall be stenographically reported; and

11 (14) A review of complaints filed by any citizen pursuant to  
12 rules promulgated by the commission, including rules that give the commission  
13 the authority to consider certain personnel issues in executive session and  
14 to establish any necessary appellate procedures.

15

16

*/s/Leding*

17

18

19

**APPROVED: 04/01/2011**

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36