

# HOUSE BILL No. 5764

September 9, 2014, Introduced by Rep. Kesto and referred to the Committee on Local Government.

A bill to amend 1935 PA 78, entitled

"An act to establish and provide a board of civil service commissioners in cities, villages, and municipalities having full-time paid members in the fire or police departments, or both; to provide a civil service system based upon examination and investigation as to merit, efficiency, and fitness for appointment, employment, and promotion of all full-time paid members appointed in the fire and police departments and respective cities, villages, and municipalities; to regulate the transfer, reinstatement, suspension, and discharge of officers, fire fighters, and police officers; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,"

by amending section 12 (MCL 38.512), as amended by 1986 PA 155.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 12. (1) All examinations for positions shall be practical  
2 in their character and shall relate to those matters and shall  
3 include those inquiries as will fairly and fully test the  
4 comparative merit and fitness of the persons examined to discharge  
5 the duties of the employment sought by them. All examinations shall

1 be open to all applicants who have fulfilled the preliminary  
2 requirements prescribed by this act. Notice of the time and place  
3 for accepting applications shall be given by the commission by  
4 publication for 2 weeks in the official paper of the city, village,  
5 or municipality, and the notice shall be posted by the commission  
6 in a conspicuous place in the office and on the bulletin boards of  
7 the city, village, or municipality for 2 weeks. **BEGINNING JANUARY**  
8 **1, 2015, INSTEAD OF PUBLICATION IN THE OFFICIAL PAPER OF THE CITY,**  
9 **VILLAGE, OR MUNICIPALITY, THE COMMISSION SHALL GIVE TIER C PUBLIC**  
10 **NOTICE OF THE TIME AND PLACE FOR ACCEPTING APPLICATIONS AS SET**  
11 **FORTH IN THE LOCAL GOVERNMENT PUBLIC NOTICE ACT.** Further notice may  
12 be given as the commission shall prescribe. However, a newspaper  
13 advertisement shall not be required for an examination for a  
14 promotion. The examination process shall begin within 6 months  
15 after the closing date for the acceptance of applications. However,  
16 the commission may delay or cancel the examination process for good  
17 cause. The commission shall post, in a public place at its office,  
18 the eligible list containing the names and grades of those who have  
19 passed examinations for positions or promotions in fire or police  
20 departments under this act, and shall indicate any appointments  
21 that will be made from the list. **BEGINNING JANUARY 1 2015, IN**  
22 **ADDITION TO POSTING AT ITS OFFICE, THE COMMISSION SHALL GIVE TIER C**  
23 **PUBLIC NOTICE OF THE ELIGIBLE LIST AS SET FORTH IN THE LOCAL**  
24 **GOVERNMENT PUBLIC NOTICE ACT.** No question in any form of  
25 application or in any examination shall be so framed as to elicit  
26 information concerning the political or religious opinions or  
27 affiliations of any applicant; nor shall inquiries be made

1 concerning those opinions or affiliations; and all disclosures  
2 thereof shall be discouraged. Discrimination shall not be  
3 exercised, threatened, or promised by any person in the fire or  
4 police department against or in favor of an eligible applicant or  
5 employee in fire or police departments under this act because of  
6 his or her political or religious opinions or affiliations.

7 (2) Vacancies in positions in the fire and police departments  
8 above the rank of fire fighter or police officer shall be  
9 ~~competitive and shall be filled~~ **COMPETITIVELY** by promotions from  
10 among persons holding positions in the next lower rank in the  
11 departments who have completed 2 years in that rank and who have  
12 **BEEN EMPLOYED** at least 5 years in the department. If there are more  
13 vacancies than there are persons with 5 ~~years~~ **YEARS' EMPLOYMENT** in  
14 the department, the commission may lower the requirements to 3  
15 years in the department. If no person ~~or persons have~~ **HAS** completed  
16 2 years in the next lower rank, the commission may hold  
17 examinations among persons in ~~such~~ **THAT** rank ~~as to all intent and~~  
18 **FOR ALL** purposes as though 2 years of service had been completed by  
19 those persons. Promotions shall be based upon merit ~~to be~~ **AS**  
20 ascertained by tests to be provided by the civil service commission  
21 and upon the superior qualifications of the ~~persons~~ **PERSON** promoted  
22 as shown by his or her previous service and experience. ~~In the~~  
23 ~~event of~~ **IF** only 1 person **IS** in the next lower rank, 1 or more  
24 persons in the second lower rank who have completed at least 5  
25 years in the department may **ALSO** compete for the vacancy. Whenever  
26 a position becomes vacant for which examinations are held, the  
27 appointing power shall ask the commission for the name of the

1 person eligible for appointment. The commission shall certify the  
2 name of the person highest on the eligible list at preceding  
3 examinations held under this act within a period of 2 years ~~next~~  
4 **IMMEDIATELY** preceding the date of the appointment for the class to  
5 which the vacant position has been allocated, who is willing to  
6 accept employment. If more than 1 vacancy is to be filled, an  
7 additional name shall be certified **IN THE SAME MANNER** for each  
8 additional vacancy. The appointing power immediately shall appoint  
9 the person to the position. To enable the appointing power to  
10 exercise a choice in the filling of positions of promotion in the  
11 fire or police service, a promotion shall not be considered  
12 complete until after the expiration of a period of 6 months'  
13 probationary service, and if at the end of the probationary period  
14 the appointing authority finds that the conduct or capacity of the  
15 probationer has not been satisfactory, the appointing authority  
16 shall notify the probationer and the commission in writing.  
17 Otherwise, his or her retention in the higher position shall be  
18 equivalent to receiving full status and regular employment in the  
19 higher position. The probationer, upon receiving notice that his or  
20 her conduct or capacity has not been satisfactory in the higher  
21 position, may demand a written statement of particulars of reasons  
22 for that determination and may demand a hearing before the  
23 commission. The demands shall be in writing. In such a case, the  
24 probationer ~~shall be~~ **IS** entitled to a hearing before the commission  
25 and to a statement of particulars to be served not less than 7 days  
26 before the date of the hearing. The commission may affirm or  
27 reverse the decision of the appointing authority or may order an

1 additional probation period not to exceed 6 months. The decision of  
2 the commission ~~shall be~~ **IS** final. If the probationer does not  
3 receive full status and regular employment in the higher position,  
4 he or she shall resume the duties of his or her former position,  
5 and the appointing power ~~shall be entitled to another certification~~  
6 ~~of eligibles~~ **MAY CERTIFY ANOTHER ELIGIBLE PERSON** in accordance with  
7 this act.

8 Enacting section 1. This amendatory act does not take effect  
9 unless House Bill No. 5560 of the 97th Legislature is enacted into  
10 law.