

Article – XLIII – Pensions

There are no significant changes to this article other than editorial. However, Section 4323 has been amended to by removing current language that would cause the forfeiture of a firefighter's pension and ties such a loss of pension to the "Public Employee Pension Forfeiture Act.

Article XLIV – Civil Service

There are several notable and substantive amendments made to this article. They are:

1. Upon the effective date of this article, there will be one civil service board operative for both police officers and firefighters. The current firefighters' civil service statute, Act 272 of 1933, which is not part of the Third Class City Code, will be repealed (Section 4401).
2. Civil service will apply to police officers and firefighters other than the chief of police and the fire chief, and existing *non-uniformed* civil service employees will be grandfathered and protected by civil service provisions and procedures. This is to alleviate concerns over potential property rights that existing employees may possess in their current employment status (Section 4402.1). Nonuniformed employees who are not grandfathered will be considered employees at-will unless they are covered by collective bargaining agreements.
3. Alternate civil service commission members may be appointed by the governing body. This language, derived from Section 628 of the First Class Township Code, would permit alternate members to serve a four year term and be seated for purposes of a quorum. When seated, the alternate would participate in all proceedings and discussions including the right to vote. The alternate member of the board would continue to be involved in any proceeding involving the matter or case for which he or she was designated to serve or hear (Section 4403.1).
4. A new Section 4403.2, derived from Section 2 of Act 272, is added to permit the civil service board to make investigations and issue subpoenas concerning enforcement of civil service rules and regulations.
5. Section 4404.1(f) defines medical examination for purposes of conforming civil service provisions to federal and state anti-discrimination laws. It also defines physician and qualified medical professional. Section 4406 clarifies that physical fitness or agility examinations that are job related and consistent with business necessity are still permitted to be administered prior to a conditional offer of employment. If a person is conditionally appointed to be a member of the police force or as a firefighter, a physical examination conducted by a physician or other medical professional, and a psychological examination conducted by a psychiatrist or psychologist, may be given. Ultimate recommendation for hiring is to be done by the head of the relevant department after conducting one or more interactive discussions which focus on the issue of whether the conditional appointee can, with or without, reasonable accommodation, perform the essential functions of the position. If the person is deemed not to be qualified by the department head, then a written notice must be submitted to the conditional appointee and the civil service

board. If council does not approve the nomination, the department director shall then submit another nomination. The process then would be repeated.

6. Section 4406.1(a) is modified to omit language authorizing promotions by methods other than competitive examination.

As provided by Act 99 of 2011, Section 4406.1(b) clarifies that mayors or department heads in cities operating under the Optional Third Class City Charter Law of 1957, those who are governed under optional plans of government pursuant to Chapters 30 and 31 of Title 53 Pa.C.S., as well as those subject to any other law that would vest the mayor with the power to promote, may continue to make promotions pursuant to those laws.

Section 4406.1(c) emphasizes that this section does not affect the mayor's power to appoint police chiefs and fire chiefs outside of civil service as provided in Sections 2002 and 2101.1.

7. Veterans' preference provisions relating to appointment to a civil service position are updated to comply with 51 Pa.C.S. Pt. V, Ch. 71 (relating to veterans preference) in the Military and Veterans Code. A veteran who meets the qualifications for and conditions of a position will receive an additional 10 points on an examination. (See 51 Pa.C.S. § 7103(a) applicable to civil service positions, not only in the Commonwealth, but also to political subdivisions). If after the additional 10 points are given, a veteran is on the list of three eligible applicants, the veteran will receive preference in hiring (Section 4405.1).
8. In relation to suspension or discharge for disciplinary reasons, civil service employees who are suspended for more than three days without pay may request a hearing before city council or the civil service board if designated by ordinance. A right of appeal from council or the board is to be conducted pursuant to the Local Agency Law, 2 Pa.C.S. Ch. 5, Subch. B, which review shall be exclusive. In a case where a police officer or firefighter who is a member of a collective bargaining unit chooses the above method to appeal, grievance arbitration will not be available. If grievance arbitration is utilized, the above provisions will be foreclosed (Section 4408).

Continuation language is added in Section 440, a technical section at the end of the bill, to clarify that although one civil service board will exist in cities after enactment of the bill, any civil service proceeding that has been initiated or is pending as of the effective date of the section will continue before the applicable boards. Any civil service proceeding initiated after the effective date will be heard before the new board created by this Article.

Article XLIV-A – Veterans' Affairs (New)

This is a new article that consolidates relevant portions of provisions in paragraphs 34, 35, 36, 37, 38, 39, 40, 41, and 42 in section 2403 of Article XXIV (Corporate Powers) and old Sections 3820 and 3821 in old Article XXXVIII (relating to shade trees and forests) as it relates to support of veterans, appropriations to support the Pennsylvania National Guard and armories, appropriations for cemeteries