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Texas House of Representatives

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OPINION COMMITTEE

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ACTION BY *Nancy Fuller*
COPY TO *Stacy Napier*

The Honorable Greg Abbott
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

RQ-0599-GA

FILE # ML-45250-07

I.D. # 45250

Dear General Abbott:

I am writing to request your opinion as to the proper application of the Fire and Police Civil Service Act, Local Government Code Chapter 143. Specifically, whether a local civil service commission may adopt a rule allowing additional points based on the residency of an applicant to be added to the passing score on a written examination for a beginning position in the fire or police department. In this case, the Fire Fighter and Police Officer Civil Service Commission of the City of Port Arthur adopted the following local rule:

- B. An applicant who can prove that they have been a bona fide resident of the City of Port Arthur, for three (3) months prior to the examination date and passes the examination shall receive an additional five (5) points. Said points shall be added to the passing grade of the applicant.

§143.025 (i) provides the requirements for the calculation of the final grade to be placed on the eligibility list for each applicant. It states:

- (i) The grade to be placed on the eligibility list for each applicant shall be computed by adding an applicant's points under Subsection (f), if any, to the applicant's grade on the written examination. Each applicant's grade on the written examination is based on a maximum grade of 100 percent and is determined entirely by the correctness of the applicant's answers to the questions. The minimum passing grade on the examination is 70 percent. An applicant must pass the examination to be placed on an eligibility list.

§143.025 (f) provides that additional points for military service shall be added to the applicant's examination grade if the person makes a passing grade on the examination. It states:



(f) An additional five points shall be added to the examination grade of an applicant who served in the United States armed forces, received an honorable discharge, and made a passing grade on the examination.

§143.025 (i) does not provide for adding additional points for any purpose other than §143.025 (f).

§143.008 (b) provides limits on the general authority to a civil service commission to adopt rules pertaining to initial employment. This section reads as follows:

(b) The commission may not adopt a rule permitting the appointment or employment of a person who is:

- (1) without good moral character;
- (2) physically or mentally unfit; or
- (3) incompetent to discharge the duties of the appointment or employment.

A local rule awarding additional points based on a person's residency would not seem to be precluded by §143.008 (b), since it does not relate to a person having good moral character, being physically or mentally unfit or incompetent to discharge the duties of the appointment or employment. However, it does seem directly contrary to §143.025, which describes the manner in which the candidate's final grade is to be determined. May a local civil service commission adopt local rules regarding entrance examination grades that allows final scores to be determined in a manner other than that specified in §143.025?

Thank you for your consideration of this matter. If there are questions, please contact my Chief of Staff, Bob Cash at 512.463.0924.

Sincerely,

A handwritten signature in black ink that reads "Kevin Bailey". The signature is written in a cursive, slightly slanted style.

Kevin Bailey
Chair, Urban Affairs Committee