

CHAPTER 87

S.B. No. 429

AN ACT

relating to the appointment of a fire department assistant chief in certain cities.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subsection (f), Section 8, Chapter 325, Acts of the 50th Legislature, 1947, as amended (Article 1269m, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) In any city having a population of 1,500,000 or more according to the most recent federal census, the Fire Chief or Police Chief may appoint persons to hold command staff positions in their departments subject to the following:

(1) The Police Chief may appoint to any position at the rank of Assistant Chief any member of the classified service who has served for at least five (5) years in the department as a sworn police officer and who meets the additional required qualifying criteria for filling the positions that were established by the Police Chief and approved by a vote of two-thirds ( $\frac{2}{3}$ ) of the city council present and voting. An appointment may not be made before the required qualifying criteria have been established and approved as prescribed by this subdivision.

(2) The Fire Chief may appoint to any position at the rank of Assistant Chief any member of the classified service who has served for at least five (5) years in the department as a certified fire fighter and who meets the additional required qualifying criteria for filling the positions that were established by the Fire Chief and approved by a vote of two-thirds ( $\frac{2}{3}$ ) of the city council present and voting. *The additional required qualifying criteria used to select an Assistant Chief under this subdivision must include criteria relating to management experience, educational and training background, special experience, and a performance evaluation.* An appointment may not be made before the required qualifying criteria have been established and approved as prescribed by this subdivision.

(3) The Fire Chief or Police Chief may remove any person appointed under this subsection without cause. If an appointee is removed without cause, the appointee shall be restored to that person's highest rank earned by competitive examination. However, if a person appointed under this subsection is temporarily or indefinitely suspended for cause from the appointive position, the suspension from the department is subject to the procedures for disciplinary action specified by this Act. If a person is indefinitely suspended for cause, the person does not have a right to reinstatement to the highest rank earned by competitive examination except to the extent that the indefinite suspension is reversed or modified by order of the commission or a hearing examiner.

(4) A person occupying a position in a rank specified in Subdivision (1) or (2) of Subsection (f) of this section on the effective date of this subsection may not be removed except for cause in accordance with the procedures for disciplinary action or demotion specified by this Act.

(5) A person occupying a position in a rank specified in Subdivision (1) or (2) of Subsection (f) of this section may voluntarily demote himself to his highest rank earned by competitive examination.

(6) A person may remove himself from consideration for appointment to a position in a rank specified in Subdivision (1) or (2) of Subsection (f) of this section.

(7) A person appointed under Subdivision (1) or (2) of Subsection (f) of this section may take any promotional examination for which the person would have been eligible under Section 14 of this Act.

(8) A person appointed under the provisions of Subdivision (1) or (2) of Subsection (f) of this section shall be subject to confirmation by the governing body of the city.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on March 26, 1987, by the following vote: Yeas 30, Nays 0. Passed the House on April 30, 1987, by the following vote: Yeas 142, Nays 0, one present not voting.

Approved May 14, 1987.

Effective May 14, 1987.