

SECOND REGULAR SESSION

HOUSE BILL NO. 1566

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE WALTON GRAY.

3779L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 67, RSMo, by adding thereto six new sections relating to civil service for fire protection districts and fire departments, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 67, RSMo, is amended by adding thereto six new sections, to be known as sections 67.2760, 67.2761, 67.2762, 67.2763, 67.2764, and 67.2765, to read as follows:

67.2760. 1. As used in sections 67.2760 to 67.2765, the following terms mean:

(1) "Ambulance district", any ambulance district established under chapter 321 that has a full-time paid paramedic or emergency medical technician;

(2) "Appointing power", every person or group of persons, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, board, or other similar official, having the authority to select, appoint, or employ any person to hold any office, place, position, or employment subject to civil service;

(3) "Appointment", all means of selection, appointing, or employing any person to hold any office, place, position, or employment subject to civil service;

(4) "Commission", the civil service commission established in sections 67.2760 to 67.2765;

(5) "Commissioner", any one of the three commissioners of the commission;

(6) "Fire district", any fire district established under chapter 321 that has a full-time paid fire department;

(7) "Full-time paid fire department or district", any fire department or district within any political subdivision that has officers, firefighters, paramedics, or emergency

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 medical technicians who are employed and paid regularly by the political subdivision, and
18 who devote their whole time to firefighting or emergency medical services;

19 (8) "Municipality", all cities, towns, or other municipalities that have a full-time
20 paid fire department.

21 2. There is hereby created a civil service commission in each political subdivision
22 of this state with a full-time paid fire department or fire protection district or ambulance
23 district. The commission shall be composed of three members appointed by the appointing
24 power of the political subdivision without any requirement of governing body
25 confirmation, with no more than two being adherents of the same political party. The
26 appointing power shall not appoint any person to the commission who is not a citizen of
27 the United States, a resident of the political subdivision for at least the three years
28 preceding the appointment, and a registered voter of the county in which the person
29 resides. The terms of the commissioners initially appointed shall be as follows: one
30 commissioner shall be appointed for a term of one year, one for a term of two years, and
31 one for a term of three years, with all subsequently appointed commissioners serving a
32 term of three years. Commissioners shall serve without compensation but may be paid an
33 attendance fee as established by ordinance or resolution of the appointing power and shall
34 be entitled to reimbursement for actual and necessary expenses incurred in the
35 performance of their official duties. Commissioners shall devote due time and attention
36 to the performance of the duties required under sections 67.2760 to 67.2765.
37 Commissioners may be removed from office by the appointing power for dereliction of
38 duty, incompetence, malfeasance, misfeasance, or other good cause, but no such removal
39 shall occur unless the charges against the commissioner have been proffered in writing
40 with due notice and upon a full hearing.

41 3. Immediately after the appointment of the initial commissioners, the commission
42 shall organize itself and elect one member as a chair. The commission shall hold regular
43 meetings at least once per month, and may hold such additional meetings required for the
44 proper discharge of the commission's duties. The commission shall appoint a secretary and
45 chief examiner, who shall keep the records of the commission, preserve all reports made
46 to it, superintend and record all examinations held by it, and perform other duties
47 prescribed by the commission. The secretary and chief examiner shall be appointed after
48 a competitive examination, which may be original and open to all properly qualified
49 citizens of the political subdivision, or may be promotional and limited to persons already
50 in the service of the fire district, fire department, or other departments of the political
51 subdivision, as the commission determines. The secretary and chief examiner may be
52 subject to suspension, reduction, or discharge in the same manner and subject to the same

53 limitations as provided for members of the fire department or fire district. The secretary
54 and chief examiner may have additional duties with the appointing power outside of his
55 or her duties with the commission, and in such capacity shall be under the supervision of
56 the appointing power or its designee.

57 **4. The commission shall have the following duties and powers:**

58 **(1) To investigate and report on all matters regarding the enforcement and effect**
59 **of sections 67.2760 to 67.2765 and all rules and regulations adopted under such sections,**
60 **with such investigations to be made by the commission or any commissioner designated by**
61 **the commission for that purpose. Such investigations may also be conducted upon a**
62 **citizen's written verified petition stating in concise language that provisions of sections**
63 **67.2760 to 67.2765 have been violated or the reasons the investigation is necessary;**

64 **(2) To inspect all institutions, departments, offices, places, positions, and**
65 **employments affected by sections 67.2760 to 67.2765, and to determine whether sections**
66 **67.2760 to 67.2765 and all rules and regulations adopted under such sections are properly**
67 **followed;**

68 **(3) To administer oaths, subpoena and require the attendance of witnesses, and**
69 **require the production of books, papers, documents, and accounts pertaining to any**
70 **investigation, and to depose witnesses in the manner prescribed by law for similar**
71 **depositions in civil actions in circuit court. Such oaths administered and subpoenas issued**
72 **under sections 67.2760 to 67.2765 shall have the same force and effect as oaths**
73 **administered and subpoenas issued by a circuit court, and the failure of any subpoenaed**
74 **person to comply with the investigation shall be a violation of sections 67.2760 to 67.2765**
75 **and punishable as contempt upon an order of the circuit court;**

76 **(4) To hear and determine appeals or complaints upon the administrative work of**
77 **the personnel department, the allocation of positions, the rejection of an examination, and**
78 **other such matters referred to the commission;**

79 **(5) To establish and maintain a roster of officers and employees;**

80 **(6) To provide for, create, and hold competitive examinations to determine the**
81 **relative qualifications of persons seeking employment in any class or position, to establish**
82 **eligible lists for the various classes of positions, to provide that persons laid off because of**
83 **a curtailment of expenditures, reductions in workforce, or other similar causes, are at the**
84 **top of the list in order of seniority so that they are the first to be reemployed;**

85 **(7) To keep any records necessary for the proper administration of sections 67.2760**
86 **to 67.2765;**

87 **(8) To begin and conduct all civil suits necessary for the enforcement of sections**
88 **67.2760 to 67.2765 and the rules and regulations of the commission. The commission shall**

89 be represented in such suits by the chief legal officer of the political subdivision, but the
90 commission may in all cases be represented by special counsel appointed by the
91 commission;

92 (9) To make any rules and regulations consistent with sections 67.2760 to 67.2765.

67.2761. 1. The civil service established under sections 67.2760 to 67.2765 shall
2 include all full-time paid employees of the fire department or fire district of each political
3 subdivision, except that individuals appointed as fire chief may be excluded by the political
4 subdivision. All appointments to and promotions within such fire departments or fire
5 districts shall be made solely on merit, efficiency, and fitness, which shall be ascertained
6 by an open competitive examination and impartial investigation. No person shall be
7 reinstated in or transferred, suspended, or discharged from, any such place, position, or
8 employment contrary to sections 67.2760 to 67.2765.

9 2. For the benefit of the public service and to prevent delay, injury, or interruption
10 of the public service by reason of the enactment of sections 67.2760 to 67.2765, except for
11 persons who have not completed or received any qualifications, education, training,
12 certifications, permits, or licenses required by law, any person holding a position in the fire
13 department or fire district of any such political subdivision, excluding the fire chief, upon
14 the effective date of sections 67.2760 to 67.2765, who has served in such position for at least
15 the previous six continuous months, shall be considered permanently appointed under civil
16 service to the offices, places, positions, or employments that such person then holds without
17 examination or any other act on such person's part, and not on probation. Every such
18 person shall be automatically adopted and inducted permanently into civil service, into
19 such office, place, position, or employment that such person then holds as completely and
20 effectually for all intents and purposes as if such person had been permanently appointed
21 to such position under civil service after examination and investigation.

22 3. Any applicant for a position of any kind under civil service shall be a citizen of
23 the United States, be able to read and write the English language, be of an age suitable for
24 the position applied for, in ordinary good health, of good moral character, and of
25 temperate and industrious habits, as determined by the commission. No political
26 subdivision shall require any person applying for or holding any office, place, position, or
27 employment under sections 67.2760 to 67.2765 to reside within the boundaries of such
28 political subdivision as a condition of employment, or shall discriminate against any such
29 person because of the person's residence outside the boundaries of such political
30 subdivision, except by duly enacted charter or ordinance.

31 4. The commission shall make rules or regulations providing in detail the manner
32 in which examinations shall be held and appointments, promotions, transfers,

33 reinstatements, demotions, suspensions, and discharges shall be made, and may also
34 provide for any other matters connected with personnel administration. The commission
35 may also make rules to carry out the provisions of sections 67.2760 to 67.2765 or that may
36 be found to be in the interest of good personnel administration. Such rules or regulations
37 shall also provide for credit in favor of all applicants for appointment under civil service
38 who have served in and been honorably discharged from any branch of the armed forces
39 of the United States or the merchant marine of the United States, with such credits to apply
40 only to entrance examinations. Any such rules or regulations may be changed from time
41 to time. Such rules or regulations and any amendments shall be printed or copied for free
42 public distribution. No person shall be deemed disqualified to be employed by the political
43 subdivision for failure to possess any qualifications, education, training, certifications,
44 permits, or licenses where such person, by law, may acquire such qualifications, education,
45 training, certifications, permits, or licenses while employed by the appointing power.

46 5. All examinations shall be practical, free of race and gender bias, and shall consist
47 only of subjects that will fairly determine the capacity of the person examined to perform
48 the duties of the position to which appointment is to be made, and may include tests of
49 physical fitness or manual skill.

50 6. The tenure of each person holding any office, place, position, or employment
51 under sections 67.2760 to 67.2765 shall be only during good behavior, and any such person
52 may be removed or discharged, suspended without pay, demoted or reduced in rank, or
53 deprived of vacation privileges or other special privileges for any of the following reasons:

54 (1) Incompetence, inefficiency, or inattention to or dereliction of duty;

55 (2) Dishonesty, intemperance, immoral conduct, insubordination, discourteous
56 treatment of the public or a fellow employee, any act or omission tending to injure the
57 public service, any willful failure to engage in proper conduct, or any willful violation of
58 sections 67.2760 to 67.2765 or any rules or regulations adopted under sections 67.2760 to
59 67.2765;

60 (3) Mental or physical unfitness for the position the person holds;

61 (4) Dishonest, disgraceful, immoral, or prejudicial conduct;

62 (5) Drunkenness or use of intoxicating liquors, narcotics, or any other habit-
63 forming drug, liquid, or preparation to such extent that the use of such substances
64 interferes with the efficiency or mental or physical fitness of the person, or that precludes
65 the person from properly performing the functions and duties of any position under civil
66 service;

67 (6) Conviction of a misdemeanor or felony involving moral turpitude;

68 (7) Any other act or failure to act that in the judgment of the appointing power and
69 sustained by the commission is sufficient to show the person to be an unsuitable and unfit
70 person to be employed in the public service.

 67.2762. 1. No person in the classified civil service who shall have been
2 permanently appointed or inducted into civil service under sections 67.2760 to 67.2765
3 shall be removed, suspended, demoted, or discharged except for cause, and only upon the
4 written accusation of the appointing power or any citizen or taxpayer. A copy of such
5 written accusation shall be served upon the accused and a duplicate shall be filed with the
6 commission. Any person removed, suspended, demoted, or discharged may file a written
7 demand for an investigation with the commission within ten days, and upon receipt the
8 commission shall conduct an investigation. The investigation shall be confined to the
9 determination of the question of whether such removal, suspension, demotion, or discharge
10 was or was not made for political or unlawful reasons or was or was not made in good faith
11 for cause as enumerated in subsection 6 of section 67.2761. After such investigation, the
12 commission may affirm the removal, suspension, demotion, or discharge, or if such
13 removal, suspension, demotion, or discharge was made for political or religious reasons,
14 shall order the immediate reinstatement of such person. Such reinstatement shall be
15 retroactive and entitle such person to pay or compensation from the time of such removal,
16 suspension, demotion, or discharge. Upon such investigation the commission may, in lieu
17 of affirming such removal, suspension, demotion, or discharge, modify the order of
18 removal, suspension, demotion, or discharge by directing a suspension without pay for a
19 given period and subsequent restoration to duty, or a demotion in classification, grade, or
20 pay. The commission's findings shall be certified in writing to the appointing power and
21 enforced by the appropriate officer.

22 2. All hearings and investigations before the commission or the designated
23 commissioner or examiner shall be governed by sections 67.2760 to 67.2765 and by rules
24 of practice and procedure adopted by the commission. The commission shall not be bound
25 by the technical rules of evidence in such hearings. No informality in any proceeding or
26 hearing, or in the manner of taking testimony, shall invalidate any order, decision,
27 judgment, rule, or regulation made or approved by the commission. No order, decision,
28 judgment, rule, or regulation made by the commission or any commissioner conducting
29 any hearing or investigation shall be of any force or effect unless and until concurred in
30 by at least a majority of the commission.

31 3. All investigations by the commission shall be by public hearing after reasonable
32 notice to the accused of the time and place of the hearing, unless the accused elects to have
33 a closed hearing as provided by subdivision (3) of section 610.021, at which the accused

34 shall have the opportunity to appear in person and by counsel to present a defense. If at
35 least a majority of the commission concurs in such judgment or order, the accused may
36 appeal to the court of original and unlimited jurisdiction in civil suits of the county in
37 which the appointing power is located. Such appeal shall be taken by serving the
38 commission a written notice of appeal and filing in the circuit court a petition for review
39 within thirty days after the entry of the judgment or order. Such appeal shall state the
40 grounds for the appeal, and shall demand that a certified transcript of the record and all
41 papers on file relating to the judgment or order in the commission's office be filed with the
42 court. Within ten days after the filing of such notice of appeal, the commission shall order
43 the transcript and not later than ten days after receipt thereof make, certify, and file the
44 transcript with the court. The court shall hear and determine such appeal in a summary
45 manner as provided in section 536.100.

67.2763. 1. Whenever a position in the classified civil service becomes vacant, if the
2 appointing power desires to fill the vacancy, the appointing power shall request the
3 commission to provide a name and address of a person eligible for the appointment to the
4 vacancy. The commission shall certify the names of five persons highest on the eligible list
5 for the class to which the vacant position has been allocated who are willing to accept
6 employment. If there is no appropriate person eligible for the class, the commission shall
7 seek qualified and eligible applicants for the position and upon compiling a list of such
8 qualified and eligible applicants, shall certify the names of the five persons standing highest
9 on the list for such class. If there is no list of qualified and eligible applicants, the
10 commission shall authorize the appointing power to make provisional or temporary
11 appointment lists for such class, with such provisional or temporary appointment to
12 continue no longer than four months. No person shall receive more than one provisional
13 or temporary appointment or serve more than four months as a provisional or temporary
14 appointee in any one fiscal year. If more than one vacancy is to be filled, two additional
15 names shall be certified for each additional vacancy. The appointing power shall
16 immediately appoint one of such persons to the vacant position. Whenever a request is
17 made or a position is held by a temporary appointee, and an eligible list for the class of
18 such position exists, the commission shall certify the names of five persons eligible for
19 appointment to the appointing power, and the appointing power shall immediately appoint
20 one of the certified persons to the position. No person certified under this section shall be
21 laid off, suspended, given leave of absence from duty, transferred, or reduced in pay or
22 grade, except for written reasons that will promote the good of the service and for the
23 causes enumerated in subsection 6 of section 67.2761 and after an opportunity to be heard

24 by the appointing power or its designee subject to review by the commission upon the
25 commission's consent and approval as provided by section 67.2762.

26 2. To enable the appointing power to exercise a choice in filling vacant positions,
27 no appointment, employment, or promotion in any position in the classified civil service
28 shall be deemed complete until after the expiration of a six-month probationary service
29 period, during which the appointing power may terminate the employment of the certified
30 person if, upon observation or consideration of the performance of duty during the
31 probationary period, the appointing power deems the person unfit or unsatisfactory for
32 service in the fire department or fire district. For persons who obtain required
33 qualifications, education, training, certifications, permits, or licenses while employed by
34 the appointing power, as permitted by law, the probationary period shall end six months
35 subsequent to the employee's completion and receipt of any qualifications, education,
36 training, certifications, permits, or licenses required by law. The appointing power shall
37 then appoint one of the remaining persons previously certified on any such list, and such
38 person shall perform the duties until a person who is deemed fit for appointment,
39 employment, or promotion for the probationary period is found. Upon finding a suitable
40 person to fill the vacancy, the appointment, employment, or promotion shall be deemed
41 complete.

42 3. Leave of absence without pay may be granted by any appointing power to any
43 person under civil service, provided that such appointing power shall give notice of such
44 leave to the commission. All temporary employment caused by leaves of absence shall be
45 made from the eligible list of classified civil service.

67.2764. 1. All offices, places, positions, and employments governed under sections
2 67.2760 to 67.2765 shall be created by the appointing power, and nothing in sections
3 67.2760 to 67.2765 shall be construed to infringe on the appointing power's authority to fix
4 the salaries and compensation of all employees employed under sections 67.2760 to 67.2765.

5 2. No treasurer, auditor, comptroller, or other official or employee of any political
6 subdivision governed under sections 67.2760 to 67.2765 shall approve the payment of, or
7 be in any way connected with, the payment, auditing, or approving of any salary, wage, or
8 other compensation for services made to any person governed under sections 67.2760 to
9 67.2765, unless a payroll, estimate, or account for such salary, wage, or other compensation
10 for services containing the name of persons to be paid, the amount to be paid to each
11 person, the services for which they are being paid, and any other information required by
12 the commission bears the certificate of the commission or its agent stating that such
13 persons have been appointed or employed in compliance with sections 67.2760 to 67.2765
14 and that such payroll, estimate, or account is a true and accurate statement as far as

15 known to the commission. The commission shall refuse to certify the pay of any public
16 official or employee it finds to be illegally or improperly appointed, and may further refuse
17 to certify the pay of any public official or employee who willfully or through culpable
18 negligence violates or fails to comply with sections 67.2760 to 67.2765.

19 3. For the purposes of effecting the requirements of sections 67.2760 to 67.2765,
20 each political subdivision governed under sections 67.2760 to 67.2765 shall annually
21 appropriate the reasonable and necessary expenses to carry out duties required under
22 sections 67.2760 to 67.2765.

 67.2765. 1. Sections 67.2760 to 67.2765 shall not apply to any political subdivision
2 that has provided for civil service in the fire department or fire district as of the effective
3 date of sections 67.2760 to 67.2765, or that subsequently provides for civil service for such
4 fire department or fire district by enacting any charter provision or order or ordinance
5 that enacts substantially similar provisions to the provisions in sections 67.2760 to 67.2765.

6 2. If any political subdivision at any time repeals or effectively repeals any local
7 provisions providing for civil service for fire districts or ambulance districts, sections
8 67.2760 to 67.2765 shall apply to all such political subdivisions that have repealed such
9 provisions.

10 3. (1) No commissioner or any other person shall individually or in cooperation
11 with any other person defeat, deceive, or obstruct any person's right of examination or
12 registration under sections 67.2760 to 67.2765, nor shall falsely mark, grade, estimate, or
13 report on the examination of proper standing of any person examined, registered, or
14 certified under sections 67.2760 to 67.2765, nor shall aid or make any false representation
15 concerning such person's standing or examination or furnish any person with any special
16 or secret information for the purpose of improving or injuring the prospects or chances of
17 any person being examined, registered, or certified under sections 67.2760 to 67.2765, nor
18 shall persuade any other person or permit or aid in any manner any other person to
19 impersonate the person being examined in connection with any examination, registration,
20 application, or request to be examined or registered. Any person violating any provision
21 of this subdivision shall be guilty of a class B misdemeanor.

22 (2) No commissioner during the term of their appointment or person holding any
23 office, place, position, or employment subject to civil service shall be under any obligation
24 to contribute to any political fund or to render any political service to any person or party,
25 and no person shall be removed, reduced in grade or salary, or otherwise prejudiced for
26 refusing to do so. No elected or appointed public official shall discharge, promote, demote,
27 or in any manner change the official rank, employment, or compensation of any
28 commissioner during the term of their appointment or person under civil service, or

29 promise or threaten to commit such acts, for giving, withholding, or neglecting to make any
30 contribution of money, services, or any other valuable thing, for any political purpose. No
31 commissioner during the term of their appointment or person holding any office, place,
32 position, or employment, subject to civil service, shall contribute to any political fund or
33 render any political service to any person or party seeking an office within the political
34 subdivision in which the person holds office, place, position, or employment subject to civil
35 service. Nothing herein shall be construed to prohibit a commissioner or an employee from
36 voluntarily making political contributions or providing political service outside of the
37 jurisdiction of their employer or within the jurisdiction of an overlapping political
38 subdivision.

39 4. All political subdivisions affected by sections 67.2760 to 67.2765 shall,
40 immediately after the effective date of sections 67.2760 to 67.2765, enact appropriate
41 legislation as required under sections 67.2760 to 67.2765. Each such political subdivision
42 shall appoint a civil service commission as required under sections 67.2760 to 67.2765
43 within ninety days after the effective date of sections 67.2760 to 67.2765. Commissioners
44 so appointed shall take office on January first of the year next succeeding their
45 appointment and shall serve until their successors are appointed and qualified. Vacancies
46 in a commissioner's term of office shall be filled by the appointing power as provided in
47 subsection 2 of section 67.2760, and the appointee shall serve the balance of the term to
48 which their predecessor was appointed and until their successor is appointed and qualified.
49 Failure to accomplish such legislation or appoint such commission shall be deemed a
50 violation of sections 67.2760 to 67.2765, and shall be enforced by the county prosecutor
51 through a writ of mandamus to compel compliance with sections 67.2760 to 67.2765.

52 5. All officials of each municipality governed under sections 67.2760 to 67.2765
53 shall provide the commission with suitable and convenient office space and shall furnish
54 the necessary office supplies and equipment, utilities, and clerical assistance. Failure of
55 such municipality to fulfill the requirements of this subsection shall be deemed a violation
56 of sections 67.2760 to 67.2765, and such municipal officials shall be subject to issuance of
57 a writ of mandamus to compel compliance with sections 67.2760 to 67.2765.

58 6. All officials and employees of each municipality governed under sections 67.2760
59 to 67.2765 shall aid in all proper ways of effecting sections 67.2760 to 67.2765, and to afford
60 the commission and its members and employees all reasonable facilities and assistance to
61 inspect all books, papers, documents, and accounts relating to all offices, places, positions,
62 and employments subject to civil service, and to produce such books, papers, documents,
63 and accounts, and to attend and testify whenever required by the commission.

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