

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. B. No. 718

Representatives Miller, J., West

Cosponsors: Representatives Boyd, Crossman, Crawley, Galonski, Kelly, Lepore-Hagan, Patterson, Russo, Strahorn, Upchurch, Weinstein

A BILL

To amend sections 124.11 and 124.30 of the Revised 1
Code to allow a police department to fill a 2
vacant position in the classified civil service 3
without a competitive examination. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 124.11 and 124.30 of the Revised 5
Code be amended to read as follows: 6

Sec. 124.11. The civil service of the state and the 7
several counties, cities, civil service townships, city health 8
districts, general health districts, and city school districts 9
of the state shall be divided into the unclassified service and 10
the classified service. 11

(A) The unclassified service shall comprise the following 12
positions, which shall not be included in the classified 13
service, and which shall be exempt from all examinations 14
required by this chapter: 15

(1) All officers elected by popular vote or persons 16
appointed to fill vacancies in those offices; 17

(2) All election officers as defined in section 3501.01 of the Revised Code; 18
19

(3) (a) The members of all boards and commissions, and heads of principal departments, boards, and commissions appointed by the governor or by and with the governor's consent; 20
21
22

(b) The heads of all departments appointed by a board of county commissioners; 23
24

(c) The members of all boards and commissions and all heads of departments appointed by the mayor, or, if there is no mayor, such other similar chief appointing authority of any city or city school district; 25
26
27
28

Except as otherwise provided in division (A) (17) or (C) of this section, this chapter does not exempt the chiefs of police departments and chiefs of fire departments of cities or civil service townships from the competitive classified service. 29
30
31
32

(4) The members of county or district licensing boards or commissions and boards of revision, and not more than five deputy county auditors; 33
34
35

(5) All officers and employees elected or appointed by either or both branches of the general assembly, and employees of the city legislative authority engaged in legislative duties; 36
37
38

(6) All commissioned, warrant, and noncommissioned officers and enlisted persons in the Ohio organized militia, including military appointees in the adjutant general's department; 39
40
41
42

(7) (a) All presidents, business managers, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, instructors, teachers, and 43
44
45

such employees as are engaged in educational or research duties 46
connected with the public school system, colleges, and 47
universities, as determined by the governing body of the public 48
school system, colleges, and universities; 49

(b) The library staff of any library in the state 50
supported wholly or in part at public expense. 51

(8) Four clerical and administrative support employees for 52
each of the elective state officers, four clerical and 53
administrative support employees for each board of county 54
commissioners and one such employee for each county 55
commissioner, and four clerical and administrative support 56
employees for other elective officers and each of the principal 57
appointive executive officers, boards, or commissions, except 58
for civil service commissions, that are authorized to appoint 59
such clerical and administrative support employees; 60

(9) The deputies and assistants of state agencies 61
authorized to act for and on behalf of the agency, or holding a 62
fiduciary or administrative relation to that agency and those 63
persons employed by and directly responsible to elected county 64
officials or a county administrator and holding a fiduciary or 65
administrative relationship to such elected county officials or 66
county administrator, and the employees of such county officials 67
whose fitness would be impracticable to determine by competitive 68
examination, provided that division (A)(9) of this section shall 69
not affect those persons in county employment in the classified 70
service as of September 19, 1961. Nothing in division (A)(9) of 71
this section applies to any position in a county department of 72
job and family services created pursuant to Chapter 329. of the 73
Revised Code. 74

(10) Bailiffs, constables, official stenographers, and 75

commissioners of courts of record, deputies of clerks of the 76
courts of common pleas who supervise or who handle public moneys 77
or secured documents, and such officers and employees of courts 78
of record and such deputies of clerks of the courts of common 79
pleas as the appointing authority finds it impracticable to 80
determine their fitness by competitive examination; 81

(11) Assistants to the attorney general, special counsel 82
appointed or employed by the attorney general, assistants to 83
county prosecuting attorneys, and assistants to city directors 84
of law; 85

(12) Such teachers and employees in the agricultural 86
experiment stations; such students in normal schools, colleges, 87
and universities of the state who are employed by the state or a 88
political subdivision of the state in student or intern 89
classifications; and such unskilled labor positions as the 90
director of administrative services, with respect to positions 91
in the service of the state, or any municipal civil service 92
commission may find it impracticable to include in the 93
competitive classified service; provided such exemptions shall 94
be by order of the commission or the director, duly entered on 95
the record of the commission or the director with the reasons 96
for each such exemption; 97

(13) Any physician or dentist who is a full-time employee 98
of the department of mental health and addiction services, the 99
department of developmental disabilities, or an institution 100
under the jurisdiction of either department; and physicians who 101
are in residency programs at the institutions; 102

(14) Up to twenty positions at each institution under the 103
jurisdiction of the department of mental health and addiction 104
services or the department of developmental disabilities that 105

the department director determines to be primarily 106
administrative or managerial; and up to fifteen positions in any 107
division of either department, excluding administrative 108
assistants to the director and division chiefs, which are within 109
the immediate staff of a division chief and which the director 110
determines to be primarily and distinctively administrative and 111
managerial; 112

(15) Noncitizens of the United States employed by the 113
state, or its counties or cities, as physicians or nurses who 114
are duly licensed to practice their respective professions under 115
the laws of this state, or medical assistants, in mental or 116
chronic disease hospitals, or institutions; 117

(16) Employees of the governor's office; 118

(17) Fire chiefs and chiefs of police in civil service 119
townships appointed by boards of township trustees under section 120
505.38 or 505.49 of the Revised Code; 121

(18) Executive directors, deputy directors, and program 122
directors employed by boards of alcohol, drug addiction, and 123
mental health services under Chapter 340. of the Revised Code, 124
and secretaries of the executive directors, deputy directors, 125
and program directors; 126

(19) Superintendents, and management employees as defined 127
in section 5126.20 of the Revised Code, of county boards of 128
developmental disabilities; 129

(20) Physicians, nurses, and other employees of a county 130
hospital who are appointed pursuant to sections 339.03 and 131
339.06 of the Revised Code; 132

(21) The executive director of the state medical board, 133
who is appointed pursuant to division (B) of section 4731.05 of 134

the Revised Code; 135

(22) County directors of job and family services as 136
provided in section 329.02 of the Revised Code and 137
administrators appointed under section 329.021 of the Revised 138
Code; 139

(23) A director of economic development who is hired 140
pursuant to division (A) of section 307.07 of the Revised Code; 141

(24) Chiefs of construction and compliance, of operations 142
and maintenance, of worker protection, and of licensing and 143
certification in the division of industrial compliance in the 144
department of commerce; 145

(25) The executive director of a county transit system 146
appointed under division (A) of section 306.04 of the Revised 147
Code; 148

(26) Up to five positions at each of the administrative 149
departments listed in section 121.02 of the Revised Code and at 150
the department of taxation, department of the adjutant general, 151
department of education, Ohio board of regents, bureau of 152
workers' compensation, industrial commission, state lottery 153
commission, opportunities for Ohioans with disabilities agency, 154
and public utilities commission of Ohio that the head of that 155
administrative department or of that other state agency 156
determines to be involved in policy development and 157
implementation. The head of the administrative department or 158
other state agency shall set the compensation for employees in 159
these positions at a rate that is not less than the minimum 160
compensation specified in pay range 41 but not more than the 161
maximum compensation specified in pay range 47 of salary 162
schedule E-2 in section 124.152 of the Revised Code. The 163

authority to establish positions in the unclassified service 164
under division (A) (26) of this section is in addition to and 165
does not limit any other authority that an administrative 166
department or state agency has under the Revised Code to 167
establish positions, appoint employees, or set compensation. 168

(27) Employees of the department of agriculture employed 169
under section 901.09 of the Revised Code; 170

(28) For cities, counties, civil service townships, city 171
health districts, general health districts, and city school 172
districts, the deputies and assistants of elective or principal 173
executive officers authorized to act for and in the place of 174
their principals or holding a fiduciary relation to their 175
principals; 176

(29) Employees who receive intermittent or temporary 177
appointments under division ~~(B)~~ (C) of section 124.30 of the 178
Revised Code; 179

(30) Employees appointed to administrative staff positions 180
for which an appointing authority is given specific statutory 181
authority to set compensation; 182

(31) Employees appointed to highway patrol cadet or 183
highway patrol cadet candidate classifications; 184

(32) Employees placed in the unclassified service by 185
another section of the Revised Code. 186

(B) The classified service shall comprise all persons in 187
the employ of the state and the several counties, cities, city 188
health districts, general health districts, and city school 189
districts of the state, not specifically included in the 190
unclassified service. Upon the creation by the board of trustees 191
of a civil service township civil service commission, the 192

classified service shall also comprise, except as otherwise 193
provided in division (A) (17) or (C) of this section, all persons 194
in the employ of a civil service township police or fire 195
department having ten or more full-time paid employees. The 196
classified service consists of two classes, which shall be 197
designated as the competitive class and the unskilled labor 198
class. 199

(1) The competitive class shall include all positions and 200
employments in the state and the counties, cities, city health 201
districts, general health districts, and city school districts 202
of the state, and, upon the creation by the board of trustees of 203
a civil service township of a township civil service commission, 204
all positions in a civil service township police or fire 205
department having ten or more full-time paid employees, for 206
which it is practicable to determine the merit and fitness of 207
applicants by competitive examinations. Appointments shall be 208
made to, or employment shall be given in, all positions in the 209
competitive class that are not filled by promotion, 210
reinstatement, transfer, or reduction, as provided in this 211
chapter, and the rules of the director of administrative 212
services, by appointment from those certified to the appointing 213
officer in accordance with this chapter. 214

(2) The unskilled labor class shall include ordinary 215
unskilled laborers. Vacancies in the labor class for positions 216
in service of the state shall be filled by appointment from 217
lists of applicants registered by the director or the director's 218
designee. Vacancies in the labor class for all other positions 219
shall be filled by appointment from lists of applicants 220
registered by a commission. The director or the commission, as 221
applicable, by rule, shall require an applicant for registration 222
in the labor class to furnish evidence or take tests as the 223

director or commission considers proper with respect to age, 224
residence, physical condition, ability to labor, honesty, 225
sobriety, industry, capacity, and experience in the work or 226
employment for which application is made. Laborers who fulfill 227
the requirements shall be placed on the eligible list for the 228
kind of labor or employment sought, and preference shall be 229
given in employment in accordance with the rating received from 230
that evidence or in those tests. Upon the request of an 231
appointing officer, stating the kind of labor needed, the pay 232
and probable length of employment, and the number to be 233
employed, the director or commission, as applicable, shall 234
certify from the highest on the list double the number to be 235
employed; from this number, the appointing officer shall appoint 236
the number actually needed for the particular work. If more than 237
one applicant receives the same rating, priority in time of 238
application shall determine the order in which their names shall 239
be certified for appointment. 240

(C) A municipal or civil service township civil service 241
commission may place volunteer firefighters who are paid on a 242
fee-for-service basis in either the classified or the 243
unclassified civil service. 244

(D) (1) This division does not apply to persons in the 245
unclassified service who have the right to resume positions in 246
the classified service under sections 4121.121, 5119.18, 247
5120.38, 5120.381, 5120.382, 5123.08, and 5139.02 of the Revised 248
Code or to cities, counties, or political subdivisions of the 249
state. 250

(2) A person who holds a position in the classified 251
service of the state and who is appointed to a position in the 252
unclassified service shall retain the right to resume the 253

position and status held by the person in the classified service 254
immediately prior to the person's appointment to the position in 255
the unclassified service, regardless of the number of positions 256
the person held in the unclassified service. An employee's right 257
to resume a position in the classified service may only be 258
exercised when an appointing authority demotes the employee to a 259
pay range lower than the employee's current pay range or revokes 260
the employee's appointment to the unclassified service and any 261
of the following apply: 262

(a) That person held a certified position prior to July 1, 263
2007, in the classified service within the appointing 264
authority's agency; 265

(b) That person held a permanent position on or after July 266
1, 2007, in the classified service within the appointing 267
authority's agency, and was appointed to the position in the 268
unclassified service prior to January 1, 2016; 269

(c) That person held a permanent position on or after 270
January 1, 2016, in the classified service within the appointing 271
authority's agency, and is within five years from the effective 272
date of the person's appointment in the unclassified service. 273

(3) An employee forfeits the right to resume a position in 274
the classified service when: 275

(a) The employee is removed from the position in the 276
unclassified service due to incompetence, inefficiency, 277
dishonesty, drunkenness, immoral conduct, insubordination, 278
discourteous treatment of the public, neglect of duty, violation 279
of this chapter or the rules of the director of administrative 280
services, any other failure of good behavior, any other acts of 281
misfeasance, malfeasance, or nonfeasance in office, or 282

conviction of a felony while employed in the civil service; or 283

(b) Upon transfer to a different agency. 284

(4) Reinstatement to a position in the classified service 285
shall be to a position substantially equal to that position in 286
the classified service held previously, as certified by the 287
director of administrative services. If the position the person 288
previously held in the classified service has been placed in the 289
unclassified service or is otherwise unavailable, the person 290
shall be appointed to a position in the classified service 291
within the appointing authority's agency that the director of 292
administrative services certifies is comparable in compensation 293
to the position the person previously held in the classified 294
service. Service in the position in the unclassified service 295
shall be counted as service in the position in the classified 296
service held by the person immediately prior to the person's 297
appointment to the position in the unclassified service. When a 298
person is reinstated to a position in the classified service as 299
provided in this division, the person is entitled to all rights, 300
status, and benefits accruing to the position in the classified 301
service during the person's time of service in the position in 302
the unclassified service. 303

Sec. 124.30. (A) Classified positions in the civil service 304
may be filled without competition as follows: 305

(1) Whenever there are urgent reasons for filling a 306
vacancy in any position in the classified civil service and the 307
director of administrative services is unable to certify to the 308
appointing authority, upon its request, a list of persons 309
eligible for appointment to the position after a competitive 310
examination, the appointing authority may fill the position by 311
noncompetitive examination. 312

A temporary appointment may be made without regard to the 313
rules of sections 124.01 to 124.64 of the Revised Code. Except 314
as otherwise provided in this division, the temporary 315
appointment may not continue longer than one hundred twenty 316
days, and in no case shall successive temporary appointments be 317
made. A temporary appointment longer than one hundred twenty 318
days may be made if necessary by reason of sickness, disability, 319
or other approved leave of absence of regular officers or 320
employees, in which case it may continue during the period of 321
sickness, disability, or other approved leave of absence, 322
subject to the rules of the director. 323

(2) In case of a vacancy in a position in the classified 324
civil service where peculiar and exceptional qualifications of a 325
scientific, managerial, professional, or educational character 326
are required, and upon satisfactory evidence that for specified 327
reasons competition in this special case is impracticable and 328
that the position can best be filled by a selection of some 329
designated person of high and recognized attainments in those 330
qualities, the director may suspend the provisions of sections 331
124.01 to 124.64 of the Revised Code that require competition in 332
this special case, but no suspension shall be general in its 333
application. All such cases of suspension shall be reported in 334
the annual report of the director with the reasons for each 335
suspension. The director shall suspend the provisions when 336
either of the following applies: 337

(a) The director of job and family services provides the 338
certification under section 5101.051 of the Revised Code that a 339
position with the department of job and family services can best 340
be filled if the provisions are suspended; 341

(b) The medicaid director provides the certification under 342

section 5160.051 of the Revised Code that a position with the 343
department of medicaid can best be filled if the provisions are 344
suspended. 345

(3) In case of a vacancy in a position in the classified 346
civil service in a police department, on satisfactory evidence 347
that for specified reasons competition in this special case is 348
impracticable and that the position can best be filled by a 349
selection of some designated person holding a specialized 350
certification or possessing peculiar and exceptional 351
qualifications, the director may suspend the provisions of 352
sections 124.01 to 124.64 of the Revised Code that require 353
competition in this special case, but no suspension shall be 354
general in its application. 355

(B) The acceptance or refusal by an eligible person of a 356
temporary appointment under division (A) (1) of this section 357
shall not affect the person's standing on the eligible list for 358
permanent appointment, nor shall the period of temporary service 359
be counted as a part of the probationary service in case of 360
subsequent appointment to a permanent position. 361

~~(B)~~ (C) Persons who receive temporary or intermittent 362
appointments under division (A) (1) of this section 363
are in the unclassified civil service and serve at the pleasure of their 364
appointing authority. 365

Section 2. That existing sections 124.11 and 124.30 of the 366
Revised Code are hereby repealed. 367