

AN  
AGREEMENT  
BETWEEN  
THE CITY OF SAN ANTONIO  
AND  
THE INTERNATIONAL ASSOCIATION  
OF FIREFIGHTERS, LOCAL 624

October 1, 1983 - September 30, 1986

TABLE OF CONTENTS

	PAGE
Preamble .....	1
Article 1 - Duration of Agreement .....	1
Article 2 - Recognition .....	1
Article 3 - Payroll Deduction of Dues .....	1
Article 4 - Limitation on Union Activity .....	2
Section 1. Union Activity on Department Property .....	2
Section 2. Negotiating Committee .....	2
Section 3. City Facilities .....	3
Section 4. Other Activities .....	3
Section 5. Bulletin Boards .....	3
Section 6. Contract Copies .....	4
Article 5 - Maintenance of Standards .....	4
Article 6 - Management Rights .....	4
Article 7 - Rules and Regulations, Special Directives and Administrative Orders .....	5
Article 8 - Grievance Procedure .....	5
Section 1. Scope of Procedure .....	5
Section 2. Time Limits .....	6
Section 3. Steps .....	6
Section 4. Arbitration .....	7
Article 9 - Agreement Binding on Successors and Assigns on Both Parties Regardless of Changes in Management, Consolidation, Merger, Transfer Annexation, and Location .....	8
Article 10 - Joint Occupational Safety and Health Program .....	8
Article 11 - Wages .....	9
Article 12 - Call Back Pay and Mileage .....	11
Article 13 - Hours .....	11
Section 1. Emergency Medical Technicians, EMS Dispatchers & Fire Alarm .....	11
Section 2. Specified Employees in the Fire Department Repair Shops .....	12
Section 3. Firefighting .....	12
Section 4. Arson Employees .....	13

Section 5. Employees Assigned to Emergency Medical Service Training .....	13
Section 6. Fire Prevention Employees .....	14
Section 7. Other Employees .....	14
Section 8. Transfer from One Shift Schedule to Another .....	14
Article 14 - City Protection for Firefighters .....	14
Article 15 - Sick Leave .....	15
Article 16 - Death in Family .....	16
Article 17 - Working Out of Classification .....	16
Article 18 - Holidays .....	16
Article 19 - Clothing Allowance .....	16
Article 20 - Parking .....	16
Article 21 - Family Medical Insurance .....	17
Article 22 - Educational Incentive Pay .....	17
Article 23 - Volunteering For Sick or Injured Firefighters ....	18
Article 24 - Vacations .....	18
Article 25 - Promotions .....	19
Section 1. Promotion to Engineer, Lieutenant, Captain, & District Chief .....	19
Section 2. Promotion to Assistant Chief .....	20
Section 3. Promotion to Deputy Chief .....	21
Section 4. Promotional Probation .....	21
Article 26 - Firefighter Trainees and Firefighter Probation ...	22
Article 27 - Limitation on Acts .....	22
Article 28 - Declaration of the Full and Final Scope of..... Agreement .....	22
Article 29 - Labor Management Relations Committee .....	23
Article 30 - Savings Clause .....	23
Attachment 1 - Expedited Labor Arbitration Rules .....	25

## PREAMBLE

The following Agreement by and between the City of San Antonio, Texas hereinafter referred to as the City, and Local 624, International Association of Firefighters (I.A.F.F.), hereinafter referred to as the Union, is recorded in accordance with the Fire and Police Employee Relations Act of the State of Texas. The City and the Union agree that the efficient and uninterrupted performance of the municipal fire fighting function is a primary purpose of this Agreement, as well as the establishment of fair and reasonable compensation and working conditions for Firefighters of the City. The Agreement has been reached through the process of Collective Bargaining with the objective of serving the aforementioned purposes and with the further objective of fostering effective cooperation between the City and its Firefighters. Therefore, this Agreement is intended to be in all respects in the public interest.

## ARTICLE 1 -- DURATION OF AGREEMENT

This Agreement shall be effective as of the first day of October, 1983 and shall remain in full force and effect until the 30th day of September, 1986.

## ARTICLE 2 -- RECOGNITION

This city recognizes the Union as the exclusive bargaining agent for all certified firefighters of the San Antonio Fire Department with the exception of the Chief of the Department. It is understood that this bargaining unit does not include civilian personnel, including Firefighter Trainees enrolled in the initial Fire Academy.

## ARTICLE 3 -- PAYROLL DEDUCTION OF DUES

1. The City agrees that on the first pay period of each month, it shall deduct the monthly Union dues from each member of the Union in the amount certified to be current by the Financial Secretary of the Union and the Director of Finance. Dues shall be set accordance with the Constitution and By-laws of the Union and shall be authorized by each member pursuant to state law. The President and Financial Secretary shall notify the Director of Finance in writing of any certified dues increase election. Within 30 days following notification of approval, the City shall increase dues deductions to the notified amount.
2. With the sole exception of the Union's death benefit, the City shall deduct special assessments which are duly authorized

pursuant to the Constitution and By-Laws of the Union and are voluntarily and individually authorized by the member. A single authorization shall be utilized for all deductions of the death benefit.

3. The City will be obligated to remit to the Union only those sums deducted as dues and assessments pursuant to this section. The Union agrees to promptly refund to the City any amount paid to it in error upon presentation of satisfactory proof by the City. The Union agrees to indemnify, and hold the City harmless from any cause of action instituted by any individual as a result of the City's deduction of dues and special assessments.

#### ARTICLE 4 -- LIMITATION ON UNION ACTIVITY

##### Section 1. Union Activity on Department Property

Union members or officers shall not conduct Union business on City time except as specified by this Agreement or as further authorize by the City Manager or the Fire Chief.

The Union may hold meetings pertinent to Union business on Fire Department property provided such meetings are not disruptive to the duties of employees or the efficient operation of the Department and provided that permission for such meeting is obtained at least 7 hours in advance from the Fire Chief or his designated representative.

Union officers and committee members, not to exceed 100 persons, may conduct Union business on City time at their work location as long as such business does not interfere with their Fire Department duties.

Notwithstanding the provisions hereof, political activity shall not be conducted by the Union or any of its members on City time and/or Fire Department property pursuant to this section.

The determination by the Fire Chief that Union meetings on City property or the work of an individual Union member on City time as provided herein will interfere with the work of the employee or the department shall be binding unless or until it has been determined through the Grievance Procedure found in Article 6 of this Agreement that the Chief has unreasonably exercised his authority granted pursuant to this Article.

##### Section 2. Negotiating Committee

A maximum of four members of the Union Negotiating Committee shall be granted time off with pay for the purpose of attending negotiating meetings between the City and the Union when such meetings occur during the regularly scheduled working time of the

employees. Time off shall only be for reasonable transportation time to and from the meeting site and the actual time required in the meeting itself.

### Section 3. City Facilities

Nothing in this Article is intended to prohibit or prevent the Union from utilizing City facilities, available to private organizations on a rental basis, under the same conditions that they are made available to other such private organizations.

### Section 4. Other Activities

The Union President, First Vice-President, Financial Secretary, and Recording Secretary will be granted time off with pay for purposes of attending regularly scheduled Union meetings when such meetings occur on the regularly scheduled work shift of said officers. In no event, however, shall the total number of occasions where time off is granted to said officers collectively exceed 15 occasions per calendar year. The Union shall also assure the emergency response capability of said officers in the event of an overriding emergency as declared by the Chief.

Nothing in the article is intended to restrict or prohibit employees from attending meetings, conventions, conferences, seminars or other Union functions on the employee's own time away from Fire Department premises.

### Section 5. Bulletin Boards

The City shall allow the Union to use the Fire Department bulletin board at each location. These boards shall be used only for the following notices:

- a. Recreation and Social Affairs
- b. Union Meetings
- c. Union Elections
- d. Reports of Union Committees
- e. International Association of Firefighters and State Association notices
- f. Legislative enactments and judicial decisions affecting employees
- g. Minutes of union meetings which do not violate the provisions of the following paragraph
- h. Union endorsements of political candidates shall be in accordance with the provisions of the following paragraph:

Notices of announcements including reports of union committees shall not contain anything reflecting upon the City, any of its employees, or any labor organizations among its employees. The notice of union endorsement of political candidates shall consist of a simple straightforward listing of the candidates without editorializing their

merits and void of any remarks about their opponents.

The union president or his designated representative shall be responsible for the contents of the above notices; any violation of the provisions of this article shall entitle the City to revoke this concession and such revocation is subject to grievance procedure.

#### Section 6. Contract Copies

The City shall provide one (1) copy of this Agreement and one (1) copy of Article 1269M V.A.C.S. to all members of the bargaining unit.

#### ARTICLE 5 -- MAINTENANCE OF STANDARDS

All standards, privileges, and working conditions enjoyed by the City of San Antonio Firefighters at the present time, which are not included in this Agreement, shall remain unchanged for the duration of the Agreement.

#### ARTICLE 6 -- MANAGEMENT RIGHTS

The Union recognizes the management of the City of San Antonio and the direction of the Fire Department are vested exclusively in the City, subject to the terms of this Agreement, and nothing in this Agreement is intended to circumscribe or modify the existing rights of the City. These rights include:

1. Direct the work of its employees to include the scheduling of overtime work;
2. Hire, promote, demote, transfer, assign and retain employees in positions within the City, subject to Civil Service regulations;
3. Suspend or discharge employees for just cause, subject to Civil Service regulations;
4. Maintain the efficiency of governmental operations;
5. Relieve employees from duties because of lack of work, subject to Civil Service regulations;
6. Utilize the Fire Department in emergency situations to protect life and property;
7. Use civilians in the Fire Department to perform duties which do not require a sworn firefighter. Civilians performing such duties are not subject to the terms of this Agreement;
8. Determine the methods, processes, means, and personnel by which operations are to be carried out.

THE UNION UNDERSTANDS AND AGREES THAT:

1. Every duty connected with operations enumerated in job descriptions is not always specifically described; nevertheless, it is intended that all such duties relating to the present mission and concept of the Fire Department, as a public safety organization of the City, shall be performed by the employees.
2. The City shall have exclusive authority to transfer any City operation now conducted by it to another unit of government, and such transfer shall not require any prior negotiations of the consent of any group, organization, union or labor organization whatsoever. However, the City does agree that prior to any such transfer they will meet and confer with the Union and that the Union may register any objections they have with the City Manager and the City Council.
3. Except as otherwise specifically provided in this Agreement, the City, acting through the City Manager and the Fire Chief, shall retain in all rights and authority to which by law it is their responsibility to enforce.

ARTICLE 7 -- RULES AND REGULATIONS, SPECIAL DIRECTIVES AND ADMINISTRATIVE ORDERS

The Union recognizes the City's right to establish and enforce reasonable Rules and Regulations, Special Directives and Administrative Orders, for the conduct of the mission of the Fire Department. Likewise, the City recognizes the responsibility of management to a consistent interpretation and application of such Rules and Regulations, Special Directives and Administrative Orders, which governs the conduct of employees on the job. The interpretation and application of Rules and Regulations, Special Directives and Administrative Orders shall be subject to the Grievance and Arbitration procedure.

ARTICLE 8 -- GRIEVANCE PROCEDURE

Section 1. Scope of Procedure

The City and the Union agree that the purpose of this grievance procedure is to provide a just and equitable method for resolving disagreements between the parties regarding the interpretation of the provisions of this Agreement. Only matters involving the interpretation, application or alleged violation of a specific provision of this collective bargaining Agreement shall be subject to this grievance procedure. Disciplinary matters which are subject to the jurisdiction of the Fire and Police Civil Service Commission pursuant to Article 1269 M.V.A.C.S. are not subject to this procedure but shall be reviewed by the Commission pursuant to the rules established for such matters by the Commission. Where a statutory claim is asserted before any administrative agency or

court, which claim(s) arises from the same factual occurrence made the basis of a grievance, the grievance shall be abated until final disposition or settlement of such claim(s), unless the employee agrees with the employer and the Union to submit all claims arising from the same factual occurrence, including statutory claims, to the grievance procedure herein.

## Section 2. Time Limits

The parties shall adhere to the time limits as set forth in the procedure. Such time limits may be waived, however, by mutual consent of the parties in writing. In the event the employee or Union fails to meet the time limits at any step, the grievance shall be considered satisfied and no further action shall be taken. In the event the City fails to meet the time limits at any step, the grievance shall be considered decided in favor of the employee.

## Section 3. Steps

A grievance within the scope of this procedure as defined in Section 1 above shall be handled as follows:

Step 1 - Any Firefighter having a matter which is felt to be a grievance shall submit the grievance in writing to his division head within thirty (30) calendar days of the employee's actual or constructive knowledge of the occurrence or the event causing the problem. The grievance shall be submitted on a form to be provided by the City and shall include 1) a statement of the grievance and the facts on which it is based; 2) the section of the collective bargaining agreement which has been violated; 3) the remedy or adjustment, if any, sought; and 4) the employee's signature. Upon receipt, one copy of the written grievance shall be forwarded to the Chairman of the Union's Grievance Committee by regular mail. The Division Head shall respond to the employee's grievance and shall render a decision, in writing, within ten (10) calendar days from receipt thereof.

Step 2 - If the grievance is not resolved at Step 1, the matter shall be submitted by the employee to the Union Grievance Committee within ten (10) calendar days of the Step 1 ruling. The Grievance Committee shall have ten (10) calendar days from receipt thereof in which to act on the grievance including passing it to Step 3 when appropriate.

Step 3 - If the grievance is believed to exist, the matter shall be submitted in writing to the Fire Chief or his designated representative. The Chief or his

representative shall have ten (10) calendar days to act on the grievance and render a decision in writing.

Step 4 - If the grievance is not resolved at Step 3, the matter shall be submitted in writing to the City Manager or his designated representative within ten (10) calendar days from receipt of the decision at Step 3. The City Manager or his designated representative shall review the matter and shall render a decision in writing within ten (10) calendar days.

Step 5 - If the grievance has not been settled at Step 4, the Union shall have ten (10) calendar days from receipt of City Manager's decision to request that the matter be submitted to arbitration for adjustment. Since the City may also grieve against the Union, any grievance by the City against the Union will be filed directly with the President of the Union; and, if not settled within ten (10) calendar days, the City may submit the matter to arbitration for adjustment within seven (7) calendar days.

#### Section 4. Arbitration

If a grievance is submitted to arbitration within five (5) business days, the City and the Union shall agree upon an arbitrator. If the parties fail to agree upon an arbitrator, a list of seven (7) qualified neutrals shall be requested from the American Arbitration Association (AAA). Within ten (10) calendar days from receipt of the list the Union and the City shall alternately strike the names on the list and the remaining name shall be the arbitrator.

The hearing shall be conducted in accordance with Expedited Labor Arbitration Rules which are found as Attachment I to this Agreement and are incorporated herein by reference. The parties may, by mutual agreement, conduct the hearing in accordance with the standard rules of the American Arbitration Association. The arbitrator shall not have the power to add to, amend, modify, or subtract from the provisions of this Agreement in arriving at his decision on the issue or issues presented and shall confine his decision to the interpretation of this Agreement. The arbitrator shall confine himself to the precise issue submitted for arbitration and shall have no authority to determine any other issues not so submitted to him. With the sole exception of matters relative to direct monetary compensation provided to employees pursuant to this Agreement, no liability shall accrue against the City for a date prior to the date the grievance was presented in writing. Liability for matters relative to direct monetary compensation shall be limited to the date of the occurrence of (thirty) 30 days prior to presentation of the grievance, in writing, whichever occurred later. The decision of the arbitrator shall be final and binding upon the City and the

Union.

The City shall bear the expense of any witnesses called by the City. The Union shall bear the expense of any witnesses called by the Union. The City and the Union shall share equally the fees and expenses of the arbitrator.

In the event a grievance is filed on an action which occurred during the term of this Agreement and said grievance is not finally resolved during the term hereof, the grievance shall be decided based on the terms of this Agreement alone, notwithstanding any modifications which may be incorporated into this Agreement's successor.

The Chairman of the Grievance Committee shall be allowed time off without loss of pay to attend arbitration hearings held pursuant to this article when such occurs on his/her regularly scheduled work shift. The Chairman of the Grievance Committee shall also be allowed time off without loss of pay to meet with the Fire Chief or the City Manager (or his authorized representative) when said meetings are scheduled on the regularly assigned work shift of the Chairman.

**ARTICLE 9 -- AGREEMENT, BINDING ON SUCCESSORS AND ASSIGNS ON BOTH PARTIES REGARDLESS OF CHANGES IN MANAGEMENT, CONSOLIDATION, MERGER, TRANSFER ANNEXATION, AND LOCATION**

This Agreement shall be binding upon the successors and assigns of the parties thereto, and no provisions, terms, or obligations herein contained shall be affected, modified, altered, or changed in any respect whatsoever by the consolidation, merger, annexation, transfer, or assignment of either party hereto or by a change geographically or otherwise in the location or place of business of either party hereto.

**ARTICLE 10 -- JOINT OCCUPATIONAL SAFETY AND HEALTH PROGRAM**

At the beginning of the Agreement, the City shall name two (2) members, and the Union shall name two (2) members, to a committee to study proposed changes in safety equipment, clothing, devices, and procedures for the reduction and/or elimination of hazards to the mission of the Fire Department. The recommendations of the committee shall be advisory in nature. The committee shall meet at times and places authorized by the Fire Chief so as to cause the least possible interference with existing duties. The work of the committee shall be conducted on City time without loss of pay by committee members. Except, that meetings which are scheduled at times when Union members who work shifts are not on duty, such members shall attend on their own time.

ARTICLE 11 -- WAGES

1. Employees in the following classifications shall receive the monthly salaries, not including longevity, retroactive to October 1, 1983:

<u>CLASSIFICATION</u>	<u>MONTHLY SALARY</u>
FIREFIGHTER -- Beginning of probation through eighteenth month of employment	1,709
FIREFIGHTER -- Beginning the nineteenth month of employment through 60th month	1,896
FIREFIGHTER -- Beginning 61st month	1,933
ENGINEER -- Promotion through 60th month	2,078
ENGINEER -- Beginning 61st month	2,118
LIEUTENANT	2,375
CAPTAIN	2,716
DISTRICT CHIEF	3,108
ASSISTANT CHIEF	3,562

2. Employees in the following classifications shall receive the monthly salaries, not including longevity, effective the first full pay period after October 1, 1984:

<u>CLASSIFICATION</u>	<u>MONTHLY SALARY</u>
FIREFIGHTER -- Beginning of probation through eighteenth month of employment	1,794
FIREFIGHTER -- Beginning the nineteenth month of employment through 60th month	1,991
FIREFIGHTER -- Beginning 61st month	2,030
ENGINEER -- Promotion through 60th month	2,182
ENGINEER -- Beginning 61st month	2,224
LIEUTENANT	2,494
CAPTAIN	2,852
DISTRICT CHIEF	3,263
ASSISTANT CHIEF	3,740

3. Employees in the following classifications shall receive the monthly salaries, not including longevity, effective the first pay period after April 1, 1985:

<u>CLASSIFICATION</u>	<u>MONTHLY SALARY</u>
FIREFIGHTER -- Beginning of probation through eighteenth month of employment	1,866
FIREFIGHTER -- Beginning the nineteenth month of employment through 60th month	2,071
FIREFIGHTER -- Beginning 61st month	2,111
ENGINEER -- Promotion through 60th month	2,269
ENGINEER -- Beginning 61st month	2,313
LIEUTENANT	2,594
CAPTAIN	2,966
DISTRICT CHIEF	3,394
ASSISTANT CHIEF	3,890

4. Employees in the following classifications shall receive the monthly salaries, not including longevity, effective the first pay period after October 1, 1985:

<u>CLASSIFICATION</u>	<u>MONTHLY SALARY</u>
FIREFIGHTER -- Beginning of probation through eighteenth month of employment	1,941
FIREFIGHTER -- Beginning the nineteenth month of employment through 60th month	2,154
FIREFIGHTER -- Beginning 61st month	2,195
ENGINEER -- Promotion through 60th month	2,360
ENGINEER -- Beginning 61st month	2,406
LIEUTENANT	2,698
CAPTAIN	3,085
DISTRICT CHIEF	3,530
ASSISTANT CHIEF	4,046

5. Employees in the following classifications shall receive the monthly salaries, not including longevity, effective the first pay period after April 1, 1986:

<u>CLASSIFICATION</u>	<u>MONTHLY SALARY</u>
FIREFIGHTER -- Beginning of probation through eighteenth month of employment	2,057
FIREFIGHTER -- Beginning the nineteenth month of employment through 60th month	2,283
FIREFIGHTER -- Beginning 61st month	2,327
ENGINEER -- Promotion through 60th month	2,502
ENGINEER -- Beginning 61st month	2,550
LIEUTENANT	2,860
CAPTAIN	3,270
DISTRICT CHIEF	3,742
ASSISTANT CHIEF	4,289

6. Employees in the classification of Deputy Chief shall be compensated (wages and benefits) in accordance with the Municipal Pay Plan of the City of San Antonio and regular City-wide policy. The City shall have the right to make changes in compensation for this classification in accordance with regular City policies and procedures established by the City Manager, and the City shall not be required to negotiate or discuss such changes with the Union. Individual merit or performance salary increases shall be permitted for these classes in conformance with regular City policy established by the City Manager.

ARTICLE 12 -- CALL BACK PAY AND MILEAGE

All employees covered by the terms of this Agreement who are called back from off duty shall be paid at least two (2) hours minimum at 1.5 the basic rate of pay. Should a Firefighter be ordered to another station after reporting to his assigned duty station, mileage will be paid to the next station at the existing City rate.

ARTICLE 13 -- HOURS

The following shall be the regular established work schedule for the employees covered by this Agreement and shall remain in effect, except that the Chief may make no more than one change per

section per contract, and then only after sixty (60) days notification in writing to the Union unless exemption to notification is provided herein. Any additional changes must be by mutual consent between the city and the union. During a sixty (60) day notification period, the Union shall be given the opportunity to meet and confer with the Chief and register any objection they may have to the change of hours.

Section 1. Emergency Medical Technicians (Regular), EMS Dispatchers and Fire Alarm

Emergency Medical Technicians and Emergency Medical Service Dispatchers and Fire Alarm shall work the following regular hours:

- a. An average 42 hour work week.
- b. A shift schedule which consists of three consecutive days on a 10-hour shift, three consecutive days off and then three consecutive days on a 14-hour shift. At the end of the twelfth week the schedule repeats.

42 Hour Work Week - Schedule for One Employee

<u>S</u>	<u>M</u>	<u>T</u>	<u>W</u>	<u>T</u>	<u>F</u>	<u>S</u>
10	10	10	OFF	OFF	OFF	14
14	14	OFF	OFF	OFF	10	10
10	OFF	OFF	OFF	14	14	14 etc

(For twelve weeks - then repeats)

- c. For administrative purposes (sick leave, annual leave, disciplinary action, military leave, etc.), each shift under the above schedule shall be considered 12 hours.

Section 2. Specified Employees in the Fire Department Repair Shops

For employees assigned to the Fire Department Repair Shops, the work day shall begin at 7:45 a.m. and end at 4:30 p.m. each work day, Monday through Friday with 45 minutes for lunch, and two (2) 15 minute breaks, one (1) in the morning and one (1) in the afternoon.

Section 3. Firefighting

Employees assigned to the Fire Fighting Division shall work the following regular hours:

- a. An average 56 hour work week. The work period is three (3)

consecutive weeks or twenty-one (21) days beginning at 12:00 noon Sunday and ending 21 days later. The work shift shall begin at 12:00 noon and end at 12:00 noon the following day, consisting of 24 consecutive hours. One (1) work shift shall equal two (2) working days.

56 Hour Work Week - Schedule for One Employee

<u>S</u>	<u>M</u>	<u>T</u>	<u>W</u>	<u>T</u>	<u>F</u>	<u>S</u>
12	12	OFF	12	12	OFF	12
12	OFF	12	12	OFF	12	12
OFF	12	12	OFF	12	12	OFF

Section 4. Arson Employees

Employees assigned to the Arson Division shall work the following regular hours with the exception of the Captain assigned to Arson:

- a. A 40-hour work week.
- b. Four (4) 40-hour work weeks, Monday through Friday, beginning at 7:45 a.m. and ending at 4:30 p.m. each day with 45 minutes for lunch.
- c. Two (2) 40-hour work weeks, Sunday through Thursday, beginning at 10:00 a.m. and ending at 6:00 p.m. each day.
- d. Two (2) 40-hour work weeks, Tuesday through Sunday, beginning at 10:00 a.m. and ending at 6:00 p.m. each day.
- e. Two (2) 40-hour work weeks, Monday through Friday, beginning at 6:00 p.m. and ending at 2:00 a.m. each day.
- f. At the end of the tenth week, the schedule repeats.
- g. Employees working on shift schedules c, d, and e above shall be allowed a thirty (30) minute lunch break. While on this lunch break, the employees shall be subject to call and the missing of this lunch break because of the press of business shall not be grounds for overtime payment or for a grievance.
- h. In the event an Arson Investigator is required when none are scheduled, they shall be called back to work on a rotating basis and compensated as specified by this Agreement.

Section 5. Employees Assigned to Emergency Medical Service Training

Employees assigned to Emergency Medical Service Training shall have

their hours scheduled at the discretion of the Emergency Medical Service Director.

#### Section 6. Fire Prevention Employees

Employees assigned to the Fire Prevention Bureau will work the following hours:

- a. Fifteen (15) weeks at 40 hours per week, Monday through Friday, beginning at 7:45 a.m. and ending at 4:30 p.m. with 45 minutes for lunch and two (2) 15 minute breaks, one (1) in the morning and one (1) in the afternoon.
- b. One week at 40 hours per week, Tuesday through Saturday, beginning at 3:00 p.m. and ending at 11:00 p.m. with two (2) 15 minute breaks, one during the first four (4) hours of work and one during the last four (4) hours of work and no lunch break.
- c. At the end of 16 weeks, the schedule repeats.

#### Section 7. Other Employees

All other uniformed employees not specifically mentioned before shall work the following hours:

A 40 hour work week, Monday through Friday, beginning at 7:45 a.m. and ending at 4:30 p.m. each day, with 45 minutes for lunch and two (2) 15 minute breaks, one (1) in the morning and one (1) in the afternoon.

#### Section 8. Transfer from One Shift Schedule to Another

An employee who is transferred and, as a result, changes from one shift assignment to another (e.g. 24 hour shift to 8 hour shift) shall have a minimum of 18 hours off from the time he completes his last shift on his original schedule until the time he must report for duty on the new schedule to which he is assigned. No overtime shall accrue to any individual transferred in conformance with this section.

### ARTICLE 14 -- CITY PROTECTION FOR FIREFIGHTERS

The City will defend in or out of court any firefighter who incurs a charge or lawsuit as the result of the lawful performance of his duties. The City will assume the liability in the event a judgement results from in or out of court action.

## ARTICLE 15 -- SICK LEAVE

The following rules shall apply to the usage of sick leave:  
Employees shall be allowed sick leave without requiring a physicians notification to the Fire Department.

1. All employees using more than two (2) consecutive working days of sick leave shall be required to provide a return to work certificate signed by a physician.
2. All employees who use sick leave by leaving during a shift and returning during that shift or by reporting for duty after the shift begins shall be required to provide a return to work certificate signed by a physician.
3. All employees who utilize sick leave in conjunction with the day immediately preceding or following any other form of leave (i.e. annual leave, emergency leave, unscheduled annual leave, military leave, leave without pay) shall be required to provide a return to work certificate signed by a physician. Undocumented sick leave and military leave may not be taken together during the same shift.
4. After eight (8) undocumented absences during each calendar year, all employees shall be required to provide a return to work certificate signed by a physician for each absence due to sick leave except as specifically provided in section 5 of this article. For purposes of this Article, an undocumented absence shall be defined as any absence due to sick leave, regardless of duration, which does not require a return to work certificate pursuant to sections 1, 2, or 3 above.

For purposes of this Article an undocumented absence is defined at follows:

- a. Firefighting division: One (1) undocumented absence is equal to one twelve (12) hour work day.
  - b. EMS, FIRE DISPATCHERS AND FIRE ALARM: One (1) undocumented absence is equal to one ten (10)/ fourteen (14) hour work day, charged in 12 hour increments for Administrative purposes.
  - c. Personnel other than EMS/Firefighting division: One undocumented absence is equal to one eight (8) hour work day.
5. Any employee who has sick leave accrued but unused in an amount equal to or exceeding 50% of the total amount of sick leave he/she has accrued during his/her service in the department shall be exempted from the provisions of the section 4 above. If at any time an employee so exempted falls below the 50% level specified herein, he/she shall immediately become subject to the provisions of that section.
  6. Nothing in this Article shall be construed to limit in any fashion

the right of the Chief to enforce rules and regulations in conformance with this agreement and/or State Law.

#### ARTICLE 16 -- DEATH IN FAMILY

In the event of death in the immediate family of an employee, the employee shall be granted time off with pay as follows:

- a. Employees working fire suppression shall be granted two (2) working days off. Two additional working days may be granted at the discretion of the Chief.
- b. Other employees shall be granted two (2) working days off, with one additional day beginning at the discretion of the Chief.

The immediate family shall be defined as the employee's Mother, Father, Husband, Wife, Child, Brother, Sister, Grandmother, Grandfather, or other members of the immediate household. The Mother-in-law and Father-in-law of the employee are included.

#### ARTICLE 17 -- WORKING OUT OF CLASSIFICATION

An employee who works in a higher classification shall be paid at the higher classification rate of pay for actual time worked in that classification.

#### ARTICLE 18 -- HOLIDAYS

All employees covered by this agreement shall be granted 12 legal holidays. All holidays shall be accrued and taken in accordance with departmental policy.

#### ARTICLE 19 -- CLOTHING ALLOWANCE

Each employee shall receive a clothing allowance of \$300 per year payable quarterly at \$75.00 per payment on or before December 31, March 31, and June 30, and September 30 of each fiscal year.

As a substitution for the initial clothing allowance payment, each new employee shall be issued the heavy firefighting pants, heavy firefighting coat, boots and suspenders. These items shall remain the property of the Fire Department until the employee has graduated from the Fire Academy, at which time, ownership will be transferred to the employee.

#### ARTICLE 20 -- PARKING

The City shall provide, without cost, to the employees assigned to

Fire Station Number 1, Fire Alarm, Arson and EMS employees who work at the Bexar County Hospital, adequate parking space adjacent to or near those work locations.

#### ARTICLE 21 -- FAMILY MEDICAL INSURANCE

- A. The City shall provide all employees covered by this agreement medical insurance and shall pay the full cost of said insurance. The insurance shall be the same group policy covering other City employees. Insurance specifications shall not be reduced during the life of this contract, however, the City reserves the right to change carriers at its discretion.
- B. Effective May 1, 1984, the City shall establish a Supplemental Health Insurance Fund for the purpose of providing supplemental benefits to employees covered by this agreement. The City shall contribute \$23.00 per employee per month into this fund which shall be used for supplemental health insurance only and shall not be paid directly to the employee.
- C. The City shall provide supplemental family medical insurance for each employee covered by this agreement. This program will supplement the insurance program provided for all City employees. The supplemental program shall increase the benefits provided to the same specifications as the City provided employees prior to October 1, 1983. Each member shall be charged \$23.00 per month for this supplemental benefit which shall be deducted from the Supplemental Health Insurance Fund as provided in section (B) of this Article.
- D. The City and the Union acknowledge that the City is considering the feasibility of implementing a "flexible benefit" program which would be implemented during the term of this agreement. The City agrees that it will meet with the Union upon completion of the feasibility study to explain the changes proposed. Employees covered by this agreement shall be granted the option of entering the flexible benefit program to substitute for the basic program. Once an employee elects to enter this program, he/she may not return to the basic program in effect at this time. Additionally, should the City elect during the term of this contract to return to the same level of benefits as provided during the contract, period October 1, 1981 through September 30, 1983, the Benefit Fund provided for in this Article shall be reduced by \$23.00 per employee per month.

#### ARTICLE 22 -- EDUCATIONAL INCENTIVE PAY

Firefighters holding certain college degrees shall receive educational incentive pay. The degrees shall be from an accredited learning institution and shall have some relevance to the job performance of the employment. The City shall determine

the appropriateness of the degree and such determination shall be final.

- a. Those firefighters holding an Associate Degree shall receive twenty-five dollars (\$25.00) per month.
- b. Those firefighters holding a Bachelor's Degree shall receive fifty dollars (\$50.00) per month.

Employees receiving degrees after October 1 of each year shall not be eligible for the educational incentive payments until the beginning of the following fiscal year.

#### **ARTICLE 23 -- VOLUNTEERING FOR SICK OR INJURED FIREFIGHTERS**

In the event a firefighter is suffering from an illness or injury which has been diagnosed by a physician as temporary and such diagnosis is provided the City in writing; and in the event the said firefighter has used all of his sick leave and vacation, the following provisions shall apply:

1. Firefighters shall be eligible for the plan by submitting their name to a committee of three appointed by the Executive Committee of Local 624.
2. No firefighter judged totally and permanently disabled by a physician shall be entitled to utilize this plan to extend the time of his retirement.
3. The Committee of Three shall designate members to work and the schedule they are to work from the list of volunteers.
4. All positions shall be filled in accordance with the rules and regulations of the Fire Department and all volunteers shall be fully qualified to perform the work to which assigned.
5. Guidelines and procedures for scheduling of this work shall be submitted by the Executive Board of Local 624 and approved by the Chief.
6. Only Committee of Three may excuse a firefighter from his obligation to work. Any unexcused absence will result in the loss of the privilege of this plan to the firefighter who was scheduled to work and did not show.
7. The failure of any firefighter to report when scheduled to work may result in the sick or injured firefighter being placed on leave without pay.

#### **ARTICLE 24 -- VACATIONS**

- a. The following is a vacation accrual schedule shall be

implemented for employees covered by this Agreement:

Beginning of Probation thru 5 years of Service - 10 days  
more than 5 - less than 10 years of Service - 12 1/2 days  
more than 10 - less than 15 years of Service - 15 days  
more than 15 - less than 20 years of Service - 17 1/2 days  
more than 20 years of Service & Above - 20 days

Any employee with less than 15 years of service as of January 1, 1982 shall continue to receive 15 days vacation until termination or until they complete 15 years of service at which time they shall come under this vacation schedule.

Any employee who has completed 15 years of service as of January 1, 1982 shall automatically come under this vacation schedule as of that date.

Any new employee hired after the effective date of this Agreement shall be subject to this vacation schedule immediately.

- b. In accordance with the established departmental policy and procedure each employee may take one (1) working shift of accumulated time off (i.e., vacation and holiday time) outside the scheduled vacation period based on reverse seniority in the department.
- c. Effective January 1, 1985 as a trial period for the duration of this agreement, an employee may request from his/her accrued vacation leave, up the three (3) shifts, if the leave is to be taken prior to his/her scheduled vacation. If the employees vacation has been used then the employee may request one (1) shift of the following year's vacation. An employee must apply in writing at least fifteen (15) calendar days prior to or no less than five (5) working days prior to the shift being taken. Selection will be made on a first come, log date, time entry in 450's office, for those assigned to Fire Suppression. Employees Assigned to EMS will use 800's office. There will be a minimum of three (3) employees allowed off per shift with the exception of holidays on the day before or after a holiday. If a person requests annual leave and is denied and then calls in such for that shift, he/she must provide a return to work certificate, signed by a physician upon his/her return to duty.

## ARTICLE 25 -- PROMOTIONS

### Section 1. Promotion to Engineer, Lieutenant, Captain, and District Chief

Vacancies in the ranks of Engineer, Lieutenant, Captain, and District Chief shall be filled by competitive written examination in accordance with Article 1269M and the rules established by the Fire and Police Civil Service Commission. A score of 70 shall be considered minimum for eligibility for promotion.

## Section 2. Promotion to Assistant Chief

Persons having held the rank of District Chief for a period of 2 years shall be eligible for promotion to the rank of Assistant Chief. In the event all District Chiefs fail the promotion examination which follows, persons holding the rank of Captain for a minimum of five (5) years may be eligible for promotion to Assistant Chief. The promotional examination for the rank of Assistant Chief shall consist of two parts as follows:

A. Written Examination - Shall consist of questions relating to the duties of the classification of the position to be filled. All notice of written examinations and publishing of study material shall be in accordance with Sections 13 and 14 of Article 1269M V.A.C.S. and the rules established by the Fire and Police Civil Service Commission. A score of 70% on the written examination shall be considered a passing score. In the event that written examination scores are the same, the ranking of those scores shall be done on the basis of rules established by the Fire and Police Civil Service Commission. Only the highest 20% of all test participants with passing scores or the highest 20% passing participants, whichever is greater, shall be allowed to continue on to the next phase of the examination process, the Oral Examination Board.

B. Assessment Center Board - Shall consist of three members as follows:

- 1) Two persons from outside the Fire Department who currently hold an administrative position in a Fire Department or fire-related agency in a city of 50,000 or more population or from a state or Federal agency. One such person shall be selected by the City; one shall be selected by the Union.
- 2) One person from outside the Fire Department who has a minimum of five years experience in personnel management at an administrative / supervisory level to be selected by mutual Agreement of the City and the Union.

The City and the Union shall agree on guidelines to be presented to the Assessment Center Board for use in their examination.

A minimum score of 70% on the composite factors evaluated by the Board shall be required to pass the Assessment Center Board.

Failure of an applicant to obtain a passing score on the Assessment Center shall disqualify the applicant from further consideration for one year from the date the written examination was administered. The results of the Assessment Center shall be binding for one year and shall not be appealable to the Civil Service Commission or to arbitration through the grievance procedure.

C. Eligibility List - Within 72 hours of the completion of the Oral Examination Process, excluding weekends and holidays, an eligibility list shall be prepared and posted with the respective ranking of all applicants based on the following weights:

1.) Written Exam Score	50%
2.) Oral Board Exam	<u>50%</u>
	100%
1 point for each year of service in rank up to a maximum of 10 points	<u>10</u>
	110 maximum points

Section 3. Promotion to Deputy Chief

The City shall have the right to create the Position of Deputy Chief which shall be one (1) rank immediately above the Assistant Chief and one (1) rank immediately below the Chief in the chain of authority. At no time will the number of Deputy Chiefs exceed the ratio of 1 Deputy Chief to 2.5 authorized Assistant Chief positions rounded off to the nearest whole number. Vacancies in the rank of Deputy Chief shall be filled by the Fire Chief at his sole discretion provided, however, that the employee promoted has served a minimum of two (2) years in the rank of Assistant Chief or District Chief. In the San Antonio Fire Department persons holding such rank shall be subject to overall City policies and regulations for unclassified employees and shall not be subject to Article 1269M, V.A.C.S. or any of the provisions of this Agreement unless specifically provided.

Any person holding the rank of Deputy Chief may be suspended or demoted to the rank from which he/she was promoted at the sole discretion of the Chief without appeal to the Civil Service Commission. A person holding this rank may be termination for cause provided, however, that such termination shall be subject to appeal to the Civil Service Commission.

Section 4. Promotional Probation

For all promotional ranks there shall be a probationary period of six (6) months. During the promotional probationary period an employee may be demoted by the Chief to the rank from which promoted.

Upon demotion while holding a probationary promotion, an employee shall resume the competitive rank from which appointed and the salary shall be in accordance with said competitive rank with service time credited as continuous time in that competitive rank and with all salary increases to which the employee would have been automatically entitled had the employee continuously remained

in said competitive rank. If the probationary period is successfully completed, the probationary period shall count as time in grade in the new rank.

#### **ARTICLE 26 -- FIREFIGHTER TRAINEES AND FIREFIGHTER PROBATION**

Persons enrolled in the initial Fire Academy shall hold the position of Firefighter Trainee. As such, he/she shall be considered a civilian employee and is not a member of the bargaining unit covered by this Agreement nor shall he/she be subject to any of the terms of this Agreement or of Article 1269M.

Upon completion of the Academy, an employee shall be certified as a Firefighter and shall hold the rank of Firefighter (Probationary) for a period of six (6) months. During this probationary period, the employee shall be subject to all provisions of this Agreement and of Article 1269M with the exception that the Chief shall have the authority to suspend or discharge said employee at the Chief's sole discretion without appeal through the grievance procedure or to the Fire and Police Civil Service Commission.

A person who has completed 2 years service as Firefighter shall be eligible for promotion to the rank of Engineer. The two year period required for eligibility on promotions shall commence with the completion of the Academy.

#### **ARTICLE 27 -- LIMITATION ON ACTS**

The Chief shall exercise as a disciplinary measure the suspension of an employee covered by this Agreement as follows:

No act or acts may be complained of by the Chief which did not happen or occur within one (1) year immediately preceding the date of suspension by the Chief.

#### **ARTICLE 28 -- DECLARATION OF THE FULL AND FINAL SCOPE OF AGREEMENT**

The parties agree that each has had full and unrestricted right and opportunity to make, advance, and discuss all matters properly within the province of collective bargaining. This Agreement constitutes the full and complete agreement of the parties and there are no others, oral or written, except as specified in this Agreement. Each party for the term of this Agreement specifically waives the right to demand or petition for changes herein, whether or not the subjects were known to the parties at the time of execution hereof as proper subjects for collective bargaining. Additionally, in the event that any provisions of this Agreement conflicts or is inconsistent with any provision of Article 1269M, 1269P, 1269Q, 1269R, which are Revised Civil Service Statutes of Texas, this Agreement shall prevail notwithstanding any such

provision of the Civil Service statutes.

**ARTICLE 29 -LABOR MANAGEMENT RELATIONS COMMITTEE**

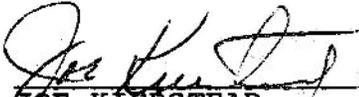
The City and the Union, having recognized that cooperation between management and employees is indispensable to the accomplishment of sound and harmonious labor relations, shall jointly maintain and support a labor management relations committee. The committee shall discuss problems and/or matters of mutual concern and interest, provided that such discussion is not the subject of contract negotiations or a pending grievance. The Committee shall be advisory to the Fire Chief and its purpose shall be to begin to develop communication channels on issues of common employee concerns. The Committee shall have the authority to present its concerns and/or recommendations to the Fire Chief. The Committee will meet monthly on a mutually agreed to schedule and meetings may be cancelled by mutual agreement of the committee members. The Committee shall consist of six (6) members, three (3) to be appointed by the Union and three (3) to be appointed by the Fire Chief. There shall be a written agenda of matters to be discussed and provided to the Committee members at least one week in advance. The Committee will work on an Impasse Procedure and recommendations will be completed by January 1, 1986 to be used in October 1986 contract negotiations. The Labor Management Relations Committee will also, during the life of this agreement, discuss the issue of sick leave usage in the Fire Department and recommend to the Fire Chief possible courses of action. The Committee shall be advisory only and shall have no power to make decisions on policy or take any action whatever without the approval of the Fire Chief, and the City Manager, or the Union President.

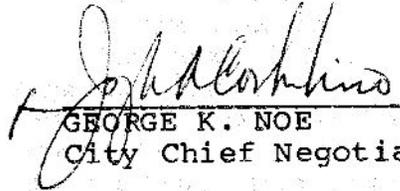
**ARTICLE 30 -- SAVINGS CLAUSE**

Should any provision of this Agreement be found to be inoperative, void, or invalid by a court of competent jurisdiction, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement, it being the intention of the parties that no portion of this Agreement or provision herein shall become inoperative or fail by reason of the invalidity of any other portion or provision.

IN WITNESS HEREOF, WE THE CITY'S  
CHIEF NEGOTIATOR AND THE UNION'S  
CHIEF NEGOTIATOR HERETO HAVE  
SET OUR HANDS

Signed this 7<sup>th</sup> day of May, 1984, for an effective date of the 1st day of October, 1983.

  
\_\_\_\_\_  
JOE KIERSTEAD  
Negotiator

  
\_\_\_\_\_  
GEORGE K. NOE  
City Chief Negotiator

Signed this 7<sup>th</sup> day of May, 1984, for an effective date of the 1st day of October, 1983.

  
\_\_\_\_\_  
JOE KIERSTEAD  
President, San Antonio Fire  
Fighter's Association

  
\_\_\_\_\_  
LOUIS J. FOX  
City Manager  
City of San Antonio

ATTACHMENT NO. 1

EXPEDITED LABOR ARBITRATION RULES

1. Agreement of Parties -- These Rules shall apply whenever the parties have agreed to arbitrate under them, in the form obtaining at the time the arbitration is initiated.
2. Initiation of Expedited Arbitration Proceeding -- Cases may be initiated by joint submission in writing, or in accordance with a collective bargaining agreement.
3. Qualifications of Neutral Arbitrator -- No person shall serve as a neutral Arbitrator in any arbitration in which that person has any financial or personal interest in the result of the arbitration. Prior to accepting an appointment, the prospective Arbitrator shall disclose any circumstances likely to prevent a prompt hearing or to create a presumption of bias. Upon receipt of such information, the AAA shall immediately replace that Arbitrator or communicate the information to the parties.
4. Time and Place of Hearing -- The AAA shall fix a mutually convenient time and place of the hearing, notice of which must be given at least 24 hours in advance. Such notice may be given orally.
5. Representation by Counsel -- Any party may be represented at the hearing by counsel or other representative.
6. Attendance at Hearings -- Persons having a direct interest in the arbitration are entitled to attend hearings. The Arbitrator may require the retirement of any witness during the testimony of other witnesses. The Arbitrator shall determine whether any other person may attend the hearing.
7. Adjournments -- Hearings shall be adjourned by the Arbitrator only for good cause, and an appropriate fee will be charged by the AAA against the party causing the adjournment.
8. Oaths -- before proceeding with the first hearing, the Arbitrator shall take an oath of office. The Arbitrator may require witnesses to testify under oath.
9. No Stenographic Record -- There shall be no stenographic record of the proceedings.
10. Proceedings -- The hearing shall be conducted by the Arbitrator in whatever manner will most expeditiously permit full presentation of the evidence and arguments of the parties. The Arbitrator shall make an appropriate minute of the proceedings. Normally, the hearing shall be completed within one day. In unusual circumstances and for good cause shown, the Arbitrator may schedule an additional hearing within five

days.

11. Arbitration in the Absence of a Party -- The arbitration may proceed in the absence of any party who, after due notice fails to be present. An award shall not be made solely on the default of a party. The Arbitrator shall require the attending party to submit supporting evidence.
12. Evidence -- The Arbitrator shall be the sole judge of the relevancy and materiality of the evidence offered.
13. Evidence by Affidavit and Filing of Documents -- The Arbitrator may receive and consider evidence in the form of an affidavit, but shall give appropriate weight to any objections made. All documents to be considered by the Arbitrator shall be filed at the hearing. There shall be no post hearing briefs.
14. Close of Hearings -- The Arbitrator shall ask whether parties have any further proofs, to offer or witnesses to be heard. Upon receiving negative replies, the Arbitrator shall declare and note the hearing closed.
15. Waiver of Rules -- Any party who proceeds with the arbitration after knowledge that any provision of requirement of these Rules has not been complied with and who fails to state his objections thereto in writing shall be deemed to have waived his right to object.
16. Serving of Notices -- Any papers or process necessary or proper for the initiation or continuation of an arbitration under these Rules and for any court action in connection therewith or for the entry of judgment on an Award made thereunder, may be served upon such party (a) by mail addressed to such party or its attorney at its last known address, or (b) by personal service, or (c) as otherwise provided in these Rules.
17. Time of Award -- The award shall be rendered promptly by the Arbitrator and, unless otherwise agreed by the parties, not later than five business days from the date of the closing of the hearing.
18. Form of Award -- The award shall be in writing and shall be signed by the Arbitrator. If the Arbitrator determines that an opinion is necessary, it shall be in summary form.
19. Delivery of Award to Parties -- Parties shall accept as legal delivery of the award the placing of the award or a true copy thereof in the mail by the AAA, addressed to such party at its last known address or to its attorney, or personal service of the award, or the filing of the award in any manner which may be prescribed by law.
20. Expenses -- The expenses of witnesses for either side shall be paid by the party producing such witnesses.

21. Interpretation and Application of Rules -- The Arbitratory shall interpret and apply these Rules insofar as they relate to his powers and duties. All other Rules shall be interpreted and applied by the AAA, as Administrator.

FIRE AND POLICE CIVIL SERVICE LAW  
(Article 1269m, Vernon's Texas Civil Statutes)

As amended through 68th Texas Legislature  
Regular Session, 1983

ARTICLE 1269m - FIRE AND POLICE CIVIL SERVICE LAW  
AS AMENDED THROUGH 68th TEXAS LEGISLATURE  
REGULAR SESSION, 1983

<u>SECTION</u>	<u>TABLE OF CONTENTS</u>	<u>PAGE</u>
1.....	CREATION OF FIREMEN'S AND POLICEMEN'S CIVIL SERVICE.....	1
2.....	DEFINITIONS.....	1
3.....	FIREMEN'S AND POLICEMEN'S CIVIL SERVICE COMMISSION.....	1
4.....	ORGANIZATION OF COMMISSION.....	2
5.....	POWERS OF THE COMMISSION.....	2
5a.....	INVESTIGATIONS AND INSPECTIONS.....	3
5b.....	PUBLIC RECORDS.....	3
6.....	DIRECTOR OF CIVIL SERVICE.....	3
7.....	OFFICE SPACE.....	4
8.....	CLASSIFICATION OF FIREMEN AND POLICEMEN: EDUCATIONAL INCENTIVE PAY..	4
8a.....	CLASSIFICATION AND APPOINTMENT OF CERTAIN FIREMEN AND POLICEMEN.....	5
8b.....	CITIES OF 1,500,000 OR MORE; ASSIGNMENT PAY.....	7
8c.....	FIELD TRAINING OFFICERS: ASSIGNMENT PAY.....	8
8d.....	ASSIGNMENT PAY.....	8
9.....	EXAMINATION FOR ELIGIBILITY LISTS.....	9
10.....	METHOD OF FILLING POSITIONS.....	10
11.....	CERTIFICATION OF EMPLOYEES.....	10
12.....	PROBATIONARY AND FULL-FLEDGED FIREMEN AND POLICEMEN.....	11
12a.....	EMPLOYEE ORGANIZATION MEMBERSHIP REQUIREMENT.....	12
13.....	NOTICE OF EXAMINATIONS.....	12
14.....	PROMOTIONS; FILLING VACANCIES.....	12
14a.....	CROSSOVER PROMOTIONS - CITIES OF 1,200,000 OR MORE.....	17
15.....	CIVIL SERVICE RIGHTS OF DEPARTMENT HEAD.....	18
16.....	INDEFINITE SUSPENSIONS.....	18
16a.....	PURPOSE OF LAW: HEARINGS.....	19
16b.....	DISCIPLINARY SUSPENSIONS.....	20
16c.....	HEARING EXAMINERS.....	21
16d.....	PROCEDURES AFTER CRIMINAL INDICTMENT.....	22
17.....	PROCEDURE BEFORE COMMISSION.....	23
18.....	APPEAL TO DISTRICT COURT.....	24
19.....	DEMOTIONS.....	24
20.....	UNCOMPENSATED DUTY.....	24
21.....	REDUCTION OF FORCE - REINSTATEMENT LIST.....	25
22.....	POLITICAL ACTIVITIES; LEAVES OF ABSENCE.....	25
22a.....	MILITARY LEAVE OF ABSENCE.....	26
23.....	PUBLISHING OF RULES, MAILING, POSTING AND DISTRIBUTION.....	27
24.....	STATUS OF PRESENT EMPLOYEES.....	27
25.....	PENALTIES.....	27
25a.....	PENALTIES.....	28
26.....	SICK AND INJURY LEAVES OF ABSENCE.....	28
26a.....	VACATIONS: ACCUMULATIONS OF VACATION LEAVE.....	29
26b.....	TERMINATION OF SERVICE; ACCUMULATED SICK AND VACATION LEAVE: LUMP SUM PAYMENT; CITIES OF 650,000 OR MORE.....	30
27.....	FIREMEN OR POLICEMEN PROHIBITED FROM STRIKING.....	30
27a.....	ADOPTION OF ACT BY VOTE OR OTHERWISE.....	30
27b.....	REPEAL OF PROVISION IN CITY BY VOTE.....	31
28.....	REPEAL OF SAVING CLAUSE.....	31
28a.....	EMERGENCY APPOINTMENT OF PERSONS OVER 35.....	32
28b.....	FULL CIVIL SERVICE STATUS FOR CERTAIN TEMPORARY EMPLOYEES.....	32

ARTICLE 1269m - FIRE & POLICE CIVIL SERVICE LAW  
AS AMENDED THROUGH 68TH TEXAS LEGISLATURE  
REGULAR SESSION, 1983

SECTION 1. CREATION OF FIREMEN'S AND POLICEMEN'S CIVIL SERVICE

There is hereby established in all cities in this State having a population of ten thousand (10,000) or more inhabitants, according to the last preceding Federal Census and having a paid Fire and Police Department, a Firemen's and Policemen's Civil Service.

SECTION 2. DEFINITIONS

By the term "Fireman" is meant any member of the Fire Department appointed to such position in substantial compliance with the provisions of Sections 9,10,11 of this Act, or entitled to Civil Service status under Section 24 of this Act. The term includes firemen who perform fire suppression, fire prevention, fire training, fire safety education, fire maintenance, fire communications, fire medical emergency technology, fire photography, or fire administration.

By the term "Policeman" is meant any member of the Police Department appointed to such position in substantial compliance with the provisions of Sections 9,10,11 of this Act, or entitled to Civil Service Status under Section 24 of this Act. By the term "Commission" as used herein is meant Director of Firemen's and Policemen's Civil Service. The term "Director" means Director of Firemen's and Policemen's Civil Service.

SECTION 3. FIREMEN'S AND POLICEMEN'S CIVIL SERVICE COMMISSION

There is hereby established in all such cities a Firemen's and Policemen's Civil Service Commission, which shall consist of three (3) members to be selected as follows: Members of the Commission shall be appointed by the chief executive of any such city, and such appointment shall be confirmed by the City Council or legislative body of any such city before any such appointments shall be effective. Of the first three (3) Commissioners so selected under the provisions of this Act to comprise the Commission, on (1) shall be appointed for a term of one (1) year, one (1) shall be appointed for a term of two (2) years, and one (1) shall be appointed for a term of three (3) years. Thereafter the term of office of each Commissioner shall be for three (3) year, or until a successor is appointed, confirmed, and qualified. Any such vacancies in said Commission, caused by death, resignation, or otherwise, or by failure of any appointee to qualify within ten (10) days after appointment, shall be filled in the manner hereinabove specified, and such appointment shall be for the unexpired term of the retiring Commissioner or the appointee failing to qualify.

All such Commissioners shall be of good moral character, resident citizens of the particular city for which they are appointed, shall have resided in said city for a period of more than three (3) years, shall each be over the

age of twenty-five (25) years, and shall not have held any public office within the preceding three (3) years.

It is provided, however, that in all such cities which have in existence a Civil Service Commission, that said Civil Service Commission shall constitute the Firemen's and Policemen's Civil Service Commission of that city, but said Commissioner shall administer the Civil Service of Firemen and Policemen in accordance with this law.

It is further provided that in any such city which has in existence a Civil Service Commission, the appointment of members to such Civil Service Commission shall be made in conformity with provisions of this Act, after the expiration of presently existing term or terms of the members comprising such Civil Service Commission and, if necessary in such cities having staggered terms or membership on Civil Service Commission, the first appointment made under the provisions of this Act shall be made for terms of such number of years less than three (3) as will cause a staggered or rotating system of terms to conform with the provisions of this Act.

#### SECTION 4. ORGANIZATION OF COMMISSION

The Commissioners shall within ten (10) days after the qualification of the membership, and annually thereafter during the month of January, elect a Chairman and a Vice-Chairman.

#### SECTION 5. POWERS OF COMMISSION

Two (2) members of the said Commission shall constitute a quorum to transact business. The Commission shall make such rules and regulations for the proper conduct of its business as it shall find necessary and expedient, provided that no rules or regulations shall ever be adopted which will permit the appointment or employment of any person without good moral character; or any person unfit mentally or physically or any person incompetent to discharge the duties of such appointment or employment. Such rules and regulations shall prescribe what shall constitute cause for removal or suspension of Firemen or Policemen, but no rule for the removal or suspension of such employees shall be valid unless it involves one or more of the following grounds:

Conviction of a felony or other crime involving moral turpitude; violations of the provisions of the charter of said city; acts of incompetency; neglect of duty; discourtesy by said employee to the public or to fellow employees while said employee is in line of duty; acts of said employees showing a lack of good moral character; drinking of intoxicants while on duty, or intoxication while off duty; or whose conduct was prejudicial to good order; refusal or neglect to pay just debts; absence without leave; shirking duty; or cowardice at fires; violation of any of the rules and regulations of the Fire Department or Police Department or of special orders, as applicable.

SECTION 5a. INVESTIGATION AND INSPECTIONS

The Commission may make investigations concerning, and report upon all matters touching, the enforcement and effect of the provisions of this Act, and the rules and regulations prescribed hereunder; and shall ascertain whether this Act and all such rules and regulations are being obeyed. Such investigations may be made by the Commission or by any Commissioner designated by the Commission for that purpose. In the course of such investigation the Commission or designated Commissioner shall have the power to administer oaths, subpoena and require the attendance of witnesses and the producing by them of books, papers, documents, and accounts pertaining to the investigation, and also to cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the court of original and unlimited jurisdiction to civil suits of the United States; and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a magistrate in his judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this Section shall be deemed a violation of this Act, and punishable as such.

SECTION 5b. PUBLIC RECORDS

The Commission shall keep records of all hearings or cases that come before it. Commission decisions shall be signed by the concurring Commissioners. All rules, opinions, directives, decisions, and orders issued by the Commission shall be written and are public records that shall be retained on file by the Commission.

SECTION 6. DIRECTOR OF CIVIL SERVICE

(a) There is hereby created the office of Director of Firemen's and Policemen's Civil Service, which shall be filled by the appointment of the Commission. The person appointed must meet the same requirements as hereinabove provided for members of the Commission, except that in a city having a population of fewer than 1,500,000 according to the most recent federal census, the Director is not required to meet the three-year local residency requirement prescribed by Section 3 of this Act. Said Director may be either a member of the Commission, another employee of said city, or some other person. The legislative body of such city shall determine what salary, if any, shall be paid to such Director. Said Director shall at all times, be subject to removal by the Commission. He shall serve as Secretary to the Commission, and shall perform all such work incidental to the Firemen's and Policemen's Civil Service as may be required of him by the Commission.

(b) In those cities which have a duly and legally constituted Director of Civil Service, by whatever name he may be called, said Director shall be the Director of the Firemen's and Policemen's Civil Service, but he shall administer civil service pertaining to Firemen and Policemen in accordance with this Law.

SECTION 7. OFFICE SPACE

The City Council or governing body of any such city shall provide adequate and suitable office space for the conduct of the business of the Commission.

SECTION 8. CLASSIFICATION OF FIREMEN AND POLICEMEN: EDUCATIONAL INCENTIVE PAY

(a) In a city having a population of 1,500,000 or more, according to the most recent federal census, the Commission shall provide for the classification of all firemen and policemen. Such classification shall be provided by ordinance of the City Council, or legislative body. Said City Council, or legislative body, shall prescribe by ordinance the number of positions of each classification.

(b) No classification now in existence, or that may be hereafter created in such cities, shall ever be filled except by examination held in accordance with the provisions of this law. All persons in each classification shall be paid the same salary and in addition thereto be paid any of the following types of pay that they may be entitled to: (1) Longevity pay; (2) Seniority pay; (3) Educational Incentive pay; or (4) Assignment pay. This shall not prevent the Head of such Department from designating some person from the next lower classification to fill a position in a higher classification temporarily, but any such person so designated by the Head of the department shall be paid the base salary of such higher position plus his own longevity pay during the time he performs the duties thereof. The temporary performance of the duties of any such position by a person who has not been promoted in accordance with the provisions of this Act shall never be construed to promote such person. All vacancies shall be filled by permanent appointment from eligibility lists furnished by the Commission within ninety (90) days after such vacancy occurs.

(c) Firemen and policemen shall be classified as above provided, and shall be under civil service protection except the Chief of Head of such Fire Department or Police Department, by whatever name he may be known.

(d) Said Chiefs or Department Heads shall be appointed by the Chief Executive and confirmed by the City Council or legislative body except in cities where the Department Heads are elected. In those cities having elective Fire and Police Commissioners the appointments for Chiefs and Heads of those Departments shall be made by the respective Fire or Police Commissioners in whose Department the vacancy exists, and such appointments shall be confirmed by the City Council or legislative body.

(e) Said City Council or legislative body may authorize educational incentive pay in addition to regular pay for policemen and firemen within each classification, who have successfully completed courses in an accredited college or university, provided that such courses are applicable toward a degree in law enforcement-police science and include the core curriculum in law enforcement or are applicable toward a degree in fire science. An accredited college or university, as that term is used herein, shall mean any college or university accredited by the nationally recognized accrediting agency and the state board of Education in the state

wherein said college or university is located and approved or certified by the Texas Commission on Law Enforcement Officer Standards and Education as teaching the core curriculum or its equivalent or, in the case of fire science degree courses, approved or certified by the Texas Commission on Fire Protection, Personnel Standards and Education. Core curriculum in law enforcement, as used herein, shall mean those courses in law enforcement education as approved by the Coordinating Board, Texas College and University System and the Texas Commission on Law Enforcement Officer Standards and Education.

SECTION 8a. CLASSIFICATION AND APPOINTMENT OF CERTAIN FIREMEN AND POLICEMEN

(a) In a city having a population of less than 1,500,000 according to the most recent federal census, the Commission shall provide for the classification of all firemen and policemen. The classification shall be provided by ordinance of the city council or legislative body. The city council or legislative body shall prescribe the number of positions in each classification by ordinance.

(b) Except as prescribed by this section, a classification now in existence, or that may be hereafter created, may not be filled except by examination held in accordance with this Act. If the city council or governing body of the city approves by resolution or ordinance, the Chief or Head of a Fire or Police department in which at least four classifications exist below the classification or chief or head may appoint each person occupying authorized positions in the classification immediately below that of chief or department head, as provided by this section.

(c) The total number of persons appointed to the classification immediately below that of the police chief in the police department may not exceed the total number of persons, plus one, serving in the classification immediately below that of the Police Chief or Head of the Police Department in that city on January 1, 1983. In a city having fewer than 300 certified fire fighters, the chief or head of the department may appoint not more than one person to the classification immediately below that of chief or head. In a city having 300 or more certified firefighters but not more than 600, the chief or head of the fire department may appoint two persons. In a city having more than 600 certified fire fighters, the chief or head of the department may appoint three persons. This subsection does not apply to a city that has adopted the Fire and Police Employee Relations Act (Article 5154c-1, Vernon's Texas Civil Statutes), unless the city specifically adopts the appointment procedure prescribed by this subsection through the collective bargaining process.

(d) All persons in each classification shall be paid the same salary and in addition thereto be paid any of the following types of pay to which they may be entitled: (1) Longevity or seniority pay; (2) educational incentive pay; (3) assignment pay; and (4) certification pay. This shall not prevent the head of the department from designating some person from the next lower classification to fill a position in a higher classification temporarily, but any person designated by the head of the department shall be paid the base salary of the higher position plus his own longevity or seniority pay,

educational incentive pay, and certification pay during the time he performs the duties. The temporary performance of the duties of a higher position by a person who has not been promoted as prescribed by this Act may not be construed as a promotion of the person.

(e) All vacancies in classifications other than the classification immediately below that of the chief or department head which is selected and filled by the chief or department head shall be filled by permanent appointment from eligibility lists furnished by the commission within sixty (60) days after the vacancy occurs. If before the expiration of the current eligibility list a vacancy occurs in a classification other than a classification immediately below that of the chief or department head which is filled by the chief or department head, the Commission shall submit names from the list to the department head until the vacancy is filled or the list is exhausted. If no list is in existence, the vacancy shall be filled from a list which the Commission shall provide within ninety (90) days after the vacancy occurs.

(f) Except for the chief or head of the fire or police department, and except for those persons selected and appointed to the classification immediately below the chief or department head by the chief or head of the fire or police department, firemen and policemen are classified as prescribed by this section, and are under civil service protection.

(g) Except in cities in which the department heads are elected, the chiefs or department heads are appointed by the chief executive and confirmed by the city council or legislative body. In a city with elected fire and police commissioners, the appointments of the chiefs and heads of those departments shall be made by the fire or police commissioner in whose department the vacancy exists, and the appointments shall be confirmed by the city council or legislative body.

(h) If authorized by this Act and by the city council or legislative body, each person occupying a position in the classification immediately below that of the chief or department head is appointed by the chief or department head on whose department the vacancy exists and serves at the pleasure of the chief or department head. The classification immediately below that of the chief or department head may include a person with a different title but who has the same pay grade.

(i) To be eligible for appointment in the police department, a person must be employed by the police department of that city as a sworn police officer with at least two years' continuous service in that department as a sworn police officer and must meet the requirements for appointment as the chief or head of a police department prescribed by Section 14D(7) of this Act. To be eligible for appointment in the fire department, a person must be employed by the fire department of that city with a permanent classification in at least an officer level and must meet the requirements for appointment as the chief or head of a fire department prescribed by Section 14D(7) of this Act.

(j) Those persons already serving under permanent appointment to a position in the classification immediately below that of the chief or department head prior to the effective date of this Act are not required to be

appointed or reappointed as a condition of tenure or continued employment, nor does failure by any person already serving under permanent employment to fulfill the requirements of this section make the person ineligible for continued employment in the position in his department. The chief or department head shall make all appointments not later than the 90th day after the day on which the vacancy occurs. A person appointed by the chief or department head to a position in the classification immediately below that of the chief or department head who is subsequently removed from that position by the chief or department head shall be reinstated in the department and placed in the same classification, or its equivalent, that the person held prior to appointment, and retains all rights of seniority in the department.

(k) If the person is charged with an offense in violation of civil service rules and indefinitely suspended by the chief or department head, the person shall have the same rights and privileges of a hearing before the commission, and in the same manner and under the same conditions as classified employees. If the commission, the hearing examiner, or a court of competent jurisdiction finds the charges to be untrue or unfounded, the person shall immediately be restored to the same classification, or its equivalent, that the person held prior to appointment. The person shall enjoy all the rights and privileges of his prior position according to seniority and shall be repaid for any lost wages.

(l) The city council or legislative body of a city may authorize educational incentive pay in addition to regular pay for a fireman or policeman who has successfully completed courses at an accredited college or university if the criteria for the educational incentive pay are clearly established, are in writing, and are applied equally to all fireman and policeman meeting the criteria. If all firemen or policemen are afforded an opportunity to qualify themselves for certification, certification pay may be authorized by the city council or legislative body of the city in addition to regular pay for those firemen meeting the requirements for certification set by the Commission on Fire Protection Personnel Standards and Education.

SECTION 8b. CITIES OF 1,500,000 OR MORE: ASSIGNMENT PAY

(a) In any city having a population of 1,500,000 or more, according to the most recent federal census, the city council or legislative body may authorize assignment pay for emergency ambulance attendants and field training officers in an amount and payable under conditions as set by ordinance. The assignment pay shall be in addition to the regular pay received by members of the fire department. The chief of the fire department is not eligible for the assignment pay authorized by this section.

(b) In this section:

(1) "Emergency ambulance attendant" means a member of the fire department who provides emergency medical care and emergency transportation for members of the public.

(2) "Helicopter personnel" means a member of the police department who

pilots helicopters or rides as an observer in helicopters.

(3) "Bomb squad personnel" means a member of the police department who is assigned to the bomb squad and actually participates in the detection, handling, or disarming of explosive devices or materials.

(4) "Special weapons and tactics personnel" means a member of the police department who is assigned to the special weapons and tactics squad and actually performs the duties and responsibilities of the special weapons and tactics squad.

(5) "Field training officer" means a member of the fire department who is assigned to the field training officers program and who actually performs the duties and responsibilities of the field training officers program.

(c) In any city having a population of 1,200,000 or more according to the most recent federal census, the city council or legislative body may authorize assignment pay for helicopter personnel, bomb squad personnel, and special weapons and tactics personnel. Assignment pay shall be in an amount and payable under conditions as set by ordinance. The assignment pay shall be in addition to the regular pay received by members of the police department. The chief of the police department is not eligible for the assignment pay authorized by this section.

#### SECTION 8c. FIELD TRAINING OFFICERS: ASSIGNMENT PAY

(a) In this section, "field training officer" means a member of the police department who is assigned to the field training officers program and actually performs the duties and responsibilities of the field training officers program.

(b) The city council or legislative body of a city that adopts this Act may authorized assignment pay for field training officers. Assignment pay shall be in an amount and payable under conditions as set by ordinance. The assignment pay shall be in addition to the regular pay received by members of the police department. The chief of the police department is not eligible for the assignment pay authorized by this section.

#### SECTION 8d. ASSIGNMENT PAY

In any city having a population of less than 1,500,000 according to the most recent federal census, the city council or legislative body may authorize assignment pay for fire fighters and police officers performing specialized functions in their respective departments. The assignment pay is in an amount and is payable under conditions as set by ordinance, and is in addition to the fire fighter's and police officers' regular pay. If the ordinance applies equally to all persons meeting criteria established by the ordinance, the ordinance may provide for payment to each fire fighter and police officer who meets training or education criteria for an assignment, or the ordinance may set criteria that provide for payment only to a fire fighter or police officer in a special assignment. The chief or head of the fire or police department is not eligible for the assignment pay authorized by this section.

## SECTION 9. EXAMINATION FOR ELIGIBILITY LISTS

The Commission shall make provisions for open, competitive and free examinations for persons making proper application and meeting the requirements as herein prescribed. All eligibility lists for applicants for original positions in the Fire and Police Departments shall be created only as a result of such examinations, and no appointments shall ever be made for any position in such Departments except as a result of such examination, which shall be based on the applicant's knowledge of and qualifications for fire fighting and work in the Fire Department, or for police work and work in the Police Department, as shown by competitive examinations in the presence of all applicants for such position, and shall provide for thorough inquiry into the applicant's general education and mental ability. Fire Department entrance examinations may be given at different locations if all applicants are given the same examination and examined in the presence of other applicants. An applicant may not take the examination more than once for each eligibility list. An applicant may not take an examination unless at least one (1) other applicant being tested is present.

An applicant who has served in the armed forces of the United State and who received an honorable discharge shall receive five (5) points in addition to his competitive grades.

The Commission shall keep all eligibility lists for applicants for original positions in the Fire Department or Police Department in effect for not less than six (6) months nor more than twelve (12) months unless the names of all applicants have been referred to the appropriate department. The Commission shall give a new examination at the end of the twelve (12) months period or sooner, if applicable, or if all names on the list have been referred to the appropriate department. The Commission shall determine how long each eligibility list shall remain in effect within the six (6) to twelve (12) month period and shall include this information on the eligibility announcement.

Appropriate physical examinations shall be required of all applicants for beginning or promotional positions, and the examination shall be given by a physician appointed by the Commission and paid by such city; and in the event of rejection by such physician, the applicant may call for further examination by a board of three (3) physicians appointed by the Commission, but at the expense of the applicant, whose findings shall be final. The age and physical requirements shall be set by the Commission in accordance with provisions of this law and shall be the same for all applicants.

No persons shall be certified as eligible for a beginning position with a Fire Department who has reached his thirty-sixth birthday. No person shall be certified as eligible for a beginning position with a Police Department who has reached his thirty-six birthday unless the applicant has at least five (5) years prior experience as a peace officer, or 5 years of military experience. No person shall be certified as eligible for a beginning position with a Police Department who has reached his forty-fifth birthday.

All police officers and firemen coming under this Act must be able to intelligently read and write the English language.

When a question arises as to whether a firemen or policemen is sufficiently physically fit to continue his duties, the employee shall submit a report from his personal physician to the Commission. If the Commission, the head of the Department, or the employee questions the report, the Commission shall appoint a physician to examine the employee and to submit a report to the Commission, to the head of the Department, and to the employee. If the appointed physician's report disagrees with the report of the employee's personal physician, the Commission shall appoint a board of three (3) physicians to examine the employee. Their findings as to the employee's fitness for duty shall determine the issue. The cost of the services of the employee's personal physician shall be paid by the employee. All other costs shall be paid by the city.

A fireman or policeman who has been certified by a physician selected by a firemen's or policemen's relief or retirement fund as having recovered from a disability for which he has been receiving a monthly disability pension shall, with the approval of the Commission and if otherwise qualified, be eligible for reappointment to the classified position that he held as of the date that he qualified for a monthly disability pension.

#### SECTION 10. METHOD OF FILLING POSITIONS

When a vacancy occurs in the Fire Department or Police Department, the Fire Chief or Head of the Fire Department or the Police Chief or Head of the Police Department shall request in writing from the Commission the names of suitable persons from the eligibility list, and the Director shall certify to the Chief Executive of said city, the names of three (3) persons having the highest grades on the eligibility list, and the said Chief Executive shall thereupon make an appointment from said three (3) names. The appointment shall be of the person with the highest grade, except there be a valid reason why such appointment should be given to the one making the second or third highest grade. Whenever such appointment is made of one not holding the highest grade, such reasons shall be reduced to writing and filed with the Commission, and there shall be set forth plainly and clearly good and sufficient reasons why said appointment was not made to the person holding the highest grade in the event the one holding the third highest grade shall receive the appointment. In the event the person holding the highest grade is not certified for the appointment, he shall be furnished with a copy of the reasons therefore as filed with the Commission, and in the event the one having the third highest grade is appointed a copy of such reasons shall also be furnished to the one holding the second highest grade. This section shall be limited by the other provisions hereof relating to promotions.

#### SECTION 11. CERTIFICATION ON EMPLOYEES

Whenever a person is certified and appointed in the said Fire Department or Police Department, the Director shall forward a record of the person so certified and appointed to the Fire Chief or Head of the Department or Police Chief or Head of that Department, forward a similar copy to the Chief Executive, and retain a copy in the Civil Service files. The record shall

show: The date notice of examination was posted, date on which person certified took examination to be placed on eligibility list, name of person or persons conducting examination, relative position of person on eligibility list, date when person certified took physical examination, name of physician making examination, with information as to whether or not applicant was accepted or rejected, date on which request for filling such vacancy was made, date on which applicant was notified to report for duty and date on which his pay is to start. If the Director shall willfully fail to comply with any provisions of this Section, it shall be the duty of the Commission to forthwith remove him from office. The failure however, of the Director of Civil Service to comply with any of the provisions of this section shall in no way impair the civil service standing of any employee.

#### SECTION 12. PROBATIONARY AND FULL-FLEDGED FIREMEN AND POLICEMEN

(a) A person who has received appointment to the Fire Department or Police Department hereunder, shall serve a probationary period of one (1) year from date of employment with the Department as a Fireman, Policeman, or trainee in an academy.

(b) In any city having a population of 1,200,000 or more, according to the most recent federal census, a person who has received appointment to the Police Department and has ended his service with the Department for any reason shall serve a probationary period of six (6) months from date of reappointment. A reappointed officer is not entitled to full civil service protection until the officer has served the full probationary period after reappointment. For purposes of determining classification, pay status, and eligibility for promotion of the reappointed officer, the probationary period after reappointment is counted as if the reappointed officer were not on probation.

(c) During such probationary period, it shall be the duty of the Fire Chief or Head of the Fire Department or Police Chief or head of the Police Department to discharge all Firemen or Policemen, whose appointments were not regular, or not made in compliance with the provisions of this Act, or of the rules or regulations of the Commission, and to eliminate from the payrolls any such probationary employee. When Firemen or Policemen, however, have served the full probationary period, having been appointed in substantial compliance with Sections, 9, 10, 11 of this Act and not otherwise, they shall automatically become full fledged civil service employees and shall have full civil service protection. All positions in the Fire Department, except that of Chief or head of the Department, and in the Police Department, except that of Chief or head of the Department, shall be classified by the Commission and the positions filled from the eligibility lists as provided herein.

(d) All offices and positions in the Fire Department or Police Department shall be established by ordinance of the City Council or governing body provided, however, that the failure of a City Council or governing body to establish a position by ordinance shall not result in the loss of Civil Service benefits under the provisions of Section 9, 10, 11 of this Act, or entitled to Civil Service Status under Section 24 of this Act.

#### SECTION 12a. EMPLOYEE ORGANIZATION MEMBERSHIP REQUIREMENTS

An employee who is on probation may not be prohibited from joining or required to join an employee organization. Joining or not joining an employee organization is not a ground for retention or nonretention of an employee who is serving a probationary period.

#### SECTION 13. NOTICE OF EXAMINATIONS

At least ten (10) days in advance of any entrance examination and at least thirty (30) days in advance of any examination for promotion, the Commission shall cause to be posted on a bulletin board located in the main lobby of the City Hall, and the office of the Commission, and in plain view, a notice of such examination, and said notice shall show the position to be filled or for which examination is to be held, with date, time and place thereof, and in case of examination for promotion, copies of such notice shall be furnished in quantities sufficient for posting in the various stations or subdepartments in which position is to be filled. No one under eighteen (18) years of age shall take any entrance examination, and appointees to the Police and Fire Departments shall not have reached their thirty-sixth birthday for entrance into the Fire Department or Police Department. The results of each examination for promotion shall be posted on a bulletin board located in the main lobby of the City Hall by the Commission within twenty-four (24) hours after such examination.

#### SECTION 14. PROMOTIONS: FILLING VACANCIES

The Commission shall make rules and regulations governing promotions and shall hold promotional examinations to provide eligibility lists for each classification in the Police and Fire Departments, which examinations shall be held substantially under the following requirements:

A. (1) All promotional examinations shall be open to all policemen who have held a continuous position for two (2) years or more immediately prior to the examination in the classification immediately below, in salary, that classification for which the examination is to be held. In police departments that have adopted a classification plan that classifies positions on the basis of similarity in duties and responsibilities, all promotional examinations shall be open to a policeman who has held a continuous position for two (2) years or more immediately prior to the examination at the next lower paygrade, if it exists, in the classification for which the promotional examination is being offered. When there is not a sufficient number of members in the next lower position with two (2) years' service in that position to provide an adequate number of persons to take the examination, the Commission shall open the examination to members in that position with less than two (2) years' service. If there is still an insufficient number, the Commission may extend the examination to the members in the second lower position in salary to that for which the examination is to be held.

(2) All promotional examinations shall be open to all firemen who have ever held a continuous position for two (2) years or more in the classification immediately below, in salary, that classification for which the examination

is being held. In fire departments that have adopted a classification plan that classifies positions on the basis of similarity in duties and responsibilities, all promotional examinations shall be open to a fireman who has ever held a continuous position for two (2) years or more at the next lower paygrade, if it exists, in the class for which the promotional examination is being offered. This section may not be construed to prohibit lateral crossover between classes. If there are not enough members in the next lower position with two (2) years' service in that position to provide an adequate number of persons to take the examination, the Commission may open the examination to members in that position with less than two (2) years' service. If there is still an insufficient number, the Commission may extend the examination to the members in the second lower position in salary to that for which the examination is to be held with two (2) years' service in that position.

B. Each fireman shall be given one (1) point for each year of seniority in his Department, but never to exceed ten (10) points. Each policeman shall be given one (1) point for each year of seniority as a classified police officer in his Department, but never to exceed ten (10) points.

C. The Commission may formulate proper procedure and rules for semi-annual efficiency reports and grade of each member of the Police or Fire Departments. If the Commission compiles efficiency reports for members of the Police or Fire Department, the Commission shall provide a copy of a member's efficiency report to the member. Any fireman or policeman may, within ten (10) days after receiving his efficiency report, make a statement in writing about the efficiency report. The statement shall be placed in his personnel file with the efficiency report.

D. (1) (a) Except as prescribed by Subdivision (6) of this subsection, all applicants shall be given an identical examination in the presence of each other, which promotional examination shall be entirely in writing and no part of which shall be by oral interview, and all of the questions asked there in shall be prepared and composed in such a manner that the grading of the examination papers can be promptly completed immediately after the holding of the examination and shall be prepared so as to test the knowledge of the applicants concerning information and facts, and all of said questions shall be based upon material which is a reasonably current publication and has been made reasonably available to all members of the Fire or Police Department involved and shall be based upon the duties of the position sought and upon any study courses given by such Departmental Schools of Instruction. All promotional examination questions must be taken from sources that are listed in a notice that is posted by the Commission at least thirty (30) days before the date of the examination. Firemen or policemen may suggest source materials for promotional examinations. The notice required by Section 13 of this Act may include the name of each source used and the number of questions taken from each source. The Commission may include the chapter of each source. When one of the applicants taking an examination for promotion has completed his answers, the grading of such examination shall begin, and all of the examination papers shall be graded as they are completed, at the place where the examination is given and in the presence of any applicants who wish to remain during the grading.

(b) The Director is responsible for the preparation and security of all promotional examinations. The fairness of the competitive promotional examinations is the responsibility of the Commission, the Director, and any municipal employee involved in the preparation or administration of the examination. A person who knowingly or intentionally reveals any part of a promotional examination to an unauthorized person or a person who knowingly or intentionally receives from an unauthorized person any part of a promotional examination commits a misdemeanor and shall be fined not less than One Thousand Dollars (\$1,000) or imprisoned for not more than one (1) year in the county jail or both.

(2) Except as prescribed by Subdivision (6) of this subsection, the grade which shall be placed on the eligibility list for each policeman applicant shall be computed by adding such policeman applicant's points for seniority to his grade on the written examination. Grades on such written examinations shall be based upon a maximum grade of one hundred (100) points and shall be determined entirely by the correctness of each applicant's answers to such questions. The minimum passing score for the written examination is seventy (70) points.

(3) the grade which shall be placed on the eligibility list for each fireman applicant shall be computed by adding the fireman applicant's points for seniority to his grade on the written examination. Grades on the written examination shall be based on a maximum grade of one hundred (100) points and shall be determined entirely by the correctness of each fireman applicant's answers to the questions. The minimum passing score for the written examination is seventy (70) points.

(4) Each applicant shall have the opportunity to examine the source materials, his examination, and his answers thereto together with the grading thereof and if dissatisfied shall, within five (5) working days, appeal the same to the Commission for review in accordance with the provisions of this Act.

(5) Except as prescribed by Section 8a of this Act, a fireman is not eligible for promotion unless he has served in such Department for at least two (2) years at any time prior to the day of such promotional examination in the next lower position or other positions specified by the Commission, and no person with less than four (4) years' actual service in such Department shall be eligible for promotion to the rank of captain or its equivalent. Except as prescribed by Section 8A of this Act, a policeman is not eligible for promotion unless the policeman has served in the Department for at least two (2) years immediately preceding the date of the promotional examination in the next lower position or other positions specified by the Commission, and no person with less than four (4) years' actual service in the Department shall be eligible for promotion to the rank of captain or its equivalent. Provided, however, that the requirement of two (2) years' service in the Fire Department at any time prior to the day of promotional examination shall not be applicable to those persons recalled on active military duty for a period not to exceed twenty-four (24) months. The Police Department's requirement of two (2) years' service immediately preceding the date of the promotional examination does not apply to persons recalled to active military duty for a period not to exceed twenty-four (24) months. Such persons shall be entitled to have

time spent on active military duty considered as duty in the Department concerned. However, any person whose absence for active military duty exceeds twelve (12) months, shall be required to serve ninety (90) days upon returning to the Department before he shall become eligible to participate in a promotional examination, such period of time to be considered essential for bringing him up to date on equipment and techniques.

(6) (a) In a city having a population of less than 1,500,000 according to the last preceding federal census, the Commission may, on the recommendation of the Chief or Head of the Police Department and a majority vote of the sworn police officers adopt an alternate promotional system to select persons to occupy non-entry level positions other than positions that are filled by appointment by the Chief or Head of the Police Department. The promotional system shall comply with the following requirements:

(1) The commission shall order the Director to conduct an election and to submit the revised promotional system by secret ballot to all sworn police officers;

(2) The election shall be held no earlier than the thirtieth (30th) day after the day on which notice of the election is posted at the Department. The election shall be conducted throughout each regular work shift at an accessible location within the Department during a 24-hour period;

(3) The ballot shall contain the specific amendment to the promotional procedures and each sworn police officer shall be given the opportunity to vote "for" or "against" the amendment;

(4) The revised promotional system must be approved by a majority vote of the sworn police officers voting;

(5) A defeated promotional system amendment may not be placed on a ballot for vote before the sworn police officers for a least twelve (12) months after the date which the prior election was held;

(6) If approved by the sworn police officers, the promotional system amendment becomes effective after all election disputes have been ruled on and the election votes have been canvassed by the Commission.

(7) The Commission shall canvass the vote not later than the thirtieth (30th) day after the date on which the election was held; and

(8) All appeals alleging election irregularity must be filed with the Commission not later than the fifth (5th) working day after the date on which the election closes.

(b) At any time after an alternate promotional system has been adopted under this subdivision and has been in effect for at least one hundred and eighty (180) days the Police Chief may petition the Commission to terminate the alternate system and the Commission shall terminate the alternate system. If the alternate system is terminated, an additional list may not be created under the alternate system.

(c) At any time after an alternate promotional system has been adopted under this subdivision and has been in effect for at least one hundred and eighty (180) days, a petition signed by at least thirty-five percent (35%) of the sworn police officers may be submitted to the Commission asking that the alternate promotional system be reconsidered. If a petition is submitted, the Commission shall, not later than the sixtieth (60th) day after the date on which the petition was filed, hold an election as prescribed by Paragraph (a) of this subdivision. If a majority of those voting vote to repeal, the Commission shall terminate the alternate promotional system. If the Alternate system is terminated, an additional list may not be created under the alternate system.

(d) A promotional list may not be created if an election under this subdivision is pending. An existing eligibility list, whether created under the system prescribed by this Act or created under an alternate system adopted under this subdivision, may not be terminated before or extended beyond its expiration date. A person promoted under an alternate system has the same rights and the same status as a person promoted under this Act even if the alternate system is later repealed.

(e) This subdivision does not apply to a city that has adopted the Fire and Police Employee Relations Act (Article 5154c-1, Vernon's Texas Civil Statutes).

(7) No person shall be eligible for appointment as Chief or Head of the Fire Department of any city coming under the provisions of this Act who is not eligible for certification by the Commission on Fire Protection Personnel Standards and Education at the intermediate level or is equivalent as determined by that Commission and who has not served at least five (5) years as a fully paid fireman. No person may be eligible for appointment as Chief or Head of the Police Department who is not eligible for certification by the Commission on Law Enforcement Officer Standards and Education at the intermediate level or its equivalent as determined by that Commission and who has not served as a bona fide law enforcement officer for five (5) years.

E. (1) Upon written request by the Heads of the Departments for a person to fill a vacancy in any classification, the Commission shall certify to the Head of the Department the three (3) names having the highest grades on such eligibility list for such classification for the vacancy requested to be filled. If fewer than three (3) names remain on the eligibility list, all the names must be submitted to the Head of the Department, and the Head of such Department shall appoint the person having the highest grade, except where such Head of the Department shall have a valid reason for not appointing such highest name, and in such cases he shall, before such appointment, file his reasons in writing, for rejection of the higher name or names, with the Commission, which reasons shall be valid and subject to review by the Commission upon the application of such rejected person.

(2) The name of each person on the eligibility lists shall be submitted to the Head of the Department three (3) times; and if passed over three (3) times with written reasons filed thereafter and not set aside by the Commission, he shall thereafter be dropped from the eligibility list. All

promotional eligibility lists shall remain in existence for one (1) year unless exhausted, and at the expiration of one (1) year they shall expire and new examinations may be given.

F. The Commission shall proceed to hold examinations to create eligibility lists within ninety (90) days after a vacancy in any classification occurs, or new positions are created, unless an eligibility list is in existence. If an eligibility list exists, the Commission shall certify within ten (10) days after notification of the vacancy to the Head of the Department the names of persons eligible to fill all promotional positions. The certified names must come from the eligibility list which exists on the date the vacancy occurs.

G. In the event any new classification is established either by name or by increase of salary, the same shall be filled by competitive examinations in accordance with this law.

#### SECTION 14a. CROSSOVER PROMOTIONS

(a) In any city in this state having a population of 1,500,000 or more inhabitants, according to the last preceding federal census, all members of the police department, who shall be employed by such department with duties in a specialized technical area, to wit: (1) technical class, which includes

but is not limited to criminal laboratory analysis and interpretations, and the technical criminal aspects of identification and photography, or (2) communications class, which includes but is not limited to the technical operations of police radio communications, shall be eligible for promotions within their respective classes. In addition, all peace officers employed by the City, who shall be employed by such city department with duties in separate specialized police divisions, to wit: (1) park police class, which includes all sworn park police officers except those in ranks excluded from civil service status by this Act, or (2) airport police class, which includes all sworn airport police officers except those in ranks excluded from civil service status by this Act, or (3) city marshal class, which includes all sworn deputy city marshals except those in ranks excluded from civil service status by this Act, shall be eligible for promotions within their respective classes.

(b) In no event shall the members of the technical class, communications class, park police class, airport police class, city marshal class, or uniformed and detective class be eligible for promotion to a position outside of their respective class. This section shall be construed so as to preclude the lateral crossover by promotion by members of the technical, communications, park police, airport police, and city marshal classes into the uniformed and detective class of the department; also to preclude the lateral crossover by promotion of members of the uniformed and detective class into the technical, communications, park police, airport police, and city marshal classes of the department. In the event a member of one class desires to change classes, such may be accomplished upon qualifications and only by entry into the new class at the lowest entry level of that class.

(c) This section shall not operate so as to prevent the chief of police, assistant chiefs of police, and deputy chiefs of police, or their

(c) This section shall not operate so as to prevent the chief of police, assistant chiefs of police, and deputy chiefs of police, or their equivalent, by whatever name or title they may be called, from exercising the full sanctions, powers, duties, and authority of their respective offices in the supervision, management, and control over the uniformed and detective class, technical class, communications class, park police class, airport police class, and city marshal class.

(d) All provisions of this article regarding eligibility lists, examinations, appointments, and promotions shall apply to members of the technical class, communications class, park police class, airport police class, city marshal class, uniform class and detective class. However, said provisions shall apply only to the appointment and promotion of a member of a particular class to a new position within such class.

#### SECTION 15. CIVIL SERVICE RIGHTS OF DEPARTMENT HEAD

When the services of the Chief or Head of the Fire Department or Police Department are terminated as such and he is removed as such Department Head, he shall be reinstated in the Department and placed in a position no lower than the rank he held at the time of appointment, and he shall retain all rights or seniority in the Department; provided, that should such Department Head be charged with an offense in violation of civil service rules, and be dismissed from the public service, or be discharged from his position, he shall have the same rights and privileges of a hearing before the Commission, and in the same manner and under the same conditions as may be classified employees, and if the Commission should find such charges to be untrue, or unfounded, said employee shall there upon immediately be restored to the Department as above provided, and said employee shall enjoy all the rights and privileges thereunder according to seniority, and shall be paid his full salary for the time of suspension.

#### SECTION 16. INDEFINITE SUSPENSIONS

(a) In a city having a population of 1,500,000 or more according to the most recent federal census, the Chief or Head of the Fire Department or Police Department of the city government shall have the power to suspend indefinitely any officer or employee under his supervision or jurisdiction for the violation of civil services rules, but in every such case the officer making such order of suspension shall, within one hundred and twenty (120) hours thereafter, file a written statement with the Commission, giving the reasons for such suspension, and immediately furnish a copy thereof to the officer or employee affected by such act, said copy to be delivered in person to such suspended officer or employee by said department head. Said order of suspension shall inform the employee that he has ten (10) days after receipt of a copy thereof, within which to file a written appeal with the Commission.

The Commission shall hold a hearing and render a decision in writing thirty (30) days after it receives said notice of appeal. Said decision shall state whether or not the suspended officer or employee shall be permanently or temporarily dismissed from the Fire or Police Department or be restored to his former position or status in the classified service in the department. In the event that such suspended employee is restored to the

(c) This section shall not operate so as to prevent the chief of police, assistant chiefs of police, and deputy chiefs of police, or their equivalent, by whatever name or title they may be called, from exercising the full sanctions, powers, duties, and authority of their respective offices in the supervision, management, and control over the uniformed and detective class, technical class, communications class, park police class, airport police class, and city marshal class.

(d) All provisions of this article regarding eligibility lists, examinations, appointments, and promotions shall apply to members of the technical class, communications class, park police class, airport police class, city marshal class, uniform class and detective class. However, said provisions shall apply only to the appointment and promotion of a member of a particular class to a new position within such class.

#### SECTION 15. CIVIL SERVICE RIGHTS OF DEPARTMENT HEAD

When the services of the Chief or Head of the Fire Department or Police Department are terminated as such and he is removed as such Department Head, he shall be reinstated in the Department and placed in a position no lower than the rank he held at the time of appointment, and he shall retain all rights or seniority in the Department; provided, that should such Department Head be charged with an offense in violation of civil service rules, and be dismissed from the public service, or be discharged from his position, he shall have the same rights and privileges of a hearing before the Commission, and in the same manner and under the same conditions as may be provided for classified employees, and if the Commission should find such charges to be untrue, or unfounded, said employee shall there upon immediately be restored to the Department as above provided, and said employee shall enjoy all the rights and privileges thereunder according to seniority, and shall be paid his full salary for the time of suspension.

#### SECTION 16. INDEFINITE SUSPENSIONS

(a) In a city having a population of 1,500,000 or more according to the most recent federal census, the Chief or Head of the Fire Department or Police Department of the city government shall have the power to suspend indefinitely any officer or employee under his supervision or jurisdiction for the violation of civil services rules, but in every such case the officer making such order of suspension shall, within one hundred and twenty (120) hours thereafter, file a written statement with the Commission, giving the reasons for such suspension, and immediately furnish a copy thereof to the officer or employee affected by such act, said copy to be delivered in person to such suspended officer or employee by said department head. Said order of suspension shall inform the employee that he has ten (10) days after receipt of a copy thereof, within which to file a written appeal with the Commission.

The Commission shall hold a hearing and render a decision in writing thirty (30) days after it receives said notice of appeal. Said decision shall state whether or not the suspended officer or employee shall be permanently or temporarily dismissed from the Fire or Police Department or be restored to his former position or status in the classified service in the department. In the event that such suspended employee is restored to the

position or class of service from which he was suspended, such employee shall receive full compensation at the rate of pay provided for the position or class of service from which he was suspended, for the actual time lost as a result of such suspension. All hearings of the Commission in case of such suspension shall be public

(b) The written statement above provided to be filed by the department head with the Commission, shall not only point out the civil service rule alleged to have been violated by the suspended employee, but shall contain the alleged acts of the employee which the department head contends are in violation of the civil service rules. It shall not be sufficient for the department head merely to refer to the provisions of the rules alleged to have been violated and in case the department head does not specifically point out the act or acts complained of on the part of such employee, it shall be the duty of the Commission promptly to reinstate him. In any civil service hearing hereunder, the department head is hereby restricted to his original written statement and charges, which shall not be amended, and no act or acts may be complained of by said department head which did not happen or occur within six (6) months immediately preceding the date of suspension by the department head. No employee shall be suspended or dismissed by the Commission except for violation of the civil service rules, and except upon a finding by the Commission of the truth of the specific charges against such employee.

(c) In the event the Commission orders that such suspended employee be restored to his position as above provided, it shall be the duty of the department head immediately to reinstate him as ordered and in event the department head fails to do so, the employee shall be entitled to his salary just as though he had been regularly reinstated.

(d) In the event such department head willfully refuses to obey the orders of reinstatement of the Commission, and such refusal persists for a period of ten (10) days, it shall be the duty of the chief executive or legislative body of the city to discharge such department head from his employment with the city.

(e) The Commission may punish for contempt any department head who wilfully refuses to obey any lawful order of reinstatement of the Commission, and such Commission shall have the same authority herein to punish for contempt as has the Justice of the Peace.

SECTION 16a. PURPOSE OF LAW: HEARINGS

It is hereby declared that the purpose of the Firemen's and Policement's Civil Service Law is to secure to the cities affected thereby efficient Police and Fire Departments, composed of capable personnel, free from political influence, and with permanent tenure of employment as public servants. The members of the Civil Service Commission are hereby directed to administer the civil service law in accordance with this purpose; and when sitting as a board of appeals for a suspended or aggrieved employee who has invoked any review procedures under the provisions of this Act, they are to to conduct such hearing fairly and impartially under the provisions of this law, and to render a fair and just decision, considering only the evidence presented before them in such hearing.

SECTION 16b. DISCIPLINARY SUSPENSIONS

(a) In a city having a population of 1,500,000 or more according to the most recent federal census, the head of either the fire or the police department may suspend an officer or employee under his jurisdiction or supervision for disciplinary purposes, for reasonable periods, not to exceed 15 days. If the department suspends a person, the department head shall file with the commission not later than the 120th hour after the person is suspended a written statement of action, and the commission shall on appeal of the suspended officer or employee, hold a public hearing as prescribed by Section 17 of this Act. The commission shall determine whether just cause exists for the suspension. If the department head fails to file the statement with the commission within the 120-hour time period, the suspension is void and the employee is entitled to his full salary. The commission may reverse the decision of the department head and instruct the department head to immediately restore the employee to his position and to repay the employee for any lost wages. If the commission finds that the period of disciplinary suspension should be reduced, it may order a reduction in the period of suspension. If the department head refuses to obey the order of the commission, the provisions of Section 16 of this Act relating to salaries of employees, the discharge of the department head, and the other provisions relating to the refusal of the department head apply.

(b) In a city having a population of less than 1,500,000 according to the most recent federal census, the chief or head of the fire department or police department may suspend an officer or employee under his supervision or jurisdiction for the violation of a civil service rule for a reasonable period not to exceed 15 calendar days, or for an indefinite period. An indefinite suspension is equivalent to permanent dismissal from the department. If offered by the chief or head of the department, the officer or employee may agree in writing to voluntarily accept, with no right of appeal, a suspension of not less than 16 or more than 90 calendar days for violation of civil service rules. The officer or employee must accept the offer not later than the fifth working day after the offer is made. If the chief or head of a department suspends a person, the chief or head shall, not later than the 120th hour after the hour of suspension, file a written statement with the commission giving the reasons for the suspension, and shall immediately furnish a copy of the statement to the suspended officer or employee. The chief or department head shall deliver the copy in person to the suspended officer or employee. The order of suspension shall inform the officer or employee that if he wishes to appeal, he must file a written appeal with the commission not later than the 100th day after the date on which the officer or employee receives a copy of the statement. If the officer or employee refuses an offer of suspension of not less than 16 or more than 90 calendar days and wishes to appeal to the commission, the officer or employee must file a written appeal with the commission not later than the 15th day after the date the officer or employee receives the statement. Unless the suspended officer or employee and the commission mutually agree to postpone the hearing for a definite period of time, the commission shall hold a hearing and render a decision in writing not later than the 30th day after the date on which it receives the notice of appeal. The decision of the commission shall state whether or not the suspended

officer or employee is permanently dismissed, or temporarily suspended from the fire or police department, or restored to his former position or status in the classified service in the department. If the commission finds that the period of disciplinary suspension should be reduced, it may order a reduction in the period of suspension. If the suspended officer or employee is restored to the position or class of service from which he was suspended, the officer or employee shall receive full compensation at the rate of pay provided for the position or class or service from which he was suspended for the actual time lost as a result of the suspension. All hearings of the commission in case of a suspension are public. The Commission may deliberate the decision in closed session but may not consider evidence that was not presented at the hearing. The commission shall vote in open session. The written statement filed by the department head with the commission shall point out the civil service rule alleged to have been violated by the suspended officer or employee and shall contain the alleged acts of the officer or employee that the department head contends are in violation of the civil service rules. It is not sufficient for the department head merely to refer to the provisions of the rules alleged to have been violated. If the department head does not specifically point out the act or acts complained of on the part of the officer or employee, the commission shall promptly reinstate the officer or employee. In a civil service hearing conducted under this subsection, the department head is restricted to his original written statement and charges which may not be amended. In the original written statement and charges and in any hearing conducted under this subsection, the department head may not complain of an act or acts that occurred earlier than the 180th day immediately preceding the date on which the department head suspends the officer or employee. An officer or employee may not be suspended or dismissed by the commission except for violation of the civil service rules, and after a finding by the commission of the truth of specific charges against the officer or employee.

#### SECTION 16c. HEARING EXAMINERS

(a) In a city having a population of less than 1,500,000 according to the most recent federal census, in an appeal of an indefinite suspension, a suspension, a promotional passover, or a recommended demotion, the appealing employee may elect to appeal to an independent third party hearing examiner instead of to the commission. To exercise this choice, the appealing employee must submit a letter to the director stating his decision to appeal to an independent third party hearing examiner.

(b) The decision of the hearing examiner is final and binding on all parties. If the employee decides to appeal to an independent third party hearing examiner, the employee automatically waives all rights to appeal to district court.

(c) If the appealing employee chooses to appeal to a hearing examiner, the employee and the chief shall first attempt to mutually agree on the selection of an impartial hearing examiner. If an agreement is not reached on the selection of the hearing examiner on or before the tenth (10th) day after the date the appeal is filed, the Director shall immediately request a list of seven (7) qualified neutral arbitrators from the American Arbitration Association or Federal Mediation and Conciliation

Services, or their successor in function. The employee and the Chief may mutually agree on one of the seven neutral arbitrators on the list. If they do not agree within five working days after receipt of the list, each party shall alternate striking a name from the list and the name remaining shall be the hearing examiner.

(d) The appeal hearing shall commence as soon as the hearing examiner selected can be scheduled. If the hearing examiner cannot commence the hearing within 45 calendar days after the date of selection, the employee may, within two days of learning of that fact, call for the selection of a new hearing examiner using the same procedure as provided by Subsection (c) of this Section.

(e) All fees and expenses of the hearing examiner are shared equally by the appealing officer or employee and by the department. The costs of witnesses for either side shall be paid by the party who calls the witnesses.

(f) A state district court may hear appeals of an award of a hearing examiner only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction or that the order was procured by fraud, collusion, or other unlawful means. An appeal must be brought in the state district court having jurisdiction in the municipality in which the department is located.

#### SECTION 16d. PROCEDURES AFTER CRIMINAL INDICTMENT

(a) In a city having a population of less than 1,500,000 according to the most recent federal census, if a firefighter or police officer is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor, the procedures prescribed by the section apply.

(b) The head of the department may temporarily suspend the fire fighter or police officer with or without pay. The head of the department shall notify the firefighter or police officer in writing that he is being temporarily suspended with or without pay for a period not to exceed 30 days after the date of final disposition of the specified felony or misdemeanor complaint, and that the temporary suspension is not intended to reflect an opinion on the merits of the indictment or complaint.

(c) If the action directly related to the felony indictment or misdemeanor complaint occurred or was discovered on or after the 180th day before the date of the indictment or complaint, the head of the department may, not later than the 30th day after the date of final disposition of the felony charge or misdemeanor complaint, bring a civil service charge against the fire fighter or police officer.

(d) Conviction of a felony is cause for dismissal, and conviction of a Class A or B misdemeanor may be cause for disciplinary action or indefinite suspension.

(e) Acquittal or dismissal of an indictment or a misdemeanor complaint does not mean that a fire fighter or police officer has not violated civil service rules or regulations and does not negate the charges that may have

been or may be brought against him by the department head.

(f) A fire fighter or police officer indicted for a felony or officially charged with the commission of a Class A or B misdemeanor who has also been charged by the department head with civil service violations directly related to the indictment or misdemeanor complaint may delay the civil service hearing for a period of not more than 30 days after final disposition of the indictment or complaint.

(g) If the head of the department temporarily suspends a fire fighter or police officer who has been indicted for a felony or officially charged with a Class A or B misdemeanor, and the fire fighter or police officer is not found guilty of the indictment or complaint in the court of competent jurisdiction, the fire fighter or police officer may appeal to the commission or to a hearing examiner for recovery of back pay. The commission or hearing examiner may award all or part of the back pay or reject the appeal.

(h) The department head may order an indefinite suspension based on an act or acts classified as a felony or a Class A or B misdemeanor after the 180-day period after discovery of the act or acts by the department if delay is considered necessary by the department head to protect a criminal investigation of the employee's conduct. If the department head intends to order an indefinite suspension after the 180-day period, the department head must file a statement describing the criminal investigation and its objectives with the attorney general not later than the 180th day after the date on which the act complained of occurred.

#### SECTION 17. PROCEDURE BEFORE COMMISSION

In order for a Fireman or Policeman to appeal to the Commission from any action for which an appeal or review is provided under the terms of this Act, it shall only be necessary for him to file within ten (10) days with the Commission an appeal setting forth the basis of his appeal. The appeal shall include a statement denying the truth of the charge as made, a statement taking exception to the legal sufficiency of such charges, a statement alleging that the recommended action does not fit the offense or alleged offense, or any combination of the statements, and in addition, a request for a hearing by the Commission. In all hearings, appeals, and reviews of every kind and character, wherein the Commission is performing an adjudicatory function, the employee shall have the right to be represented by counsel or any person of his choice. The employee may request the Commission to subpoena any books, records, documents, papers, accounts, or witnesses that the employee considers pertinent to his case. The request to have materials subpoenaed must be made at least ten (10) days before the date of the hearing. If the Commission does not subpoena the requested material, at least three (3) days prior to the hearing date, it shall make a written report to the employee stating the reason it will not subpoena the requested material, and this report shall be read into the public records of the Commission hearing. The witnesses may be placed under the rule. All such proceedings shall be public. The Commission shall consider only evidence submitted at the hearing. The Commission shall have the authority to issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary

material. The Commission shall maintain a permanent public record of all proceedings with copies available at cost.

#### SECTION 18. APPEAL TO DISTRICT COURT

In the event any Fireman or Policeman is dissatisfied with any decision of the Commission, he may, within ten (10) days after the rendition of such final decision, file a petition in the District Court, asking that the decision be set aside, and such case shall be tried de novo. The court in such actions may grant such legal or equitable relief as may be appropriate to effectuate the purposes of this Act, including reinstatement or promotion with back pay where an order of suspension, dismissal, or demotion is set aside. The court may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party. If the court finds for the fireman or policeman, the court shall order the city to pay lost wages to the fireman or policeman.

#### SECTION 19. DEMOTIONS

Whenever the Head of the Fire Department or Police Department may desire the demotion to a lower rank of an officer or employee under his supervision or jurisdiction, such Department Head may recommend in writing to the Commission that such employee be so demoted, giving his reasons therefor, and requesting that the Commission make such order of demotion, furnishing a true copy of such recommendation immediately, in person, to the employee to be affected by such demotion. Said Commission shall have the authority to refuse to grant said request for demotion. If, however, said Commission feels that probable cause exists for said demotion, they shall give such employee ten (10) days advance written notice to appear before them at a time and place specified in said written notice to the employee, and said employee shall have the right to a full and complete public hearing upon such proposed demotion. The Commission shall not demote any employee without such hearing.

#### SECTION 20. UNCOMPENSATED DUTY

(a) In this section, "uncompensated duty" means days of police work without pay and in addition to regular or normal work days.

(b) In a city having population of less than 1,500,000 according to the most recent federal census, the head of the Police Department may assign any officer or employee under his jurisdiction or supervision to uncompensated duty. The chief or department head may not impose uncompensated duty unless the officer or employee agrees. The duty may be in place of or in combination with a period of disciplinary suspension without pay. If uncompensated duty is combined with a disciplinary suspension, the total number of uncompensated duty days may not exceed 15. If the officer or employee agrees to accept uncompensated duty, the chief or department head shall give the officer or employee a written statement that specifies the date or dates on which the officer or employee will perform uncompensated duty.

(c) An officer or employee may not earn or accrue any wage, salary, or benefit arising from length of service while the officer or employee is

suspended or performing uncompensated duty. A disciplinary suspension does not constitute a break in a continuous position or service in the department for the purpose of determining eligibility for a promotional examination. The days on which an officer or employee performs assigned uncompensated duty may not be taken into consideration in determining eligibility for a promotional examination. Except as provided by this subsection, an officer or employee performing assigned uncompensated duty retains all right and privileges of his position in the Police Department and of his employment by the City.

#### SECTION 21. REDUCTION OF FORCE - REINSTATEMENT LIST

In the event that any position in the Fire Department or Police Department is vacated or abolished by ordinance of the City Council, or legislative body, the employee holding such position shall be demoted to the position next below the rank of the position so vacated or abolished; provided that when any position or positions of equal rank may be abolished or vacated, the employee or employees with the least seniority in the said rank shall be the one or ones who are demoted.

In the event that it thereby becomes necessary to demote an employee or employees to the position next below the rank of the position so vacated or abolished, such employee or employees as are involuntarily demoted without charges having been filed against them for violation of civil service rules shall be placed on a position reinstatement list in order of their seniority. If any such position so vacated or abolished is filled or re-created within one (1) year, the position reinstatement list for such positions shall be exhausted before any employee not on such list is promoted to such position. Promotions from the position reinstatement list shall be in the order of seniority.

In the event positions in the lowest classifications are abolished or vacated, and it thereby becomes necessary to dismiss employees from the department, the employee with the least seniority shall be dismissed, but such employees as are involuntarily separated from the department without charges having been filed against them for violation of civil service rules, shall be placed on the reinstatement list in order of their seniority. The reinstatement list shall be exhausted before appointments are made from the eligibility list. Appointments from reinstatement list shall be in order of seniority. Those who shall have been on any such reinstatement list for a period of three (3) years shall be dropped from such list but shall be reinstated upon request from the Commission.

#### SECTION 22. POLITICAL ACTIVITIES; LEAVES OF ABSENCE

Employees in the Fire Department or Police Department shall not be permitted to take an active part in any political campaign of another for an elective position of the city if they are in uniform or on active duty. The term active part means making political speeches, passing out cards, or other political literature, writing letters, signing petitions, actively and openly soliciting votes and making public derogatory remarks about candidates for such elected positions.

Fireman and Policemen coming under the provisions of this Act are not

required to contribute to any political fund or render any political service to any person or party whatsoever, and no person shall be removed, reduced in classification or salary, or otherwise prejudiced by refusing to do so; and any official of any city coming under the provisions of this Act who attempts the same shall be guilty of violating the provisions of this Act.

No fireman or policeman shall be refused reasonable leave of absence without pay, provided that a sufficient number of employees to carry out the normal functions of the Department shall be provided, for the purpose of attending any fire or police school, conventions, or meetings, the purpose of which is to secure more efficient departments and better working conditions for the personnel thereof, nor shall any rule ever be adopted affecting their constitutional right to appear before or petition the Legislature. Provided however, that no Civil Service Commission or governing body of any such city shall further restrict the rights of employee of the Police and Fire Departments to engage in political activities except as herein expressly provided.

#### SECTION 22a. MILITARY LEAVE OF ABSENCE

The Civil Service Commission on written application of a member of the Fire or Police Department shall grant military leave of absence without pay to such member to enable him to enter military service of the United States in any of its branches. Such leave of absence may not exceed the compulsory military service or the basic minimum enlistment period for that branch of service. The Commission shall grant a leave of absence to a member of the Fire or Police Department for initial training or annual duty in military reserves or the national guard. The Civil Service Commission shall grant such leave retroactively back to the commencement of the Korean War. Any such member receiving military leave of absence hereunder shall be entitled to be returned to the position in the department held by him at the time the leave of absence is granted, upon the termination of his active military service, provided he receives an Honorable Discharge and remains physically and mentally fit to discharge the duties of that position; and further provided he makes application for reimbursement within ninety (90) days after his discharge. Upon being returned to said position, such member shall receive full seniority credit for the time spent in the military service. During the absence from the department of any such member to whom military leave of absence shall have been granted by the Civil Service Commission the position in the department held by such member shall be filled in accordance with the other provisions of the Firemen's and Policemen's Civil Service Act subject to the person filling such position being replaced by the member to whom military leave of absence has been granted upon his return to active duty with the department. Any person so replaced and remaining with the department and by reason of such replacement being returned to a position lower in grade by compensation shall have a preferential right for subsequent appointment or promotion to the same or similar position of that from which he has been replaced over any eligibility list for such position, provided he remains physically and mentally fit to discharge the duties of such position.

### SECTION 23. PUBLISHING OF RULES; MAILING, POSTING AND DISTRIBUTION

The Commission shall cause to be published all rules and regulations which may be promulgated by it, and shall publish classification and seniority lists for each department, and such rules and regulations and lists shall be made available upon demand.

Whenever the Commission shall have adopted any such rules or regulations by a majority vote, and shall have caused same to be reduced to writing, typewriting, or printing, such rules and such regulations shall thereupon be deemed to be sufficiently published and promulgated within the meaning of this Act and shall be valid and binding, upon the Commission doing or causing to be done the following:

- (1) By mailing a copy of such rules and regulations to the Commissioner of Fire and Police, the Chief of Police Department, and the Chief of Fire Department.
- (2) By posting all such rules and regulations at a conspicuous place for a period of seven (7) days in the Central Police Station and for the same period in the Central Fire Station.
- (3) By mailing a copy of all such rules and regulations to each branch fire station.

The Director of Civil Service shall keep on hand copies of said rules and regulations for free distribution to members of the Fire and Police Departments requesting same, and said rules and regulations shall be kept available for inspection by any interested citizen.

No additional publication by way of insertion in a newspaper shall be required and no action need be taken by the City Council or governing body of any city with reference to said rules or regulations; and in all cities coming under the provisions of this Act, where the Commission has heretofore adopted any such rules and regulations, and has caused same to be reduced to writing, typewriting, or printing, and compiled with all provisions of this Section, such rules and such regulations are hereby validated ab initio regardless of whether same have been published in a newspaper, or by posting, or regardless of whether any section has been taken with reference thereto by the City Council or governing body of such city.

### SECTION 24. STATUS OF PRESENT EMPLOYEES

Firemen or Policemen in the actual service of each city affected hereby, at the time of the final passage of this Act, and entitled to civil service classification, shall enjoy the status of civil service employees without having to take any competitive examinations for the position occupied at the time, provided such Firemen and Policemen have been in the service of said city for more than six (6) months.

### SECTION 25. PENALTIES

Repealed. Acts 1957, 55th Leg., p. 1171, Ch. 391, Section 8.

SECTION 25a PENALTIES

Any Chief Executive of a city who knowingly or intentionally fails or refuses to appoint the Civil Service Commissioners provided by Section 3 of this Act within sixty (60) days after the city has adopted this Act commits a misdemeanor and shall be fined not less than One Hundred Dollars (\$100) nor more than Two Hundred Dollars (\$200). Each day after the 60-day deadline that the Chief Executive fails or refuses to make an appointment constitutes a separate offense. A Chief Executive or any city official who knowingly or intentionally refuses to implement this Act or attempts to obstruct the enforcement of this Act commits a misdemeanor and shall be fined not less than One Hundred Dollars (\$100) nor more than Two Hundred Dollars (\$200) for each offense.

SECTION 26. SICK AND INJURY LEAVES OF ABSENCE

(a) Permanent and temporary employees in the classified service shall be allowed to a total of sick leave with full pay computed upon a basis of one and one-fourth (1-1/4) full working days allowed for each full month employed in a calendar year, so as to total fifteen (15) working days to an employee's credit each twelve (12) months. Employees shall be allowed to accumulate fifteen (15) working days of sick leave with pay in one (1) calendar year.

(b) Sick leave with pay may be accumulated without limit and may be used while an employee is unable to work because of any bona fide illness. In the event that said employee can conclusively prove that the illness was incurred while in performance of his duties, and extension of sick leave in case of exhaustion of time shall be granted.

(c) In the event that a firemen or policemen for any reason leaves the classified service, he shall receive, in a lump sum payment, the full amount of his salary for the period of his accumulated sick leave, provided that if the firemen or policemen has more than ninety (90) working days of accumulated sick leave, the employer may limit the payment to that sum equal to the sum that the employee would have been paid had he been allowed to use the ninety (90) days of accumulated sick leave during the last six (6) months of employment. The lump-sum payment provided in this section is calculated as follows: The employee is compensated for the accumulated time at the highest permanent classification of pay for which the employee was eligible during the last six (6) months of employment. The employee is paid for the same period of time the employee would have been paid if the sick leave had been taken but excluding additional holidays and any sick leave or vacation time which the employee might have accrued during the ninety (90) working days.

(d) If an active firemen or policemen dies as a result of a line of duty injury or line of duty illness, the entire amount of his accumulated sick leave shall be paid as provided in this section. Provided, that in order to facilitate the settlement of the accounts of the deceased employees of the fire or police departments, all unpaid compensation due such employee at the time of his death shall be paid to the person or persons surviving at the date of death, in the following order or procedure and such

payments shall be a bar to recovery by any other person of amounts so paid.

First to the beneficiary or beneficiaries designated by the employee in writing to receive such compensation filed with the Civil Service Commission prior to the employee's death.

Second, if there be no such beneficiary, to the widow or widower of such employee;

Third, if there be no such beneficiary or surviving spouse, to the child or children of such employee, and descendants of deceased children, by representation;

Fourth, if none of the above, to the parents of such employee, or the survivor of them;

Fifth, if there be none of the above, to the duly appointed legal representative of the estate of the deceased employee, or if there be none, to the person or persons determined to be entitled thereto under the laws of descent and distribution to the State of Texas.

(e) Provided that all such cities coming under the provisions of this Act shall provide injury leaves of absence and line of duty illness leaves of absence for firemen and policemen with full pay periods of time commensurate with the nature of the line of duty illness or injuries for at least one year. At the expiration of said one (1) year period, the City Council or governing body may extend such line of duty illness or injury leave, at full or reduced pay, provided that in cities that have a Firemen's or Policemen's Pension Fund, that if said injured employee's salary should be reduced below sixty percent (60%) of his regular monthly salary, said employee shall have the option of being retired on pension until able to return to duty.

(f) If there are no pension benefits available to an employee who is temporarily disabled by a line of duty injury or illness and the year at full pay and any extensions which may have been granted by the employer have expired, the employee may use accumulated sick leave, vacation time, and other accrued benefits before being temporarily placed on leave.

(g) If an employee is temporarily disabled by an injury or illness not related to the employee's line of duty, the employee may use all sick leave, vacation time, any any other time the employee may have accumulated before being placed on temporary leave.

(h) After recovery from a temporary disability, a Fireman or Policeman shall be reinstated at the same rank and with the same seniority the person had before going on temporary leave. Another firemen or policemen may voluntarily do the work of an injured or ill fireman or policeman until the fireman or policeman returns to duty.

SECTION 26a. VACATIONS; ACCUMULATIONS OF VACATION LEAVE

All Firemen and Policemen in the classified service shall earn a minimum

of fifteen (15) days vacation with pay in each year. In computing the length of time during which a Fireman or Policeman may be absent from work for the vacation provided by this Section, only those calendar days during which the member would be required to work if he were not on vacation shall be counted as vacation days. Vacation leave may not be accumulated from year to year, except as approved by the governing body of the city.

SECTION 26b. TERMINATION OF SERVICE; ACCUMULATED SICK AND VACATION LEAVE; LUMP-SUM PAYMENT; CITIES OF 650,000 OR MORE

(a) In any city in this State having a population of one million, two hundred thousand (1,200,00) or more inhabitants, according to the last preceding federal census, a Fireman or Policeman who leaves the classified service for any reason or the beneficiaries of any Fireman or Policeman who loses his life as a result of a line of duty injury or illness shall receive in a lump-sum payment the full amount of his salary for the period of his accumulated sick leave. Sick leave shall be accumulated without limit.

(b) In any city in this State having a population of six hundred and fifty thousand (650,000) or more inhabitants, according to the last preceding federal census, a Fireman or Policeman who leaves the classified service for any reason shall receive in a lump-sum payment the full amount of his salary for the period of his accumulated vacation time, provided that such payment shall be based upon not more than sixty (60) working days of accumulated vacation leave. Any fireman or policeman who leaves the classified service or loses his life as the result of a line of duty injury or illness or the beneficiaries of such fireman or policeman shall be paid the full amount of his salary for the total number of his working days of accumulated vacation leave.

SECTION 27. FIREMEN OR POLICEMEN PROHIBITED FROM STRIKING

It shall be unlawful from and after the passage of this Act for any Fireman or Policeman, coming under the provisions of this Act, to engage in any strike against the agency of the government by which they are employed. Firemen or Policemen, coming under the provisions of this Act, who shall violate any of the provisions of this Act, shall be guilty of a misdemeanor and shall, after conviction, be fined not less than Ten Dollars, (\$10) or more than One Hundred Dollars (\$100), or by confinement in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

And in addition to such fine and imprisonment, any Fireman or Policeman who has been convicted of the violation of the provisions of this Section of this Act shall thereby be automatically released and discharged from such Police or Fire Department and shall thereafter be ineligible to receive any pay or compensation out of any public funds provided for the support of such Police or Fire Department.

SECTION 27a. ADOPTION OF ACT BY VOTE OR OTHERWISE

Provided, however, that the provisions of this Act as amended by this House Bill No. 79, passed at the Sixty-Seventh Regular Session of the

Legislature, shall not apply to any city unless such city has already adopted and has in effect the provisions of this Act before the effective day of this amending Act, or unless first determined at an election at which the adoption or rejection of this Act shall be submitted. Upon receiving a petition signed by qualified voters in said city in number not less than ten percent (10%) of the total number voting in the last preceding municipal election, the governing body of said city shall call and hold an election within sixty (60) days after said petition has been filed with governing body. If at said election a majority of the votes cast shall favor the adoption of this Act, said governing body shall put such Act into effect within thirty (30) days after the beginning of the first fiscal year of said city after said election. The question shall be submitted for the vote of the qualified electors as follows:

FOR the adoption of the Firemen's and Policemen's Civil Service Act.

AGAINST the adoption of the Firemen's and Policemen's Civil Service Act.

When any election has been held in a city, at which election the adoption or rejection of Chapter 325, Acts of the Fiftieth Legislature, 1947, (Vernon's Annotated Civil Statutes, Article 1269m) has been submitted, whether such election has been held prior to the effective date of this amending Act or subsequent thereto, a petition for another such election shall not be filed for at least one (1) year subsequent to the election so held; and said petition for any such election after the first election shall be signed by qualified voters in said city in number not less than twenty percent (20%) of the total number voting in the last preceding municipal election; and any such election after the first election shall be held at the next general municipal election to be held in such city after the filing of such petition.

This Act may be adopted to apply only to a Fire Department or a Police Department. If the Act, as adopted, is to be limited to one or the other department, the ballot question shall be printed to reflect which department will be covered by this Act.

#### SECTION 27b. REPEAL OF PROVISION IN CITY BY VOTE

In any city in which the provisions of this Act have been in effect for a period of one (1) year, if a petition of ten percent (10%) of the qualified voters of such city shall be presented to the governing body of such city to call an election for the repeal of the provisions of this Act, then and in that event, the governing body of such city shall call an election of the qualified voters to determine if they desire the repeal of such provisions. Should a majority of the qualified voters so vote to repeal the provisions of this Act, then the provisions shall become null and void as to such city.

#### SECTION 28. REPEAL OF SAVING CLAUSE

This Act shall supersede all other civil service pertaining to Firemen and Policemen in the cities covered hereby. If any section, paragraph, portion, sentence, line phrase, clause, or word of this Act should be held to be unconstitutional or invalid, then such unconstitutionality or

invalidity of any other section, paragraph, portion, sentence, line, phrase, or word hereof, and it is hereby declared to be the legislative intent that each and all of the said portions as above specified that are not held to be unconstitutional or invalid, shall be and remain in full force and effect, just as though said unconstitutional or invalid portions, if any, were eliminated from the text of this Act.

SECTION 28a. EMERGENCY APPOINTMENT OF PERSONS OVER 35

When a city affected by the provisions of this Act is unable to recruit qualified employees in the Fire and Police Departments because of the maximum age limit provided by this Act, and the governing body finds that such condition constitutes an emergency, then the Civil Service Commission of said City shall recommend to the governing body such additional rules and regulations governing the temporary employment of persons in the Fire and Police Departments who are over the age of thirty-five (35) years. Provided, however, that persons employed under the provisions of such rules shall:

- A. Be designated as "temporary" employees.
- B. Be ineligible for pension benefits.
- C. Be ineligible for appointment or promotion when one or more permanent applicants or employees are available.
- D. Be ineligible to become full-fledged Civil Service Employees.
- E. Be terminated before any permanent Civil Service Employee is terminated pursuant to Section 21 of this Act.

SECTION 28b. FULL CIVIL SERVICE STATUS FOR CERTAIN TEMPORARY EMPLOYEES

Any person employed under the provisions of Section 28a of this Act prior to January 1, 1970, and who has been continually employed in the temporary status provided by Section 28(a) shall be granted full civil service status with all the rights and privileges granted by this Act in Section 24, and shall be eligible to participate in earned pension benefits. Employees affected by this Section, shall be allowed to buy back service credits in the pension fund that permanent employees have been participating in since his/her employment at a rate to be determined by the actuary of the affected pension fund.