

**As Introduced**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 718**

**Representatives Miller, J., West**

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

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**A BILL**

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

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

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

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

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

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

(2) All election officers as defined in section 3501.01 of the Revised Code;	18 19
(3) (a) The members of all boards and commissions, and heads of principal departments, boards, and commissions appointed by the governor or by and with the governor's consent;	20 21 22
(b) The heads of all departments appointed by a board of county commissioners;	23 24
(c) The members of all boards and commissions and all heads of departments appointed by the mayor, or, if there is no mayor, such other similar chief appointing authority of any city or city school district;	25 26 27 28
Except as otherwise provided in division (A) (17) or (C) of this section, this chapter does not exempt the chiefs of police departments and chiefs of fire departments of cities or civil service townships from the competitive classified service.	29 30 31 32
(4) The members of county or district licensing boards or commissions and boards of revision, and not more than five deputy county auditors;	33 34 35
(5) All officers and employees elected or appointed by either or both branches of the general assembly, and employees of the city legislative authority engaged in legislative duties;	36 37 38
(6) All commissioned, warrant, and noncommissioned officers and enlisted persons in the Ohio organized militia, including military appointees in the adjutant general's department;	39 40 41 42
(7) (a) All presidents, business managers, administrative officers, superintendents, assistant superintendents, principals, deans, assistant deans, instructors, teachers, and	43 44 45

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

the Revised Code;	135
(22) County directors of job and family services as	136
provided in section 329.02 of the Revised Code and	137
administrators appointed under section 329.021 of the Revised	138
Code;	139
(23) A director of economic development who is hired	140
pursuant to division (A) of section 307.07 of the Revised Code;	141
(24) Chiefs of construction and compliance, of operations	142
and maintenance, of worker protection, and of licensing and	143
certification in the division of industrial compliance in the	144
department of commerce;	145
(25) The executive director of a county transit system	146
appointed under division (A) of section 306.04 of the Revised	147
Code;	148
(26) Up to five positions at each of the administrative	149
departments listed in section 121.02 of the Revised Code and at	150
the department of taxation, department of the adjutant general,	151
department of education, Ohio board of regents, bureau of	152
workers' compensation, industrial commission, state lottery	153
commission, opportunities for Ohioans with disabilities agency,	154
and public utilities commission of Ohio that the head of that	155
administrative department or of that other state agency	156
determines to be involved in policy development and	157
implementation. The head of the administrative department or	158
other state agency shall set the compensation for employees in	159
these positions at a rate that is not less than the minimum	160
compensation specified in pay range 41 but not more than the	161
maximum compensation specified in pay range 47 of salary	162
schedule E-2 in section 124.152 of the Revised Code. The	163

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

(b) Upon transfer to a different agency. 284

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

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

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

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

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

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

(b) The medicaid director provides the certification under 342

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

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

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

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

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