



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4791

by Rep. Carol Sente

SYNOPSIS AS INTRODUCED:

65 ILCS 5/10-1-7.3
65 ILCS 5/10-2.1-4
70 ILCS 705/16.04b

from Ch. 24, par. 10-2.1-4

Amends the Illinois Municipal Code and the Fire Protection District Act. Provides that a person shall not be appointed as the chief, the acting chief, the department head, or a position, by whatever title, that is responsible for day-to-day operations of a fire department or fire protection district for greater than 180 days unless he or she possesses certification that meets the National Fire Protection Association's NFPA 1001, Standard for Fire Fighter Professional Qualifications, Fire Fighter II job performance requirements; certification that meets the National Fire Protection Association's NFPA 1021, Standard for Fire Officer Professional Qualifications, Fire Officer II job performance requirements (rather than Office of the State Fire Marshal Firefighter Basic Certification or Firefighter II Certification; Office of the State Fire Marshal Fire Officer I and II Certifications).

LRB100 18393 MJP 33604 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 10-1-7.3 and 10-2.1-4 as follows:

6 (65 ILCS 5/10-1-7.3)

7 Sec. 10-1-7.3. Appointment of fire chief. Notwithstanding
8 any other provision in this Division, after the effective date
9 of this amendatory Act of the 100th General Assembly, a person
10 shall not be appointed as the chief, the acting chief, the
11 department head, or a position, by whatever title, that is
12 responsible for day-to-day operations of a fire department for
13 greater than 180 days unless he or she possesses the following
14 qualifications and certifications:

15 (1) Certification that meets the National Fire
16 Protection Association's NFPA 1001, Standard for Fire
17 Fighter Professional Qualifications, Fire Fighter II job
18 performance requirements; certification that meets the
19 National Fire Protection Association's NFPA 1021, Standard
20 for Fire Officer Professional Qualifications, Fire Officer
21 II job performance requirements ~~Office of the State Fire~~
22 ~~Marshal Firefighter Basic Certification or Firefighter II~~
23 ~~Certification; Office of the State Fire Marshal Fire~~

1 ~~Officer I and II Certifications~~; and an associate degree in
2 fire science or a bachelor's degree from an accredited
3 university or college; or

4 (2) a minimum of 10 years' experience as a firefighter
5 at the fire department in the jurisdiction making the
6 appointment.

7 This Section applies to fire departments that employ
8 firefighters hired under Section 10-1-7.1 or 10-1-7.2 of this
9 Division.

10 (Source: P.A. 100-425, eff. 8-25-17.)

11 (65 ILCS 5/10-2.1-4) (from Ch. 24, par. 10-2.1-4)

12 Sec. 10-2.1-4. Fire and police departments; appointment of
13 members; certificates of appointments. The board of fire and
14 police commissioners shall appoint all officers and members of
15 the fire and police departments of the municipality, including
16 the chief of police and the chief of the fire department,
17 unless the council or board of trustees shall by ordinance as
18 to them otherwise provide; except as otherwise provided in this
19 Section, and except that in any municipality which adopts or
20 has adopted this Division 2.1 and also adopts or has adopted
21 Article 5 of this Code, the chief of police and the chief of
22 the fire department shall be appointed by the municipal
23 manager, if it is provided by ordinance in such municipality
24 that such chiefs, or either of them, shall not be appointed by
25 the board of fire and police commissioners.

1 If the chief of the fire department or the chief of the
2 police department or both of them are appointed in the manner
3 provided by ordinance, they may be removed or discharged by the
4 appointing authority. In such case the appointing authority
5 shall file with the corporate authorities the reasons for such
6 removal or discharge, which removal or discharge shall not
7 become effective unless confirmed by a majority vote of the
8 corporate authorities.

9 After August 25, 2017 (the effective date of Public Act
10 100-425) ~~this amendatory Act of the 100th General Assembly~~, a
11 person shall not be appointed as the chief, the acting chief,
12 the department head, or a position, by whatever title, that is
13 responsible for day-to-day operations of a fire department for
14 greater than 180 days unless he or she possesses the following
15 qualifications and certifications:

16 (1) Certification that meets the National Fire
17 Protection Association's NFPA 1001, Standard for Fire
18 Fighter Professional Qualifications, Fire Fighter II job
19 performance requirements; certification that meets the
20 National Fire Protection Association's NFPA 1021, Standard
21 for Fire Officer Professional Qualifications, Fire Officer
22 II job performance requirements ~~Office of the State Fire~~
23 ~~Marshal Firefighter Basic Certification or Firefighter II~~
24 ~~Certification; Office of the State Fire Marshal Fire~~
25 ~~Officer I and II Certifications; and an associate degree in~~
26 fire science or a bachelor's degree from an accredited

1 university or college; or

2 (2) a minimum of 10 years' experience as a firefighter
3 at the fire department in the jurisdiction making the
4 appointment.

5 This paragraph applies to fire departments that employ
6 firefighters hired under the provisions of this Division.

7 If a member of the department is appointed chief of police
8 or chief of the fire department prior to being eligible to
9 retire on pension, he shall be considered as on furlough from
10 the rank he held immediately prior to his appointment as chief.
11 If he resigns as chief or is discharged as chief prior to
12 attaining eligibility to retire on pension, he shall revert to
13 and be established in whatever rank he currently holds, except
14 for previously appointed positions, and thereafter be entitled
15 to all the benefits and emoluments of that rank, without regard
16 as to whether a vacancy then exists in that rank.

17 All appointments to each department other than that of the
18 lowest rank, however, shall be from the rank next below that to
19 which the appointment is made except as otherwise provided in
20 this Section, and except that the chief of police and the chief
21 of the fire department may be appointed from among members of
22 the police and fire departments, respectively, regardless of
23 rank, unless the council or board of trustees shall have by
24 ordinance as to them otherwise provided. A chief of police or
25 the chief of the fire department, having been appointed from
26 among members of the police or fire department, respectively,

1 shall be permitted, regardless of rank, to take promotional
2 exams and be promoted to a higher classified rank than he
3 currently holds, without having to resign as chief of police or
4 chief of the fire department.

5 The sole authority to issue certificates of appointment
6 shall be vested in the Board of Fire and Police Commissioners
7 and all certificates of appointments issued to any officer or
8 member of the fire or police department of a municipality shall
9 be signed by the chairman and secretary respectively of the
10 board of fire and police commissioners of such municipality,
11 upon appointment of such officer or member of the fire and
12 police department of such municipality by action of the board
13 of fire and police commissioners. After being selected from the
14 register of eligibles to fill a vacancy in the affected
15 department, each appointee shall be presented with his or her
16 certificate of appointment on the day on which he or she is
17 sworn in as a classified member of the affected department.
18 Firefighters who were not issued a certificate of appointment
19 when originally appointed shall be provided with a certificate
20 within 10 days after making a written request to the
21 chairperson of the Board of Fire and Police Commissioners. In
22 any municipal fire department that employs full-time
23 firefighters and is subject to a collective bargaining
24 agreement, a person who has not qualified for regular
25 appointment under the provisions of this Division 2.1 shall not
26 be used as a temporary or permanent substitute for classified

1 members of a municipality's fire department or for regular
2 appointment as a classified member of a municipality's fire
3 department unless mutually agreed to by the employee's
4 certified bargaining agent. Such agreement shall be considered
5 a permissive subject of bargaining. Municipal fire departments
6 covered by the changes made by Public Act 95-490 ~~this~~
7 ~~amendatory Act of the 95th General Assembly~~ that are using
8 non-certificated employees as substitutes immediately prior to
9 June 1, 2008 (the effective date of Public Act 95-490) ~~this~~
10 ~~amendatory Act of the 95th General Assembly~~ may, by mutual
11 agreement with the certified bargaining agent, continue the
12 existing practice or a modified practice and that agreement
13 shall be considered a permissive subject of bargaining. A home
14 rule unit may not regulate the hiring of temporary or
15 substitute members of the municipality's fire department in a
16 manner that is inconsistent with this Section. This Section is
17 a limitation under subsection (i) of Section 6 of Article VII
18 of the Illinois Constitution on the concurrent exercise by home
19 rule units of powers and functions exercised by the State.

20 The term "policemen" as used in this Division does not
21 include auxiliary police officers except as provided for in
22 Section 10-2.1-6.

23 Any full-time ~~full-time~~ member of a regular fire or police
24 department of any municipality which comes under the provisions
25 of this Division or adopts this Division 2.1 or which has
26 adopted any of the prior Acts pertaining to fire and police

1 commissioners, is a city officer.

2 Notwithstanding any other provision of this Section, the
3 Chief of Police of a department in a non-home rule municipality
4 of more than 130,000 inhabitants may, without the advice or
5 consent of the Board of Fire and Police Commissioners, appoint
6 up to 6 officers who shall be known as deputy chiefs or
7 assistant deputy chiefs, and whose rank shall be immediately
8 below that of Chief. The deputy or assistant deputy chiefs may
9 be appointed from any rank of sworn officers of that
10 municipality, but no person who is not such a sworn officer may
11 be so appointed. Such deputy chief or assistant deputy chief
12 shall have the authority to direct and issue orders to all
13 employees of the Department holding the rank of captain or any
14 lower rank. A deputy chief of police or assistant deputy chief
15 of police, having been appointed from any rank of sworn
16 officers of that municipality, shall be permitted, regardless
17 of rank, to take promotional exams and be promoted to a higher
18 classified rank than he currently holds, without having to
19 resign as deputy chief of police or assistant deputy chief of
20 police.

21 Notwithstanding any other provision of this Section, a
22 non-home rule municipality of 130,000 or fewer inhabitants,
23 through its council or board of trustees, may, by ordinance,
24 provide for a position of deputy chief to be appointed by the
25 chief of the police department. The ordinance shall provide for
26 no more than one deputy chief position if the police department

1 has fewer than 25 full-time police officers and for no more
2 than 2 deputy chief positions if the police department has 25
3 or more full-time police officers. The deputy chief position
4 shall be an exempt rank immediately below that of Chief. The
5 deputy chief may be appointed from any rank of sworn, full-time
6 officers of the municipality's police department, but must have
7 at least 5 years of full-time service as a police officer in
8 that department. A deputy chief shall serve at the discretion
9 of the Chief and, if removed from the position, shall revert to
10 the rank currently held, without regard as to whether a vacancy
11 exists in that rank. A deputy chief of police, having been
12 appointed from any rank of sworn full-time officers of that
13 municipality's police department, shall be permitted,
14 regardless of rank, to take promotional exams and be promoted
15 to a higher classified rank than he currently holds, without
16 having to resign as deputy chief of police.

17 No municipality having a population less than 1,000,000
18 shall require that any firefighter appointed to the lowest rank
19 serve a probationary employment period of longer than one year.
20 The limitation on periods of probationary employment provided
21 in Public Act 86-990 ~~this amendatory Act of 1989~~ is an
22 exclusive power and function of the State. Pursuant to
23 subsection (h) of Section 6 of Article VII of the Illinois
24 Constitution, a home rule municipality having a population less
25 than 1,000,000 must comply with this limitation on periods of
26 probationary employment, which is a denial and limitation of

1 home rule powers. Notwithstanding anything to the contrary in
2 this Section, the probationary employment period limitation
3 may be extended for a firefighter who is required, as a
4 condition of employment, to be a licensed paramedic, during
5 which time the sole reason that a firefighter may be discharged
6 without a hearing is for failing to meet the requirements for
7 paramedic licensure.

8 To the extent that this Section or any other Section in
9 this Division conflicts with Section 10-2.1-6.3 or 10-2.1-6.4,
10 then Section 10-2.1-6.3 or 10-2.1-6.4 shall control.

11 (Source: P.A. 100-252, eff. 8-22-17; 100-425, eff. 8-25-17;
12 revised 10-3-17.)

13 Section 10. The Fire Protection District Act is amended by
14 changing Section 16.04b as follows:

15 (70 ILCS 705/16.04b)

16 Sec. 16.04b. Appointment of fire chief. Notwithstanding
17 any other provision in this Act, after the effective date of
18 this amendatory Act of the 100th General Assembly, a person
19 shall not be appointed as the chief, the acting chief, the
20 department head, or a position, by whatever title, that is
21 responsible for day-to-day operations of a fire protection
22 district for greater than 180 days unless he or she possesses
23 the following qualifications and certifications:

24 (1) Certification that meets the National Fire

1 Protection Association's NFPA 1001, Standard for Fire
2 Fighter Professional Qualifications, Fire Fighter II job
3 performance requirements; certification that meets the
4 National Fire Protection Association's NFPA 1021, Standard
5 for Fire Officer Professional Qualifications, Fire Officer
6 II job performance requirements ~~Office of the State Fire~~
7 ~~Marshal Firefighter Basic Certification or Firefighter II~~
8 ~~Certification; Office of the State Fire Marshal Fire~~
9 ~~Officer I and II Certifications;~~ and an associate degree in
10 fire science or a bachelor's degree from an accredited
11 university or college; or

12 (2) a minimum of 10 years' experience as a firefighter
13 in the fire protection district of the jurisdiction making
14 the appointment.

15 This Section applies to fire protection districts that
16 employ firefighters hired under the provisions of this Act.

17 (Source: P.A. 100-425, eff. 8-25-17.)