



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB1304

Introduced 2/9/2017, by Sen. Neil Anderson

SYNOPSIS AS INTRODUCED:

65 ILCS 5/10-1-7.3 new

65 ILCS 5/10-2.1-4

70 ILCS 705/16.04b new

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: (1) 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; and an associate degree in fire science or a bachelor's degree from an accredited university or college; or (2) a minimum of 10 years' experience as a firefighter at the fire department, or fire protection district, in the jurisdiction making the appointment. Effective immediately.

LRB100 08288 AWJ 18390 b

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

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 10-2.1-4 and by adding Section 10-1-7.3 as
6 follows:

7 (65 ILCS 5/10-1-7.3 new)

8 Sec. 10-1-7.3. Appointment of fire chief. Notwithstanding
9 any other provision in this Division, after the effective date
10 of this amendatory Act of the 100th General Assembly, a person
11 shall not be appointed as the chief, the acting chief, the
12 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) Office of the State Fire Marshal Firefighter Basic
17 Certification or Firefighter II Certification; Office of
18 the State Fire Marshal Fire Officer I and II
19 Certifications; and an associate degree in fire science or
20 a bachelor's degree from an accredited university or
21 college; or

22 (2) a minimum of 10 years' experience as a firefighter
23 at the fire department in the jurisdiction making the

1 appointment.

2 (65 ILCS 5/10-2.1-4) (from Ch. 24, par. 10-2.1-4)

3 Sec. 10-2.1-4. Fire and police departments; Appointment of
4 members; Certificates of appointments. The board of fire and
5 police commissioners shall appoint all officers and members of
6 the fire and police departments of the municipality, including
7 the chief of police and the chief of the fire department,
8 unless the council or board of trustees shall by ordinance as
9 to them otherwise provide; except as otherwise provided in this
10 Section, and except that in any municipality which adopts or
11 has adopted this Division 2.1 and also adopts or has adopted
12 Article 5 of this Code, the chief of police and the chief of
13 the fire department shall be appointed by the municipal
14 manager, if it is provided by ordinance in such municipality
15 that such chiefs, or either of them, shall not be appointed by
16 the board of fire and police commissioners.

17 If the chief of the fire department or the chief of the
18 police department or both of them are appointed in the manner
19 provided by ordinance, they may be removed or discharged by the
20 appointing authority. In such case the appointing authority
21 shall file with the corporate authorities the reasons for such
22 removal or discharge, which removal or discharge shall not
23 become effective unless confirmed by a majority vote of the
24 corporate authorities.

25 After the effective date of this amendatory Act of the

1 100th General Assembly, a person shall not be appointed as the
2 chief, the acting chief, the department head, or a position, by
3 whatever title, that is responsible for day-to-day operations
4 of a fire department for greater than 180 days unless he or she
5 possesses the following qualifications and certifications:

6 (1) Office of the State Fire Marshal Firefighter Basic
7 Certification or Firefighter II Certification; Office of
8 the State Fire Marshal Fire Officer I and II
9 Certifications; and an associate degree in fire science or
10 a bachelor's degree from an accredited university or
11 college; or

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

15 If a member of the department is appointed chief of police
16 or chief of the fire department prior to being eligible to
17 retire on pension, he shall be considered as on furlough from
18 the rank he held immediately prior to his appointment as chief.
19 If he resigns as chief or is discharged as chief prior to
20 attaining eligibility to retire on pension, he shall revert to
21 and be established in whatever rank he currently holds, except
22 for previously appointed positions, and thereafter be entitled
23 to all the benefits and emoluments of that rank, without regard
24 as to whether a vacancy then exists in that rank.

25 All appointments to each department other than that of the
26 lowest rank, however, shall be from the rank next below that to

1 which the appointment is made except as otherwise provided in
2 this Section, and except that the chief of police and the chief
3 of the fire department may be appointed from among members of
4 the police and fire departments, respectively, regardless of
5 rank, unless the council or board of trustees shall have by
6 ordinance as to them otherwise provided. A chief of police or
7 the chief of the fire department, having been appointed from
8 among members of the police or fire department, respectively,
9 shall be permitted, regardless of rank, to take promotional
10 exams and be promoted to a higher classified rank than he
11 currently holds, without having to resign as chief of police or
12 chief of the fire department.

13 The sole authority to issue certificates of appointment
14 shall be vested in the Board of Fire and Police Commissioners
15 and all certificates of appointments issued to any officer or
16 member of the fire or police department of a municipality shall
17 be signed by the chairman and secretary respectively of the
18 board of fire and police commissioners of such municipality,
19 upon appointment of such officer or member of the fire and
20 police department of such municipality by action of the board
21 of fire and police commissioners. In any municipal fire
22 department that employs full-time firefighters and is subject
23 to a collective bargaining agreement, a person who has not
24 qualified for regular appointment under the provisions of this
25 Division 2.1 shall not be used as a temporary or permanent
26 substitute for classified members of a municipality's fire

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

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

22 Any full time member of a regular fire or police department
23 of any municipality which comes under the provisions of this
24 Division or adopts this Division 2.1 or which has adopted any
25 of the prior Acts pertaining to fire and police commissioners,
26 is a city officer.

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

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

1 than 2 deputy chief positions if the police department has 25
2 or more full-time police officers. The deputy chief position
3 shall be an exempt rank immediately below that of Chief. The
4 deputy chief may be appointed from any rank of sworn, full-time
5 officers of the municipality's police department, but must have
6 at least 5 years of full-time service as a police officer in
7 that department. A deputy chief shall serve at the discretion
8 of the Chief and, if removed from the position, shall revert to
9 the rank currently held, without regard as to whether a vacancy
10 exists in that rank. A deputy chief of police, having been
11 appointed from any rank of sworn full-time officers of that
12 municipality's police department, shall be permitted,
13 regardless of rank, to take promotional exams and be promoted
14 to a higher classified rank than he currently holds, without
15 having to resign as deputy chief of police.

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

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

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

10 (Source: P.A. 97-251, eff. 8-4-11; 97-813, eff. 7-13-12;
11 98-973, eff. 8-15-14.)

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

14 (70 ILCS 705/16.04b new)

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

23 (1) Office of the State Fire Marshal Firefighter Basic
24 Certification or Firefighter II Certification; Office of

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

5 (2) a minimum of 10 years' experience as a firefighter
6 in the fire protection district of the jurisdiction making
7 the appointment.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.