

1 AN ACT concerning employment.

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

4 Section 5. The Counties Code is amended by changing
5 Section 3-8014 as follow:

6 (55 ILCS 5/3-8014) (from Ch. 34, par. 3-8014)

7 Sec. 3-8014. Removal, demotion or suspension. Except as
8 is otherwise provided in this Division, no certified person
9 shall be removed, demoted or suspended except for cause, upon
10 written charges filed with the Merit Commission by the
11 sheriff. Upon the filing of such a petition, the sheriff may
12 suspend the certified person pending the decision of the
13 Commission on the charges. After the charges have been
14 heard, the Commission may direct that the person receive his
15 pay for any part or all of this suspension period, if any.

16 The charges shall be heard by the Commission upon not
17 less than 14 days' certified notice. At such hearing, the
18 accused certified person shall be afforded full opportunity
19 to be represented by counsel, to be heard in his own defense
20 and to produce proof in his defense. Both the Commission
21 and the sheriff may be represented by counsel. The State's
22 Attorney of the applicable county may advise either the
23 Commission or the sheriff. The other party may engage
24 private counsel to advise it.

25 The Commission shall have the power to secure by its
26 subpoena both the attendance and testimony of witnesses and
27 the production of books and papers in support of the charges
28 and for the defense. Each member of the Commission shall
29 have the power to administer oaths.

30 If the charges against an accused person are established
31 by the preponderance of evidence, the Commission shall make a

1 finding of guilty and order either removal, demotion, loss of
 2 seniority, suspension for a period of not more than 180 days,
 3 or such other disciplinary punishment as may be prescribed by
 4 the rules and regulations of the Commission which, in the
 5 opinion of the members thereof, the offense justifies. If
 6 the charges against an accused person are not established by
 7 the preponderance of evidence, the Commission shall make a
 8 finding of not guilty and shall order that the person be
 9 reinstated and be paid his compensation for the suspension
 10 period, if any, while awaiting the hearing. The sheriff
 11 shall take such action as may be ordered by the Commission.

12 The provisions of the Administrative Review Law, and all
 13 amendments and modifications thereof, and the rules adopted
 14 pursuant thereto, shall apply to and govern all proceedings
 15 for the judicial review of any order of the Commission
 16 rendered pursuant to this Section. The Merit Commission
 17 plaintiff shall pay the reasonable cost of preparing and
 18 certifying the record for judicial review. However, ~~if the~~
 19 ~~plaintiff prevails in the judicial review proceeding, the~~
 20 ~~court shall award to the plaintiff a sum equal to the costs~~
 21 ~~paid by the plaintiff to have the record for judicial review~~
 22 ~~prepared and certified.~~

23 Nothing in this Act prohibits employers covered under
 24 this Act from agreeing, through the collective bargaining
 25 process, to submit disciplinary matters covered by this Act
 26 to the grievance and arbitration procedures in a collective
 27 bargaining agreement with the certified collective bargaining
 28 representative.

29 (Source: P.A. 86-962.)

30 Section 10. The Illinois Municipal Code is amended by
 31 changing Section 10-2.1-17 as follows:

32 (65 ILCS 5/10-2.1-17) (from Ch. 24, par. 10-2.1-17)

1 Sec. 10-2.1-17. Removal or discharge; investigation of
2 charges; retirement. Except as hereinafter provided, no
3 officer or member of the fire or police department of any
4 municipality subject to this Division 2.1 shall be removed or
5 discharged except for cause, upon written charges, and after
6 an opportunity to be heard in his own defense. The hearing
7 shall be as hereinafter provided, unless the employer and the
8 labor organization representing the person have negotiated an
9 alternative or supplemental form of due process based upon
10 impartial arbitration as a term of a collective bargaining
11 agreement. In non-home rule units of government, such
12 bargaining shall be permissive rather than mandatory unless
13 such contract term was negotiated by the employer and the
14 labor organization prior to or at the time of the effective
15 date of this amendatory Act, in which case such bargaining
16 shall be considered mandatory.

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
20 the appointing authority. In such case the appointing
21 authority shall file with the corporate authorities the
22 reasons for such removal or discharge, which removal or
23 discharge shall not become effective unless confirmed by a
24 majority vote of the corporate authorities. The board of
25 fire and police commissioners shall conduct a fair and
26 impartial hearing of the charges, to be commenced within 30
27 days of the filing thereof, which hearing may be continued
28 from time to time. In case an officer or member is found
29 guilty, the board may discharge him, or may suspend him not
30 exceeding 30 days without pay. The board may suspend any
31 officer or member pending the hearing with or without pay,
32 but not to exceed 30 days. If the Board of Fire and Police
33 Commissioners determines that the charges are not sustained,
34 the officer or member shall be reimbursed for all wages

1 withheld, if any. In the conduct of this hearing, each
2 member of the board shall have power to administer oaths and
3 affirmations, and the board shall have power to secure by its
4 subpoena both the attendance and testimony of witnesses and
5 the production of books and papers relevant to the hearing.

6 The age for retirement of policemen or firemen in the
7 service of any municipality which adopts this Division 2.1 is
8 65 years, unless the Council or Board of Trustees shall by
9 ordinance provide for an earlier retirement age of not less
10 than 60 years.

11 The provisions of the Administrative Review Law, and all
12 amendments and modifications thereof, and the rules adopted
13 pursuant thereto, shall apply to and govern all proceedings
14 for the judicial review of final administrative decisions of
15 the board of fire and police commissioners hereunder. The
16 term "administrative decision" is defined as in Section 3-101
17 of the Code of Civil Procedure.

18 Nothing in this Section shall be construed to prevent the
19 chief of the fire department or the chief of the police
20 department from suspending without pay a member of his
21 department for a period of not more than 5 calendar days, but
22 he shall notify the board in writing of such suspension.
23 ~~The hearing shall be as hereinafter provided, unless the~~
24 ~~employer and the labor organization representing the person~~
25 ~~have negotiated an alternative or supplemental form of due~~
26 ~~process based upon impartial arbitration as a term of a~~
27 ~~collective bargaining agreement. In non-home rule units of~~
28 ~~government, such bargaining shall be permissive rather than~~
29 ~~mandatory unless such contract term was negotiated by the~~
30 ~~employer and the labor organization prior to or at the time~~
31 ~~of the effective date of this amendatory Act, in which case~~
32 ~~such bargaining shall be considered mandatory.~~

33 Nothing in this Act prohibits employers covered under
34 this Act from agreeing, through the collective bargaining

1 process, to submit disciplinary matters covered by this Act
2 to the grievance and arbitration procedures in a collective
3 bargaining agreement with the certified collective bargaining
4 representative.

5 Any policeman or fireman so suspended may appeal to the
6 board of fire and police commissioners for a review of the
7 suspension within 5 calendar days after such suspension, and
8 upon such appeal, the board may sustain the action of the
9 chief of the department, may reverse it with instructions
10 that the man receive his pay for the period involved, or may
11 suspend the officer for an additional period of not more than
12 30 days or discharge him, depending upon the facts presented.
13 (Source: P.A. 91-650, eff. 11-30-99.)