

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 Sections 10-1-7 and 10-2.1-4 as follows:

6 (65 ILCS 5/10-1-7) (from Ch. 24, par. 10-1-7)

7 Sec. 10-1-7. Examination of applicants; disqualifications.

8 (a) All applicants for offices or places in the classified
9 service, except those mentioned in Section 10-1-17, are subject
10 to examination. The examination shall be public, competitive,
11 and open to all citizens of the United States, with specified
12 limitations as to residence, age, health, habits and moral
13 character.

14 (b) Residency requirements in effect at the time an
15 individual enters the fire or police service of a municipality
16 (other than a municipality that has more than 1,000,000
17 inhabitants) cannot be made more restrictive for that
18 individual during his or her period of service for that
19 municipality, or be made a condition of promotion, except for
20 the rank or position of Fire or Police Chief.

21 (c) No person with a record of misdemeanor convictions
22 except those under Sections 11-6, 11-7, 11-9, 11-14, 11-15,
23 11-17, 11-18, 11-19, 12-2, 12-6, 12-15, 14-4, 16-1, 21.1-3,
24 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4, 31-6, 31-7, 32-1, 32-2,
25 32-3, 32-4, 32-8, and subsections (1), (6) and (8) of Section
26 24-1 of the Criminal Code of 1961 or arrested for any cause but
27 not convicted on that cause shall be disqualified from taking
28 the examination on grounds of habits or moral character, unless
29 the person is attempting to qualify for a position on the
30 police department, in which case the conviction or arrest may
31 be considered as a factor in determining the person's habits or
32 moral character.

1 (d) Persons entitled to military preference under Section
2 10-1-16 shall not be subject to limitations specifying age
3 unless they are applicants for a position as a fireman or a
4 policeman having no previous employment status as a fireman or
5 policeman in the regularly constituted fire or police
6 department of the municipality, in which case they must not
7 have attained their 35th birthday, except any person who has
8 served as an auxiliary policeman under Section 3.1-30-20 for at
9 least 5 years and is under 40 years of age.

10 (e) All employees of a municipality of less than 500,000
11 population (except those who would be excluded from the
12 classified service as provided in this Division 1) who are
13 holding that employment as of the date a municipality adopts
14 this Division 1, or as of July 17, 1959, whichever date is the
15 later, and who have held that employment for at least 2 years
16 immediately before that later date, and all firemen and
17 policemen regardless of length of service who were either
18 appointed to their respective positions by the board of fire
19 and police commissioners under the provisions of Division 2 of
20 this Article or who are serving in a position (except as a
21 temporary employee) in the fire or police department in the
22 municipality on the date a municipality adopts this Division 1,
23 or as of July 17, 1959, whichever date is the later, shall
24 become members of the classified civil service of the
25 municipality without examination.

26 (f) The examinations shall be practical in their character,
27 and shall relate to those matters that will fairly test the
28 relative capacity of the persons examined to discharge the
29 duties of the positions to which they seek to be appointed. The
30 examinations shall include tests of physical qualifications,
31 health, and (when appropriate) manual skill. If an applicant is
32 unable to pass the physical examination solely as the result of
33 an injury received by the applicant as the result of the
34 performance of an act of duty while working as a temporary
35 employee in the position for which he or she is being examined,
36 however, the physical examination shall be waived and the

1 applicant shall be considered to have passed the examination.
2 No questions in any examination shall relate to political or
3 religious opinions or affiliations. Results of examinations
4 and the eligible registers prepared from the results shall be
5 published by the commission within 60 days after any
6 examinations are held.

7 (g) The commission shall control all examinations, and may,
8 whenever an examination is to take place, designate a suitable
9 number of persons, either in or not in the official service of
10 the municipality, to be examiners. The examiners shall conduct
11 the examinations as directed by the commission and shall make a
12 return or report of the examinations to the commission. If the
13 appointed examiners are in the official service of the
14 municipality, the examiners shall not receive extra
15 compensation for conducting the examinations. The commission
16 may at any time substitute any other person, whether or not in
17 the service of the municipality, in the place of any one
18 selected as an examiner. The commission members may themselves
19 at any time act as examiners without appointing examiners. The
20 examiners at any examination shall not all be members of the
21 same political party.

22 (h) In municipalities of 500,000 or more population, no
23 person who has attained his or her 35th birthday shall be
24 eligible to take an examination for a position as a fireman or
25 a policeman unless the person has had previous employment
26 status as a policeman or fireman in the regularly constituted
27 police or fire department of the municipality, except as
28 provided in this Section.

29 (i) In municipalities of more than 5,000 but not more than
30 200,000 inhabitants, no person who has attained his or her 35th
31 birthday shall be eligible to take an examination for a
32 position as a fireman or a policeman unless the person has had
33 previous employment status as a policeman or fireman in the
34 regularly constituted police or fire department of the
35 municipality, except as provided in this Section.

36 (j) In all municipalities, applicants who are 20 years of

1 age and who have successfully completed 2 years of law
2 enforcement studies at an accredited college or university may
3 be considered for appointment to active duty with the police
4 department. An applicant described in this subsection (j) who
5 is appointed to active duty shall not have power of arrest, nor
6 shall the applicant be permitted to carry firearms, until he or
7 she reaches 21 years of age.

8 (k) In municipalities of more than 500,000 population,
9 applications for examination for and appointment to positions
10 as firefighters or police shall be made available at various
11 branches of the public library of the municipality.

12 (l) No municipality having a population less than 1,000,000
13 shall require that any fireman appointed to the lowest rank
14 serve a probationary employment period of longer than one year.
15 The limitation on periods of probationary employment provided
16 in this amendatory Act of 1989 is an exclusive power and
17 function of the State. Pursuant to subsection (h) of Section 6
18 of Article VII of the Illinois Constitution, a home rule
19 municipality having a population less than 1,000,000 must
20 comply with this limitation on periods of probationary
21 employment, which is a denial and limitation of home rule
22 powers. Notwithstanding anything to the contrary in this
23 Section, the probationary employment period limitation may be
24 extended for a firefighter who is required, as a condition of
25 employment, to be a certified paramedic, during which time the
26 sole reason that a firefighter may be discharged without a
27 hearing is for failing to meet the requirements for paramedic
28 certification shall not apply to a fireman whose position also
29 includes paramedic responsibilities.

30 (Source: P.A. 86-990; 87-1119.)

31 (65 ILCS 5/10-2.1-4) (from Ch. 24, par. 10-2.1-4)

32 Sec. 10-2.1-4. Fire and police departments; Appointment of
33 members; Certificates of appointments.

34 The board of fire and police commissioners shall appoint
35 all officers and members of the fire and police departments of

1 the municipality, including the chief of police and the chief
2 of the fire department, unless the council or board of trustees
3 shall by ordinance as to them otherwise provide; except as
4 otherwise provided in this Section, and except that in any
5 municipality which adopts or has adopted this Division 2.1 and
6 also adopts or has adopted Article 5 of this Code, the chief of
7 police and the chief of the fire department shall be appointed
8 by the municipal manager, if it is provided by ordinance in
9 such municipality that such chiefs, or either of them, shall
10 not be appointed by the board of fire and police commissioners.

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

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

29 All appointments to each department other than that of the
30 lowest rank, however, shall be from the rank next below that to
31 which the appointment is made except as otherwise provided in
32 this Section, and except that the chief of police and the chief
33 of the fire department may be appointed from among members of
34 the police and fire departments, respectively, regardless of
35 rank, unless the council or board of trustees shall have by
36 ordinance as to them otherwise provided. A chief of police or

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

7 The sole authority to issue certificates of appointment
8 shall be vested in the Board of Fire and Police Commissioners
9 and all certificates of appointments issued to any officer or
10 member of the fire or police department of a municipality shall
11 be signed by the chairman and secretary respectively of the
12 board of fire and police commissioners of such municipality,
13 upon appointment of such officer or member of the fire and
14 police department of such municipality by action of the board
15 of fire and police commissioners.

16 The term "policemen" as used in this Division does not
17 include auxiliary policemen except as provided for in Section
18 10-2.1-6.

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

24 Notwithstanding any other provision of this Section, the
25 Chief of Police of a department in a non-homerule municipality
26 of more than 130,000 inhabitants may, without the advice or
27 consent of the Board of Fire and Police Commissioners, appoint
28 up to 6 officers who shall be known as deputy chiefs or
29 assistant deputy chiefs, and whose rank shall be immediately
30 below that of Chief. The deputy or assistant deputy chiefs may
31 be appointed from any rank of sworn officers of that
32 municipality, but no person who is not such a sworn officer may
33 be so appointed. Such deputy chief or assistant deputy chief
34 shall have the authority to direct and issue orders to all
35 employees of the Department holding the rank of captain or any
36 lower rank. A deputy chief of police or assistant deputy chief

1 of police, having been appointed from any rank of sworn
2 officers of that municipality, shall be permitted, regardless
3 of rank, to take promotional exams and be promoted to a higher
4 classified rank than he currently holds, without having to
5 resign as deputy chief of police or assistant deputy chief of
6 police.

7 Notwithstanding any other provision of this Section, a
8 non-home rule municipality of 130,000 or fewer inhabitants,
9 through its council or board of trustees, may, by ordinance,
10 provide for a position of deputy chief to be appointed by the
11 chief of the police department. The ordinance shall provide for
12 no more than one deputy chief position if the police department
13 has fewer than 25 full-time police officers and for no more
14 than 2 deputy chief positions if the police department has 25
15 or more full-time police officers. The deputy chief position
16 shall be an exempt rank immediately below that of Chief. The
17 deputy chief may be appointed from any rank of sworn, full-time
18 officers of the municipality's police department, but must have
19 at least 5 years of full-time service as a police officer in
20 that department. A deputy chief shall serve at the discretion
21 of the Chief and, if removed from the position, shall revert to
22 the rank currently held, without regard as to whether a vacancy
23 exists in that rank. A deputy chief of police, having been
24 appointed from any rank of sworn full-time officers of that
25 municipality's police department, shall be permitted,
26 regardless of rank, to take promotional exams and be promoted
27 to a higher classified rank than he currently holds, without
28 having to resign as deputy chief of police.

29 No municipality having a population less than 1,000,000
30 shall require that any firefighter ~~fireman~~ appointed to the
31 lowest rank serve a probationary employment period of longer
32 than one year. The limitation on periods of probationary
33 employment provided in this amendatory Act of 1989 is an
34 exclusive power and function of the State. Pursuant to
35 subsection (h) of Section 6 of Article VII of the Illinois
36 Constitution, a home rule municipality having a population less

1 than 1,000,000 must comply with this limitation on periods of
2 probationary employment, which is a denial and limitation of
3 home rule powers. Notwithstanding anything to the contrary in
4 this Section, the probationary employment period limitation
5 may be extended for a firefighter who is required, as a
6 condition of employment, to be a certified paramedic, during
7 which time the sole reason that a firefighter may be discharged
8 without a hearing is for failing to meet the requirements for
9 paramedic certification shall not apply to a fireman whose
10 position also includes paramedic responsibilities.

11 (Source: P.A. 93-486, eff. 8-8-03.)

12 Section 10. The Fire Protection District Act is amended by
13 changing Section 16.13b as follows:

14 (70 ILCS 705/16.13b) (from Ch. 127 1/2, par. 37.13b)

15 Sec. 16.13b. Unless the employer and a labor organization
16 have agreed to a contract provision providing for final and
17 binding arbitration of disputes concerning the existence of
18 just cause for disciplinary action, no officer or member of the
19 fire department of any protection district who has held that
20 position for one year shall be removed or discharged except for
21 just cause, upon written charges specifying the complainant and
22 the basis for the charges, and after a hearing on those charges
23 before the board of fire commissioners, affording the officer
24 or member an opportunity to be heard in his own defense. In
25 such case the appointing authority shall file with the board of
26 trustees the reasons for such removal or discharge, which
27 removal or discharge shall not become effective unless
28 confirmed by a majority vote of the board of trustees. If
29 written charges are brought against an officer or member, the
30 board of fire commissioners shall conduct a fair and impartial
31 hearing of the charges, to be commenced within 30 days of the
32 filing thereof, which hearing may be continued from time to
33 time. The Chief of the department shall bear the burden of
34 proving the guilt of the officer or member by a preponderance

1 of the evidence. In case an officer or member is found guilty,
2 the board may discharge him, or may suspend him not exceeding
3 30 calendar days without pay. The board may suspend any officer
4 or member pending the hearing with or without pay, but in no
5 event shall the suspension pending hearing and the ultimate
6 suspension imposed on the officer or member, if any, exceed 30
7 calendar days without pay in the aggregate. If the board of
8 fire commissioners determines that the charges are not
9 sustained, the officer or member shall be reimbursed for all
10 wages withheld or lost, if any. In the conduct of this hearing,
11 each member of the board shall have power to secure by its
12 subpoena both the attendance and testimony of witnesses and the
13 production of books and papers relevant to the hearing.

14 Notwithstanding any other provision of this Section, a
15 probationary employment period may be extended beyond one year
16 for a firefighter who is required as a condition of employment
17 to be a certified paramedic, during which time the sole reason
18 that a firefighter may be discharged without a hearing is for
19 failing to meet the requirements for paramedic certification.

20 The age for mandatory retirement of firemen in the service
21 of any department of such district is 65 years, unless the
22 board of trustees shall by ordinance provide for an earlier
23 mandatory retirement age of not less than 60 years.

24 The provisions of the Administrative Review Law, and all
25 amendments and modifications thereof, and the rules adopted
26 pursuant thereto, shall apply to and govern all proceedings for
27 the judicial review of final administrative decisions of the
28 board of fire commissioners hereunder. The term
29 "administrative decision" is defined as in Section 3-101 of the
30 Code of Civil Procedure.

31 Nothing in this Section shall be construed to prevent the
32 Chief of the fire department from suspending without pay a
33 member of his department for a period of not more than 5
34 consecutive calendar days, but he shall notify the board in
35 writing of such suspension. Any fireman so suspended may appeal
36 to the board of fire commissioners for a review of the

1 suspension within 5 calendar days after such suspension. Upon
2 such appeal, the Chief of the department shall bear the burden
3 of proof in establishing the guilt of the officer or member by
4 a preponderance of the evidence. The board may sustain the
5 action of the Chief of the department, may reduce the
6 suspension to a lesser penalty, or may reverse it with
7 instructions that the officer or member receive his pay and
8 other benefits withheld for the period involved, or may suspend
9 the officer for an additional period of not more than 30 days,
10 or discharge him, depending upon the facts presented.

11 (Source: P.A. 86-562.)

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.