



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB3734

Introduced 2/24/2005, by Rep. Larry McKeon

SYNOPSIS AS INTRODUCED:

55 ILCS 5/3-8014

from Ch. 34, par. 3-8014

65 ILCS 5/10-2.1-17

from Ch. 24, par. 10-2.1-17

Amends the Counties Code and the Illinois Municipal Code. Provides that the Merit Commission (now, the plaintiff) shall pay the cost (now, the reasonable cost) of preparing and certifying for judicial review the record of a hearing by the Commission on the removal, demotion, or suspension of certain employees of the sheriff, police department, or fire department. Removes provisions requiring the court to award to a plaintiff who prevails in the judicial review proceeding a sum equal to the costs paid by the plaintiff to have the record prepared and certified for judicial review. Removes a provision allowing an alternative or supplemental form of due process based on impartial arbitration that is negotiated by an employer and a labor organization. Removes a provision making bargaining for alternative or supplemental forms of due process permissive for non-home rule units of local government unless the contract term was negotiated prior to a certain time. Provides that certain employers are not prohibited from agreeing, through the collective bargaining process, to submit disciplinary matters to the grievance and arbitration procedures in a collective bargaining agreement with the certified collective bargaining representative.

LRB094 10507 EFG 40778 b

FISCAL NOTE ACT
MAY APPLY

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

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

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

30 If the charges against an accused person are established by
31 the preponderance of evidence, the Commission shall make a
32 finding of guilty and order either removal, demotion, loss of

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

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 for
14 the judicial review of any order of the Commission rendered
15 pursuant to this Section. The Merit Commission ~~plaintiff~~ shall
16 pay the ~~reasonable~~ cost of preparing and certifying the record
17 for judicial review. ~~However, if the plaintiff prevails in the~~
18 ~~judicial review proceeding, the court shall award to the~~
19 ~~plaintiff a sum equal to the costs paid by the plaintiff to~~
20 ~~have the record for judicial review prepared and certified.~~

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

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

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

30 (65 ILCS 5/10-2.1-17) (from Ch. 24, par. 10-2.1-17)

31 Sec. 10-2.1-17. Removal or discharge; investigation of
32 charges; retirement. Except as hereinafter provided, no
33 officer or member of the fire or police department of any
34 municipality subject to this Division 2.1 shall be removed or

1 discharged except for cause, upon written charges, and after an
2 opportunity to be heard in his own defense. The hearing shall
3 be as hereinafter provided, unless the employer and the labor
4 organization representing the person have negotiated an
5 alternative or supplemental form of due process based upon
6 impartial arbitration as a term of a collective bargaining
7 agreement. In non-home rule units of government, such
8 bargaining shall be permissive rather than mandatory unless
9 such contract term was negotiated by the employer and the labor
10 organization prior to or at the time of the effective date of
11 this amendatory Act, in which case such bargaining shall be
12 considered mandatory.

13 If the chief of the fire department or the chief of the
14 police department or both of them are appointed in the manner
15 provided by ordinance, they may be removed or discharged by the
16 appointing authority. In such case the appointing authority
17 shall file with the corporate authorities the reasons for such
18 removal or discharge, which removal or discharge shall not
19 become effective unless confirmed by a majority vote of the
20 corporate authorities. The board of fire and police
21 commissioners shall conduct a fair and impartial hearing of the
22 charges, to be commenced within 30 days of the filing thereof,
23 which hearing may be continued from time to time. In case an
24 officer or member is found guilty, the board may discharge him,
25 or may suspend him not exceeding 30 days without pay. The board
26 may suspend any officer or member pending the hearing with or
27 without pay, but not to exceed 30 days. If the Board of Fire
28 and Police Commissioners determines that the charges are not
29 sustained, the officer or member shall be reimbursed for all
30 wages withheld, if any. In the conduct of this hearing, each
31 member of the board shall have power to administer oaths and
32 affirmations, and the board shall have power to secure by its
33 subpoena both the attendance and testimony of witnesses and the
34 production of books and papers relevant to the hearing.

35 The age for retirement of policemen or firemen in the
36 service of any municipality which adopts this Division 2.1 is

1 65 years, unless the Council or Board of Trustees shall by
2 ordinance provide for an earlier retirement age of not less
3 than 60 years.

4 The provisions of the Administrative Review Law, and all
5 amendments and modifications thereof, and the rules adopted
6 pursuant thereto, shall apply to and govern all proceedings for
7 the judicial review of final administrative decisions of the
8 board of fire and police commissioners hereunder. The term
9 "administrative decision" is defined as in Section 3-101 of the
10 Code of Civil Procedure.

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

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

32 Any policeman or fireman so suspended may appeal to the
33 board of fire and police commissioners for a review of the
34 suspension within 5 calendar days after such suspension, and
35 upon such appeal, the board may sustain the action of the chief
36 of the department, may reverse it with instructions that the

1 man receive his pay for the period involved, or may suspend the
2 officer for an additional period of not more than 30 days or
3 discharge him, depending upon the facts presented.

4 (Source: P.A. 91-650, eff. 11-30-99.)