



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB4691**

by Rep. Donald L. Moffitt

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/3.1-30-5

from Ch. 24, par. 3.1-30-5

65 ILCS 5/10-2.1-4

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

Amends the Illinois Municipal Code. Provides that the term of office for the chief of police may exceed that of the mayor or president of the municipality. Provides that the chief of police and the chief of the fire department may be removed or discharged from office only for just cause. Requires any candidate for the position of chief of police to be certified as a police officer by the Illinois Law Enforcement Training Standards Board or hold a valid waiver issued by that Board.

LRB095 16702 HLH 42735 b

FISCAL 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 Sections 3.1-30-5 and 10-2.1-4 as follows:

6 (65 ILCS 5/3.1-30-5) (from Ch. 24, par. 3.1-30-5)

7 Sec. 3.1-30-5. Appointed officers in all municipalities.

8 (a) The mayor or president, as the case may be, by and with  
9 the advice and consent of the city council or the board of  
10 trustees, may appoint (1) a treasurer (if the treasurer is not  
11 an elected position in the municipality), (2) a collector, (3)  
12 a comptroller, (4) a marshal, (5) an attorney or a corporation  
13 counsel, (6) one or more purchasing agents and deputies, (7)  
14 the number of auxiliary police officers determined necessary by  
15 the corporate authorities, (8) police matrons, (9) a  
16 commissioner of public works, (10) a budget director or a  
17 budget officer, and (11) other officers necessary to carry into  
18 effect the powers conferred upon municipalities.

19 (b) By ordinance or resolution to take effect at the end of  
20 the current fiscal year, the corporate authorities, by a  
21 two-thirds vote, may discontinue any appointed office and  
22 devolve the duties of that office on any other municipal  
23 officer. After discontinuance, no officer filling the office

1 before its discontinuance shall have any claim against the  
2 municipality for salary alleged to accrue after the date of  
3 discontinuance.

4 (c) Vacancies in all appointed municipal offices may be  
5 filled in the same manner as appointments are made under  
6 subsection (a). The city council or board of trustees of a  
7 municipality, by ordinance not inconsistent with this Code, may  
8 prescribe the duties, define the powers, and fix the term of  
9 office of all appointed officers of the municipality; but the  
10 term of office, except for the chief of police and the chief of  
11 the fire department and except as otherwise expressly provided  
12 in this Code, shall not exceed that of the mayor or president  
13 of the municipality.

14 (d) An appointed officer of a municipality may resign from  
15 his or her office. If an appointed officer resigns, he or she  
16 shall continue in office until a successor has been chosen and  
17 has qualified. If there is a failure to appoint a municipal  
18 officer, or the person appointed fails to qualify, the person  
19 filling the office shall continue in office until a successor  
20 has been chosen and has qualified. If an appointed municipal  
21 officer ceases to perform the duties of or to hold the office  
22 by reason of death, permanent physical or mental disability,  
23 conviction of a disqualifying crime, or dismissal from or  
24 abandonment of office, the mayor or president of the  
25 municipality may appoint a temporary successor to the officer.

26 (Source: P.A. 94-984, eff. 6-30-06.)

1 (65 ILCS 5/10-2.1-4) (from Ch. 24, par. 10-2.1-4)

2 (Text of Section before amendment by P.A. 95-490)

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

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

17 The chief of police and the chief of the fire department shall  
18 hold their offices during good behavior, subject to removal or  
19 discharge by the board for just cause. To be appointed as chief  
20 of police, the candidate must be certified as a police officer  
21 by the Illinois Law Enforcement Training Standards Board or  
22 hold a valid waiver issued by that Board.

23 If the chief of the fire department or the chief of the  
24 police department or both of them are appointed in the manner  
25 provided by ordinance, they may be removed or discharged by the

1 appointing authority only for just cause. In such case the  
2 appointing authority shall file with the corporate authorities  
3 the reasons for such removal or discharge, which removal or  
4 discharge shall not become effective unless confirmed by a  
5 majority vote of the corporate authorities.

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

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

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

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

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

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

21 Notwithstanding any other provision of this Section, the  
22 Chief of Police of a department in a non-homerule municipality  
23 of more than 130,000 inhabitants may, without the advice or  
24 consent of the Board of Fire and Police Commissioners, appoint  
25 up to 6 officers who shall be known as deputy chiefs or  
26 assistant deputy chiefs, and whose rank shall be immediately

1 below that of Chief. The deputy or assistant deputy chiefs may  
2 be appointed from any rank of sworn officers of that  
3 municipality, but no person who is not such a sworn officer may  
4 be so appointed. Such deputy chief or assistant deputy chief  
5 shall have the authority to direct and issue orders to all  
6 employees of the Department holding the rank of captain or any  
7 lower rank. A deputy chief of police or assistant deputy chief  
8 of police, having been appointed from any rank of sworn  
9 officers of that municipality, shall be permitted, regardless  
10 of rank, to take promotional exams and be promoted to a higher  
11 classified rank than he currently holds, without having to  
12 resign as deputy chief of police or assistant deputy chief of  
13 police.

14 Notwithstanding any other provision of this Section, a  
15 non-homerule municipality of 130,000 or fewer inhabitants,  
16 through its council or board of trustees, may, by ordinance,  
17 provide for a position of deputy chief to be appointed by the  
18 chief of the police department. The ordinance shall provide for  
19 no more than one deputy chief position if the police department  
20 has fewer than 25 full-time police officers and for no more  
21 than 2 deputy chief positions if the police department has 25  
22 or more full-time police officers. The deputy chief position  
23 shall be an exempt rank immediately below that of Chief. The  
24 deputy chief may be appointed from any rank of sworn, full-time  
25 officers of the municipality's police department, but must have  
26 at least 5 years of full-time service as a police officer in

1 that department. A deputy chief shall serve at the discretion  
2 of the Chief and, if removed from the position, shall revert to  
3 the rank currently held, without regard as to whether a vacancy  
4 exists in that rank. A deputy chief of police, having been  
5 appointed from any rank of sworn full-time officers of that  
6 municipality's police department, shall be permitted,  
7 regardless of rank, to take promotional exams and be promoted  
8 to a higher classified rank than he currently holds, without  
9 having to resign as deputy chief of police.

10 No municipality having a population less than 1,000,000  
11 shall require that any firefighter appointed to the lowest rank  
12 serve a probationary employment period of longer than one year.  
13 The limitation on periods of probationary employment provided  
14 in this amendatory Act of 1989 is an exclusive power and  
15 function of the State. Pursuant to subsection (h) of Section 6  
16 of Article VII of the Illinois Constitution, a home rule  
17 municipality having a population less than 1,000,000 must  
18 comply with this limitation on periods of probationary  
19 employment, which is a denial and limitation of home rule  
20 powers. Notwithstanding anything to the contrary in this  
21 Section, the probationary employment period limitation may be  
22 extended for a firefighter who is required, as a condition of  
23 employment, to be a certified paramedic, during which time the  
24 sole reason that a firefighter may be discharged without a  
25 hearing is for failing to meet the requirements for paramedic  
26 certification.



1 (Source: P.A. 93-486, eff. 8-8-03; 94-135, eff. 7-7-05; 94-984,  
2 eff. 6-30-06.)

3 (Text of Section after amendment by P.A. 95-490)

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

6 The board of fire and police commissioners shall appoint  
7 all officers and members of the fire and police departments of  
8 the municipality, including the chief of police and the chief  
9 of the fire department, unless the council or board of trustees  
10 shall by ordinance as to them otherwise provide; except as  
11 otherwise provided in this Section, and except that in any  
12 municipality which adopts or has adopted this Division 2.1 and  
13 also adopts or has adopted Article 5 of this Code, the chief of  
14 police and the chief of the fire department shall be appointed  
15 by the municipal manager, if it is provided by ordinance in  
16 such municipality that such chiefs, or either of them, shall  
17 not be appointed by the board of fire and police commissioners.  
18 The chief of police and the chief of the fire department shall  
19 hold their offices during good behavior, subject to removal or  
20 discharge by the board for just cause. To be appointed as chief  
21 of police, the candidate must be certified as a police officer  
22 by the Illinois Law Enforcement Training Standards Board or  
23 hold a valid waiver issued by that Board.

24 If the chief of the fire department or the chief of the  
25 police department or both of them are appointed in the manner

1 provided by ordinance, they may be removed or discharged by the  
2 appointing authority only for just cause. In such case the  
3 appointing authority shall file with the corporate authorities  
4 the reasons for such removal or discharge, which removal or  
5 discharge shall not become effective unless confirmed by a  
6 majority vote of the corporate authorities.

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. In any municipal fire  
14 department that employs full-time firefighters and is subject  
15 to a collective bargaining agreement, a person who has not  
16 qualified for regular appointment under the provisions of this  
17 Division 2.1 shall not be used as a temporary or permanent  
18 substitute for classified members of a municipality's fire  
19 department or for regular appointment as a classified member of  
20 a municipality's fire department unless mutually agreed to by  
21 the employee's certified bargaining agent. Such agreement  
22 shall be considered a permissive subject of bargaining.  
23 Municipal fire departments covered by the changes made by this  
24 amendatory Act of the 95th General Assembly that are using  
25 non-certificated employees as substitutes immediately prior to  
26 the effective date of this amendatory Act of the 95th General

1 Assembly may, by mutual agreement with the certified bargaining  
2 agent, continue the existing practice or a modified practice  
3 and that agreement shall be considered a permissive subject of  
4 bargaining. A home rule unit may not regulate the hiring of  
5 temporary or substitute members of the municipality's fire  
6 department in a manner that is inconsistent with this Section.  
7 This Section is a limitation under subsection (i) of Section 6  
8 of Article VII of the Illinois Constitution on the concurrent  
9 exercise by home rule units of powers and functions exercised  
10 by the State.

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

14 Any full time member of a regular fire or police department  
15 of any municipality which comes under the provisions of this  
16 Division or adopts this Division 2.1 or which has adopted any  
17 of the prior Acts pertaining to fire and police commissioners,  
18 is a city officer.

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26 be appointed from any rank of sworn officers of that

1 municipality, but no person who is not such a sworn officer may  
2 be so appointed. Such deputy chief or assistant deputy chief  
3 shall have the authority to direct and issue orders to all  
4 employees of the Department holding the rank of captain or any  
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6 of police, having been appointed from any rank of sworn  
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25 that department. A deputy chief shall serve at the discretion  
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4 municipality's police department, shall be permitted,  
5 regardless of rank, to take promotional exams and be promoted  
6 to a higher classified rank than he currently holds, without  
7 having to resign as deputy chief of police.

8 No municipality having a population less than 1,000,000  
9 shall require that any firefighter appointed to the lowest rank  
10 serve a probationary employment period of longer than one year.  
11 The limitation on periods of probationary employment provided  
12 in this amendatory Act of 1989 is an exclusive power and  
13 function of the State. Pursuant to subsection (h) of Section 6  
14 of Article VII of the Illinois Constitution, a home rule  
15 municipality having a population less than 1,000,000 must  
16 comply with this limitation on periods of probationary  
17 employment, which is a denial and limitation of home rule  
18 powers. Notwithstanding anything to the contrary in this  
19 Section, the probationary employment period limitation may be  
20 extended for a firefighter who is required, as a condition of  
21 employment, to be a certified paramedic, during which time the  
22 sole reason that a firefighter may be discharged without a  
23 hearing is for failing to meet the requirements for paramedic  
24 certification.

25 (Source: P.A. 94-135, eff. 7-7-05; 94-984, eff. 6-30-06;  
26 95-490, eff. 6-1-08.)

1           Section 95. No acceleration or delay. Where this Act makes  
2 changes in a statute that is represented in this Act by text  
3 that is not yet or no longer in effect (for example, a Section  
4 represented by multiple versions), the use of that text does  
5 not accelerate or delay the taking effect of (i) the changes  
6 made by this Act or (ii) provisions derived from any other  
7 Public Act.