

# SB1295



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

SB1295

Introduced 2/9/2007, by Sen. Don Harmon

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/10-2.1-17

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

Amends the Illinois Municipal Code. Provides that, in any municipality with a collective bargaining agreement covering the employment of fire and police personnel, discharge and suspension hearings for fire and police personnel shall be based upon impartial arbitration.

LRB095 08362 HLH 28535 b

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 10-2.1-17 as follows:

6 (65 ILCS 5/10-2.1-17) (from Ch. 24, par. 10-2.1-17)

7 Sec. 10-2.1-17. Removal or discharge; investigation of  
8 charges; retirement. Except as hereinafter provided, no  
9 officer or member of the fire or police department of any  
10 municipality subject to this Division 2.1 shall be removed or  
11 discharged except for cause, upon written charges, and after an  
12 opportunity to be heard in his own defense. The hearing shall  
13 be as hereinafter provided. However, in any municipality with a  
14 collective bargaining agreement covering the employment of  
15 fire and police personnel, the hearing for fire and police  
16 personnel shall be based upon impartial arbitration as provided  
17 in the Illinois Public Labor Relations Act., unless the  
18 employer and the labor organization representing the person  
19 have negotiated an alternative or supplemental form of due  
20 process based upon impartial arbitration as a term of a  
21 collective bargaining agreement. In non-home rule units of  
22 government, such bargaining shall be permissive rather than  
23 mandatory unless such contract term was negotiated by the

1 ~~employer and the labor organization prior to or at the time of~~  
2 ~~the effective date of this amendatory Act, in which case such~~  
3 ~~bargaining shall be considered mandatory.~~

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

26       The age for retirement of policemen or firemen in the

1 service of any municipality which adopts this Division 2.1 is  
2 65 years, unless the Council or Board of Trustees shall by  
3 ordinance provide for an earlier retirement age of not less  
4 than 60 years.

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

12 Nothing in this Section shall be construed to prevent the  
13 chief of the fire department or the chief of the police  
14 department from suspending without pay a member of his  
15 department for a period of not more than 5 calendar days, but  
16 he shall notify the board in writing of such suspension. The  
17 hearing shall be as hereinafter provided. However, if the  
18 municipality has a collective bargaining agreement covering  
19 the employment of fire and police personnel, the suspension  
20 shall be reviewable through impartial arbitration as provided  
21 in the Illinois Public Labor Relations Act., unless the  
22 employer and the labor organization representing the person  
23 have negotiated an alternative or supplemental form of due  
24 process based upon impartial arbitration as a term of a  
25 collective bargaining agreement. In non-home rule units of  
26 government, such bargaining shall be permissive rather than

1 ~~mandatory unless such contract term was negotiated by the~~  
2 ~~employer and the labor organization prior to or at the time of~~  
3 ~~the effective date of this amendatory Act, in which case such~~  
4 ~~bargaining shall be considered mandatory.~~

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 chief  
9 of the department, may reverse it with instructions that the  
10 man receive his pay for the period involved, or may suspend the  
11 officer for an additional period of not more than 30 days or  
12 discharge him, depending upon the facts presented.

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