



Sen. Debbie DeFrancesco Halvorson

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1 AMENDMENT TO SENATE BILL 834

2 AMENDMENT NO. _____. Amend Senate Bill 834 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 changing Sections 10-1-14 and 10-2.1-4 as follows:

6 (65 ILCS 5/10-1-14) (from Ch. 24, par. 10-1-14)

7 Sec. 10-1-14. The head of the department or office in which
8 a position classified under this Division 1 is to be filled
9 shall notify the commission of that fact, and the commission
10 shall certify to the appointing officer the name and address of
11 the candidate standing highest upon the register for the class
12 or grade to which the position belongs. However, in cases of
13 laborers where a choice by competition is impracticable, the
14 commission may provide by its rules that the selections shall
15 be made by lot from among those candidates proved fit by
16 examination, but laborers who have previously been in the

1 service and were removed because their services were no longer
2 required, shall be preferred, and be reinstated before other
3 laborers are given positions, preference being given to those
4 who have had the longest term of service, and laborers in the
5 employ of the municipality on July 1, 1949, who, as of such
6 date, have been employed under temporary authority for 3 years
7 or more or during parts of 3 or more calendar years, shall be
8 preferred also, and shall be placed upon the register for such
9 positions without examination and shall be certified before
10 other laborers are given positions, preference being given to
11 those laborers under temporary authority who have had the
12 longest term of service in such positions. In making such
13 certification, sex shall be disregarded. The appointing
14 officer shall notify the commission of each position to be
15 filled, separately, and shall fill such place by the
16 appointment of the person certified to him or her by the
17 commission therefor. Original appointment shall be on
18 probation for a period not to exceed 6 months to be fixed by
19 the rules but all time spent in attending training schools and
20 seminars, except on-the-job training conducted by local Fire
21 Department personnel, shall be excluded in calculating the
22 probation period; provided that in municipalities with a
23 population of more than 500,000 inhabitants, original
24 appointment to the police department shall be on probation for
25 a period not to exceed 9 months to be fixed by the rules of the
26 department. The commission may strike off names of candidates

1 from the register after they have remained thereon more than 2
2 years. At or before the expiration of the period of probation,
3 the head of the department or office in which a candidate is
4 employed may, by and with the consent of the commission,
5 discharge him or her upon assigning in writing his or her
6 reason therefor to the commission. If he or she is not then
7 discharged, his or her appointment shall be deemed complete. To
8 prevent the stoppage of public business, or to meet
9 extraordinary exigencies, the head of any department or office
10 may, with the approval of the commission, make temporary
11 appointment to remain in force not exceeding 120 days, and only
12 until regular appointments under the provisions of this
13 Division 1 can be made. In any municipal fire department that
14 employs full time firefighters and is subject to a collective
15 bargaining agreement, a person who has not qualified for
16 regular appointment under the provisions of this Division 1
17 shall not be used as a temporary or permanent substitute for
18 classified members of a municipality's fire department or for
19 regular appointment as a classified member of a municipality's
20 fire department unless mutually agreed to by the employee's
21 certified bargaining agent. Such agreement shall be considered
22 a permissive subject of bargaining. Municipal fire departments
23 covered by the changes made by this amendatory Act of the 95th
24 General Assembly that are using non-certificated employees as
25 substitutes immediately prior to the effective date of this
26 amendatory Act of the 95th General Assembly may, by mutual

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

10 (Source: P.A. 80-1364.)

11 (65 ILCS 5/10-2.1-4) (from Ch. 24, par. 10-2.1-4)

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

14 The board of fire and police commissioners shall appoint
15 all officers and members of the fire and police departments of
16 the municipality, including the chief of police and the chief
17 of the fire department, unless the council or board of trustees
18 shall by ordinance as to them otherwise provide; except as
19 otherwise provided in this Section, and except that in any
20 municipality which adopts or has adopted this Division 2.1 and
21 also adopts or has adopted Article 5 of this Code, the chief of
22 police and the chief of the fire department shall be appointed
23 by the municipal manager, if it is provided by ordinance in
24 such municipality that such chiefs, or either of them, shall
25 not be appointed by the board of fire and police commissioners.

1 If the chief of the fire department or the chief of the
2 police department or both of them are appointed in the manner
3 provided by ordinance, they may be removed or discharged by the
4 appointing authority. In such case the appointing authority
5 shall file with the corporate authorities the reasons for such
6 removal or discharge, which removal or discharge shall not
7 become effective unless confirmed by a majority vote of the
8 corporate authorities.

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

19 All appointments to each department other than that of the
20 lowest rank, however, shall be from the rank next below that to
21 which the appointment is made except as otherwise provided in
22 this Section, and except that the chief of police and the chief
23 of the fire department may be appointed from among members of
24 the police and fire departments, respectively, regardless of
25 rank, unless the council or board of trustees shall have by
26 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. In any municipal fire
16 department that employs full time firefighters and is subject
17 to a collective bargaining agreement, a person who has not
18 qualified for regular appointment under the provisions of this
19 Division 2.1 shall not be used as a temporary or permanent
20 substitute for classified members of a municipality's fire
21 department or for regular appointment as a classified member of
22 a municipality's fire department unless mutually agreed to by
23 the employee's certified bargaining agent. Such agreement
24 shall be considered a permissive subject of bargaining.
25 Municipal fire departments covered by the changes made by this
26 amendatory Act of the 95th General Assembly that are using

1 non-certificated employees as substitutes immediately prior to
2 the effective date of this amendatory Act of the 95th General
3 Assembly may, by mutual agreement with the certified bargaining
4 agent, continue the existing practice or a modified practice
5 and that agreement shall be considered a permissive subject of
6 bargaining. A home rule unit may not regulate the hiring of
7 temporary or substitute members of the municipality's fire
8 department in a manner that is inconsistent with this Section.
9 This Section is limitation under subsection (i) of Section 6 of
10 Article VII of the Illinois Constitution on the concurrent
11 exercise by home rule units of powers and functions exercised
12 by the State.

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 Section 10. The Fire Protection District Act is amended by
4 changing Section 16.06 as follows:

5 (70 ILCS 705/16.06) (from Ch. 127 1/2, par. 37.06)

6 Sec. 16.06. Eligibility for positions in fire department;
7 disqualifications.

8 (a) All applicants for a position in the fire department of
9 the fire protection district shall be under 35 years of age and
10 shall be subjected to examination, which shall be public,
11 competitive, and free to all applicants, subject to reasonable
12 limitations as to health, habits, and moral character; provided
13 that the foregoing age limitation shall not apply in the case
14 of any person having previous employment status as a fireman in
15 a regularly constituted fire department of any fire protection
16 district, and further provided that each fireman or fire chief
17 who is a member in good standing in a regularly constituted
18 fire department of any municipality which shall be or shall
19 have subsequently been included within the boundaries of any
20 fire protection district now or hereafter organized shall be
21 given a preference for original appointment in the same class,
22 grade or employment over all other applicants. The examinations
23 shall be practical in their character and shall relate to those
24 matters which will fairly test the persons examined as to their

1 relative capacity to discharge the duties of the positions to
2 which they seek appointment. The examinations shall include
3 tests of physical qualifications and health. No applicant,
4 however, shall be examined concerning his political or
5 religious opinions or affiliations. The examinations shall be
6 conducted by the board of fire commissioners.

7 In any fire protection district that employs full time
8 firefighters and is subject to a collective bargaining
9 agreement, a person who has not qualified for regular
10 appointment under the provisions of this Section shall not be
11 used as a temporary or permanent substitute for certificated
12 members of a fire district's fire department or for regular
13 appointment as a certificated member of a fire district's fire
14 department unless mutually agreed to by the employee's
15 certified bargaining agent. Such agreement shall be considered
16 a permissive subject of bargaining. Fire protection districts
17 covered by the changes made by this amendatory Act of the 95th
18 General Assembly that are using non-certificated employees as
19 substitutes immediately prior to the effective date of this
20 amendatory Act of the 95th General Assembly may, by mutual
21 agreement with the certified bargaining agent, continue the
22 existing practice or a modified practice and that agreement
23 shall be considered a permissive subject of bargaining.

24 (b) No person shall be appointed to the fire department
25 unless he or she is a person of good character and not a person
26 who has been convicted of a felony in Illinois or convicted in

1 another jurisdiction for conduct that would be a felony under
2 Illinois law, or convicted of a crime involving moral
3 turpitude. No person, however, shall be disqualified from
4 appointment to the fire department because of his or her record
5 of misdemeanor convictions, except those under Sections 11-6,
6 11-7, 11-9, 11-14, 11-15, 11-17, 11-18, 11-19, 12-2, 12-6,
7 12-15, 14-4, 16-1, 21.1-3, 24-3.1, 24-5, 25-1, 28-3, 31-1,
8 31-4, 31-6, 31-7, 32-1, 32-2, 32-3, 32-4, 32-8, and subsections
9 (1), (6), and (8) of Section 24-1 of the Criminal Code of 1961.
10 (Source: P.A. 93-589, eff. 1-1-04.)".