

SB2619



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2619

Introduced 2/7/2018, by Sen. Neil Anderson

SYNOPSIS AS INTRODUCED:

65 ILCS 5/10-1-7.3

65 ILCS 5/10-2.1-4

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

Amends the Illinois Municipal Code. In provisions regarding appointment of a fire chief, acting chief, the department head, or a position, by whatever title, that is responsible for day-to-day operations of a fire department, limits home rule powers on and after the effective date of the amendatory Act. Effective immediately.

LRB100 18076 AWJ 33268 b

HOME RULE 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 10-1-7.3 and 10-2.1-4 as follows:

6 (65 ILCS 5/10-1-7.3)

7 Sec. 10-1-7.3. Appointment of fire chief. Notwithstanding
8 any other provision in this Division, after the effective date
9 of this amendatory Act of the 100th General Assembly, a person
10 shall not be appointed as the chief, the acting chief, the
11 department head, or a position, by whatever title, that is
12 responsible for day-to-day operations of a fire department for
13 greater than 180 days unless he or she possesses the following
14 qualifications and certifications:

15 (1) Office of the State Fire Marshal Firefighter Basic
16 Certification or Firefighter II Certification; Office of
17 the State Fire Marshal Fire Officer I and II
18 Certifications; and an associate degree in fire science or
19 a bachelor's degree from an accredited university or
20 college; or

21 (2) a minimum of 10 years' experience as a firefighter
22 at the fire department in the jurisdiction making the
23 appointment.

1 This Section applies to fire departments that employ
2 firefighters hired under Section 10-1-7.1 or 10-1-7.2 of this
3 Division.

4 On and after the effective date of this amendatory Act of
5 the 100th General Assembly, a home rule municipality may not
6 appoint a fire chief, an acting chief, a department head, or a
7 position, by whatever title, that is responsible for day-to-day
8 operations of a fire department for greater than 180 days in a
9 manner inconsistent with this Section. This Section is a
10 limitation under subsection (i) of Section 6 of Article VII of
11 the Illinois Constitution on the concurrent exercise by home
12 rule units of powers and functions exercised by the State.

13 (Source: P.A. 100-425, eff. 8-25-17.)

14 (65 ILCS 5/10-2.1-4) (from Ch. 24, par. 10-2.1-4)

15 Sec. 10-2.1-4. Fire and police departments; appointment of
16 members; certificates of appointments. The board of fire and
17 police commissioners shall appoint all officers and members of
18 the fire and police departments of the municipality, including
19 the chief of police and the chief of the fire department,
20 unless the council or board of trustees shall by ordinance as
21 to them otherwise provide; except as otherwise provided in this
22 Section, and except that in any municipality which adopts or
23 has adopted this Division 2.1 and also adopts or has adopted
24 Article 5 of this Code, the chief of police and the chief of
25 the fire department shall be appointed by the municipal

1 manager, if it is provided by ordinance in such municipality
2 that such chiefs, or either of them, shall not be appointed by
3 the board of fire and police commissioners.

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.

12 After August 25, 2017 (the effective date of Public Act
13 100-425) ~~this amendatory Act of the 100th General Assembly~~, a
14 person shall not be appointed as the chief, the acting chief,
15 the department head, or a position, by whatever title, that is
16 responsible for day-to-day operations of a fire department for
17 greater than 180 days unless he or she possesses the following
18 qualifications and certifications:

19 (1) Office of the State Fire Marshal Firefighter Basic
20 Certification or Firefighter II Certification; Office of
21 the State Fire Marshal Fire Officer I and II
22 Certifications; and an associate degree in fire science or
23 a bachelor's degree from an accredited university or
24 college; or

25 (2) a minimum of 10 years' experience as a firefighter
26 at the fire department in the jurisdiction making the

1 appointment.

2 This paragraph applies to fire departments that employ
3 firefighters hired under the provisions of this Division. On
4 and after the effective date of this amendatory Act of the
5 100th General Assembly, a home rule municipality may not
6 appoint a fire chief, an acting chief, a department head, or a
7 position, by whatever title, that is responsible for day-to-day
8 operations of a fire department for greater than 180 days in a
9 manner inconsistent with this paragraph. This paragraph is a
10 limitation under subsection (i) of Section 6 of Article VII of
11 the Illinois Constitution on the concurrent exercise by home
12 rule units of powers and functions exercised by the State.

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

23 All appointments to each department other than that of the
24 lowest rank, however, shall be from the rank next below that to
25 which the appointment is made except as otherwise provided in
26 this Section, and except that the chief of police and the chief

1 of the fire department may be appointed from among members of
2 the police and fire departments, respectively, regardless of
3 rank, unless the council or board of trustees shall have by
4 ordinance as to them otherwise provided. A chief of police or
5 the chief of the fire department, having been appointed from
6 among members of the police or fire department, respectively,
7 shall be permitted, regardless of rank, to take promotional
8 exams and be promoted to a higher classified rank than he
9 currently holds, without having to resign as chief of police or
10 chief of the fire department.

11 The sole authority to issue certificates of appointment
12 shall be vested in the Board of Fire and Police Commissioners
13 and all certificates of appointments issued to any officer or
14 member of the fire or police department of a municipality shall
15 be signed by the chairman and secretary respectively of the
16 board of fire and police commissioners of such municipality,
17 upon appointment of such officer or member of the fire and
18 police department of such municipality by action of the board
19 of fire and police commissioners. After being selected from the
20 register of eligibles to fill a vacancy in the affected
21 department, each appointee shall be presented with his or her
22 certificate of appointment on the day on which he or she is
23 sworn in as a classified member of the affected department.
24 Firefighters who were not issued a certificate of appointment
25 when originally appointed shall be provided with a certificate
26 within 10 days after making a written request to the

1 chairperson of the Board of Fire and Police Commissioners. In
2 any municipal fire department that employs full-time
3 firefighters and is subject to a collective bargaining
4 agreement, a person who has not qualified for regular
5 appointment under the provisions of this Division 2.1 shall not
6 be used as a temporary or permanent substitute for classified
7 members of a municipality's fire department or for regular
8 appointment as a classified member of a municipality's fire
9 department unless mutually agreed to by the employee's
10 certified bargaining agent. Such agreement shall be considered
11 a permissive subject of bargaining. Municipal fire departments
12 covered by the changes made by Public Act 95-490 ~~this~~
13 ~~amendatory Act of the 95th General Assembly~~ that are using
14 non-certificated employees as substitutes immediately prior to
15 June 1, 2008 (the effective date of Public Act 95-490) ~~this~~
16 ~~amendatory Act of the 95th General Assembly~~ may, by mutual
17 agreement with the certified bargaining agent, continue the
18 existing practice or a modified practice and that agreement
19 shall be considered a permissive subject of bargaining. A home
20 rule unit may not regulate the hiring of temporary or
21 substitute members of the municipality's fire department in a
22 manner that is inconsistent with this Section. This Section is
23 a limitation under subsection (i) of Section 6 of Article VII
24 of the Illinois Constitution on the concurrent exercise by home
25 rule units of powers and functions exercised by the State.

26 The term "policemen" as used in this Division does not

1 include auxiliary police officers except as provided for in
2 Section 10-2.1-6.

3 Any full-time ~~full-time~~ member of a regular fire or police
4 department of any municipality which comes under the provisions
5 of this Division or adopts this Division 2.1 or which has
6 adopted any of the prior Acts pertaining to fire and police
7 commissioners, is a city officer.

8 Notwithstanding any other provision of this Section, the
9 Chief of Police of a department in a non-home rule municipality
10 of more than 130,000 inhabitants may, without the advice or
11 consent of the Board of Fire and Police Commissioners, appoint
12 up to 6 officers who shall be known as deputy chiefs or
13 assistant deputy chiefs, and whose rank shall be immediately
14 below that of Chief. The deputy or assistant deputy chiefs may
15 be appointed from any rank of sworn officers of that
16 municipality, but no person who is not such a sworn officer may
17 be so appointed. Such deputy chief or assistant deputy chief
18 shall have the authority to direct and issue orders to all
19 employees of the Department holding the rank of captain or any
20 lower rank. A deputy chief of police or assistant deputy chief
21 of police, having been appointed from any rank of sworn
22 officers of that municipality, shall be permitted, regardless
23 of rank, to take promotional exams and be promoted to a higher
24 classified rank than he currently holds, without having to
25 resign as deputy chief of police or assistant deputy chief of
26 police.

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

23 No municipality having a population less than 1,000,000
24 shall require that any firefighter appointed to the lowest rank
25 serve a probationary employment period of longer than one year.
26 The limitation on periods of probationary employment provided

1 in Public Act 86-990 ~~this amendatory Act of 1989~~ is an
2 exclusive power and function of the State. Pursuant to
3 subsection (h) of Section 6 of Article VII of the Illinois
4 Constitution, a home rule municipality having a population less
5 than 1,000,000 must comply with this limitation on periods of
6 probationary employment, which is a denial and limitation of
7 home rule powers. Notwithstanding anything to the contrary in
8 this Section, the probationary employment period limitation
9 may be extended for a firefighter who is required, as a
10 condition of employment, to be a licensed paramedic, during
11 which time the sole reason that a firefighter may be discharged
12 without a hearing is for failing to meet the requirements for
13 paramedic licensure.

14 To the extent that this Section or any other Section in
15 this Division conflicts with Section 10-2.1-6.3 or 10-2.1-6.4,
16 then Section 10-2.1-6.3 or 10-2.1-6.4 shall control.

17 (Source: P.A. 100-252, eff. 8-22-17; 100-425, eff. 8-25-17;
18 revised 10-3-17.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.