



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5894

Introduced 11/12/2024, by Rep. Ryan Spain

SYNOPSIS AS INTRODUCED:

65 ILCS 5/10-2.1-4

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

Amends the Illinois Municipal Code. Authorizes the deputy chief of police of a non-home rule municipality with a population of 130,000 or fewer inhabitants or a deputy or assistant deputy chief of police of a non-home rule municipality with a population of more than 130,000 inhabitants to be appointed not only from among the rank of sworn, full-time officers of the municipality's police department but also from among the rank of sworn officers of any other municipality if the officer has at least 5 years of full-time service as a police officer. Effective immediately.

LRB103 42713 JDS 75950 b

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 10-2.1-4 as follows:

6 (65 ILCS 5/10-2.1-4) (from Ch. 24, par. 10-2.1-4)

7 Sec. 10-2.1-4. Fire and police departments; appointment of
8 members; certificates of appointments. The board of fire and
9 police commissioners shall appoint all officers and members of
10 the fire and police departments of the municipality, including
11 the chief of police and the chief of the fire department,
12 unless the council or board of trustees shall by ordinance as
13 to them otherwise provide; except as otherwise provided in
14 this Section, and except that in any municipality which adopts
15 or has adopted this Division 2.1 and also adopts or has adopted
16 Article 5 of this Code, the chief of police and the chief of
17 the fire department shall be appointed by the municipal
18 manager, if it is provided by ordinance in such municipality
19 that such chiefs, or either of them, shall not be appointed by
20 the board of fire and police commissioners.

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

1 the appointing authority. In such case the appointing
2 authority shall file with the corporate authorities the
3 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 After January 1, 2019 (the effective date of Public Act
7 100-1126), a person shall not be appointed as the chief, the
8 acting chief, the department head, or a position, by whatever
9 title, that is responsible for day-to-day operations of a fire
10 department for greater than 180 days unless he or she
11 possesses the following qualifications and certifications:

12 (1) Office of the State Fire Marshal Basic Operations
13 Firefighter Certification or Office of the State Fire
14 Marshal Firefighter II Certification; Office of the State
15 Fire Marshal Advanced Fire Officer Certification or Office
16 of the State Fire Marshal Fire Officer II Certification;
17 and an associate degree in fire science or a bachelor's
18 degree from an accredited university or college;

19 (2) a current certification from the International
20 Fire Service Accreditation Congress or Pro Board Fire
21 Service Professional Qualifications System that meets the
22 National Fire Protection Association standard NFPA 1001,
23 Standard for Fire Fighter Professional Qualifications,
24 Level I job performance requirements; a current
25 certification from the International Fire Service
26 Accreditation Congress or Pro Board Fire Service

1 Professional Qualifications System that meets the National
2 Fire Protection Association standard NFPA 1021, Standard
3 for Fire Officer Professional Qualifications, Fire Officer
4 II job performance requirements; and an associate degree
5 in fire science or a bachelor's degree from an accredited
6 university or college;

7 (3) qualifications that meet the National Fire
8 Protection Association standard NFPA 1001, Standard for
9 Fire Fighter Professional Qualifications, Level I job
10 performance requirements; qualifications that meet the
11 National Fire Protection Association standard NFPA 1021,
12 Standard for Fire Officer Professional Qualifications,
13 Fire Officer II job performance requirements; and an
14 associate degree in fire science or a bachelor's degree
15 from an accredited university or college; or

16 (4) a minimum of 10 years' experience as a firefighter
17 at the fire department in the jurisdiction making the
18 appointment.

19 This paragraph applies to fire departments that employ
20 firefighters hired under the provisions of this Division. On
21 and after January 1, 2019 (the effective date of Public Act
22 100-1126), a home rule municipality may not appoint a fire
23 chief, an acting chief, a department head, or a position, by
24 whatever title, that is responsible for day-to-day operations
25 of a fire department for greater than 180 days in a manner
26 inconsistent with this paragraph. This paragraph is a

1 limitation under subsection (i) of Section 6 of Article VII of
2 the Illinois Constitution on the concurrent exercise by home
3 rule units of powers and functions exercised by the State.

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

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

1 currently holds, without having to resign as chief of police
2 or chief of the fire department.

3 The sole authority to issue certificates of appointment
4 shall be vested in the Board of Fire and Police Commissioners
5 and all certificates of appointments issued to any officer or
6 member of the fire or police department of a municipality
7 shall be signed by the chairman and secretary respectively of
8 the board of fire and police commissioners of such
9 municipality, upon appointment of such officer or member of
10 the fire and police department of such municipality by action
11 of the board of fire and police commissioners. After being
12 selected from the register of eligibles to fill a vacancy in
13 the affected department, each appointee shall be presented
14 with his or her certificate of appointment on the day on which
15 he or she is sworn in as a classified member of the affected
16 department. Firefighters who were not issued a certificate of
17 appointment when originally appointed shall be provided with a
18 certificate within 10 days after making a written request to
19 the chairperson of the Board of Fire and Police Commissioners.
20 In any municipal fire department that employs full-time
21 firefighters and is subject to a collective bargaining
22 agreement, a person who has not qualified for regular
23 appointment under the provisions of this Division 2.1 shall
24 not be used as a temporary or permanent substitute for
25 classified members of a municipality's fire department or for
26 regular appointment as a classified member of a municipality's

1 fire department unless mutually agreed to by the employee's
2 certified bargaining agent. Such agreement shall be considered
3 a permissive subject of bargaining. Municipal fire departments
4 covered by the changes made by Public Act 95-490 that are using
5 non-certificated employees as substitutes immediately prior to
6 June 1, 2008 (the effective date of Public Act 95-490) may, by
7 mutual agreement with the certified bargaining agent, continue
8 the existing practice or a modified practice and that
9 agreement shall be considered a permissive subject of
10 bargaining. A home rule unit may not regulate the hiring of
11 temporary or substitute members of the municipality's fire
12 department in a manner that is inconsistent with this Section.
13 This Section is a limitation under subsection (i) of Section 6
14 of Article VII of the Illinois Constitution on the concurrent
15 exercise by home rule units of powers and functions exercised
16 by the State.

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

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

25 Notwithstanding any other provision of this Section, the
26 Chief of Police of a department in a non-home rule

1 municipality of more than 130,000 inhabitants may, without the
2 advice or consent of the Board of Fire and Police
3 Commissioners, appoint up to 6 officers who shall be known as
4 deputy chiefs or assistant deputy chiefs, and whose rank shall
5 be immediately below that of Chief. The deputy or assistant
6 deputy chiefs may be appointed from (i) any rank of sworn
7 officers of that municipality or (ii) any rank of sworn
8 officers of any other municipality. If the appointee is a
9 sworn officer of a municipality other than the municipality to
10 which the appointee is being appointed, then the appointee
11 must also have at least 5 years of full-time service as a
12 police officer. No, ~~but no~~ person who does not meet the
13 requirements of this paragraph ~~is not such a sworn officer~~ may
14 be so appointed. Such deputy chief or assistant deputy chief
15 shall have the authority to direct and issue orders to all
16 employees of the Department holding the rank of captain or any
17 lower rank. A deputy chief of police or assistant deputy chief
18 of police, having been appointed from any rank of sworn
19 officers of that municipality, shall be permitted, regardless
20 of rank, to take promotional exams and be promoted to a higher
21 classified rank than he currently holds, without having to
22 resign as deputy chief of police or assistant deputy chief of
23 police.

24 Notwithstanding any other provision of this Section, a
25 non-home rule municipality of 130,000 or fewer inhabitants,
26 through its council or board of trustees, may, by ordinance,

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

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

1 provided in Public Act 86-990 is an exclusive power and
2 function of the State. Pursuant to subsection (h) of Section 6
3 of Article VII of the Illinois Constitution, a home rule
4 municipality having a population less than 1,000,000 must
5 comply with this limitation on periods of probationary
6 employment, which is a denial and limitation of home rule
7 powers. Notwithstanding anything to the contrary in this
8 Section, the probationary employment period limitation may be
9 extended for a firefighter who is required, as a condition of
10 employment, to be a licensed paramedic, during which time the
11 sole reason that a firefighter may be discharged without a
12 hearing is for failing to meet the requirements for paramedic
13 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;
18 100-863, eff, 8-14-18; 100-1126, eff. 1-1-19; 101-81, eff.
19 7-12-19.)

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