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09400HB1500ham001

LRB094 07108 AJ0 42167 a

1 AMENDMENT TO HOUSE BILL 1500

2 AMENDMENT NO. _____. Amend House Bill 1500 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Municipal Code is amended by
5 changing Sections 10-1-7 and 10-2.1-4 as follows:

6 (65 ILCS 5/10-1-7) (from Ch. 24, par. 10-1-7)

7 Sec. 10-1-7. Examination of applicants; disqualifications.

8 (a) All applicants for offices or places in the classified
9 service, except those mentioned in Section 10-1-17, are subject
10 to examination. The examination shall be public, competitive,
11 and open to all citizens of the United States, with specified
12 limitations as to residence, age, health, habits and moral
13 character.

14 (b) Residency requirements in effect at the time an
15 individual enters the fire or police service of a municipality
16 (other than a municipality that has more than 1,000,000
17 inhabitants) cannot be made more restrictive for that
18 individual during his or her period of service for that
19 municipality, or be made a condition of promotion, except for
20 the rank or position of Fire or Police Chief.

21 (c) No person with a record of misdemeanor convictions
22 except those under Sections 11-6, 11-7, 11-9, 11-14, 11-15,
23 11-17, 11-18, 11-19, 12-2, 12-6, 12-15, 14-4, 16-1, 21.1-3,
24 24-3.1, 24-5, 25-1, 28-3, 31-1, 31-4, 31-6, 31-7, 32-1, 32-2,

1 32-3, 32-4, 32-8, and subsections (1), (6) and (8) of Section
2 24-1 of the Criminal Code of 1961 or arrested for any cause but
3 not convicted on that cause shall be disqualified from taking
4 the examination on grounds of habits or moral character, unless
5 the person is attempting to qualify for a position on the
6 police department, in which case the conviction or arrest may
7 be considered as a factor in determining the person's habits or
8 moral character.

9 (d) Persons entitled to military preference under Section
10 10-1-16 shall not be subject to limitations specifying age
11 unless they are applicants for a position as a fireman or a
12 policeman having no previous employment status as a fireman or
13 policeman in the regularly constituted fire or police
14 department of the municipality, in which case they must not
15 have attained their 35th birthday, except any person who has
16 served as an auxiliary policeman under Section 3.1-30-20 for at
17 least 5 years and is under 40 years of age.

18 (e) All employees of a municipality of less than 500,000
19 population (except those who would be excluded from the
20 classified service as provided in this Division 1) who are
21 holding that employment as of the date a municipality adopts
22 this Division 1, or as of July 17, 1959, whichever date is the
23 later, and who have held that employment for at least 2 years
24 immediately before that later date, and all firemen and
25 policemen regardless of length of service who were either
26 appointed to their respective positions by the board of fire
27 and police commissioners under the provisions of Division 2 of
28 this Article or who are serving in a position (except as a
29 temporary employee) in the fire or police department in the
30 municipality on the date a municipality adopts this Division 1,
31 or as of July 17, 1959, whichever date is the later, shall
32 become members of the classified civil service of the
33 municipality without examination.

34 (f) The examinations shall be practical in their character,

1 and shall relate to those matters that will fairly test the
2 relative capacity of the persons examined to discharge the
3 duties of the positions to which they seek to be appointed. The
4 examinations shall include tests of physical qualifications,
5 health, and (when appropriate) manual skill. If an applicant is
6 unable to pass the physical examination solely as the result of
7 an injury received by the applicant as the result of the
8 performance of an act of duty while working as a temporary
9 employee in the position for which he or she is being examined,
10 however, the physical examination shall be waived and the
11 applicant shall be considered to have passed the examination.
12 No questions in any examination shall relate to political or
13 religious opinions or affiliations. Results of examinations
14 and the eligible registers prepared from the results shall be
15 published by the commission within 60 days after any
16 examinations are held.

17 (g) The commission shall control all examinations, and may,
18 whenever an examination is to take place, designate a suitable
19 number of persons, either in or not in the official service of
20 the municipality, to be examiners. The examiners shall conduct
21 the examinations as directed by the commission and shall make a
22 return or report of the examinations to the commission. If the
23 appointed examiners are in the official service of the
24 municipality, the examiners shall not receive extra
25 compensation for conducting the examinations. The commission
26 may at any time substitute any other person, whether or not in
27 the service of the municipality, in the place of any one
28 selected as an examiner. The commission members may themselves
29 at any time act as examiners without appointing examiners. The
30 examiners at any examination shall not all be members of the
31 same political party.

32 (h) In municipalities of 500,000 or more population, no
33 person who has attained his or her 35th birthday shall be
34 eligible to take an examination for a position as a fireman or

1 a policeman unless the person has had previous employment
2 status as a policeman or fireman in the regularly constituted
3 police or fire department of the municipality, except as
4 provided in this Section.

5 (i) In municipalities of more than 5,000 but not more than
6 200,000 inhabitants, no person who has attained his or her 35th
7 birthday shall be eligible to take an examination for a
8 position as a fireman or a policeman unless the person has had
9 previous employment status as a policeman or fireman in the
10 regularly constituted police or fire department of the
11 municipality, except as provided in this Section.

12 (j) In all municipalities, applicants who are 20 years of
13 age and who have successfully completed 2 years of law
14 enforcement studies at an accredited college or university may
15 be considered for appointment to active duty with the police
16 department. An applicant described in this subsection (j) who
17 is appointed to active duty shall not have power of arrest, nor
18 shall the applicant be permitted to carry firearms, until he or
19 she reaches 21 years of age.

20 (k) In municipalities of more than 500,000 population,
21 applications for examination for and appointment to positions
22 as firefighters or police shall be made available at various
23 branches of the public library of the municipality.

24 (l) No municipality having a population less than 1,000,000
25 shall require that any fireman appointed to the lowest rank
26 serve a probationary employment period of longer than one year.
27 The limitation on periods of probationary employment provided
28 in this amendatory Act of 1989 is an exclusive power and
29 function of the State. Pursuant to subsection (h) of Section 6
30 of Article VII of the Illinois Constitution, a home rule
31 municipality having a population less than 1,000,000 must
32 comply with this limitation on periods of probationary
33 employment, which is a denial and limitation of home rule
34 powers. Notwithstanding anything to the contrary in this

1 Section, the probationary employment period limitation may be
2 extended for a firefighter who is required, as a condition of
3 employment, to be a certified paramedic, during which time the
4 sole reason that a firefighter may be discharged without a
5 hearing is for failing to meet the requirements for paramedic
6 certification shall not apply to a fireman whose position also
7 includes paramedic responsibilities.

8 (Source: P.A. 86-990; 87-1119.)

9 (65 ILCS 5/10-2.1-4) (from Ch. 24, par. 10-2.1-4)

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

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

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
26 provided by ordinance, they may be removed or discharged by the
27 appointing authority. In such case the appointing authority
28 shall file with the corporate authorities the reasons for such
29 removal or discharge, which removal or discharge shall not
30 become effective unless confirmed by a majority vote of the
31 corporate authorities.

32 If a member of the department is appointed chief of police
33 or chief of the fire department prior to being eligible to

1 retire on pension, he shall be considered as on furlough from
2 the rank he held immediately prior to his appointment as chief.
3 If he resigns as chief or is discharged as chief prior to
4 attaining eligibility to retire on pension, he shall revert to
5 and be established in whatever rank he currently holds, except
6 for previously appointed positions, and thereafter be entitled
7 to all the benefits and emoluments of that rank, without regard
8 as to whether a vacancy then exists in that rank.

9 All appointments to each department other than that of the
10 lowest rank, however, shall be from the rank next below that to
11 which the appointment is made except as otherwise provided in
12 this Section, and except that the chief of police and the chief
13 of the fire department may be appointed from among members of
14 the police and fire departments, respectively, regardless of
15 rank, unless the council or board of trustees shall have by
16 ordinance as to them otherwise provided. A chief of police or
17 the chief of the fire department, having been appointed from
18 among members of the police or fire department, respectively,
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 chief of police or
22 chief of the fire department.

23 The sole authority to issue certificates of appointment
24 shall be vested in the Board of Fire and Police Commissioners
25 and all certificates of appointments issued to any officer or
26 member of the fire or police department of a municipality shall
27 be signed by the chairman and secretary respectively of the
28 board of fire and police commissioners of such municipality,
29 upon appointment of such officer or member of the fire and
30 police department of such municipality by action of the board
31 of fire and police commissioners.

32 The term "policemen" as used in this Division does not
33 include auxiliary policemen except as provided for in Section
34 10-2.1-6.

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

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

25 Notwithstanding any other provision of this Section, a
26 non-homerule municipality of 130,000 or fewer inhabitants,
27 through its council or board of trustees, may, by ordinance,
28 provide for a position of deputy chief to be appointed by the
29 chief of the police department. The ordinance shall provide for
30 no more than one deputy chief position if the police department
31 has fewer than 25 full-time police officers and for no more
32 than 2 deputy chief positions if the police department has 25
33 or more full-time police officers. The deputy chief position
34 shall be an exempt rank immediately below that of Chief. The

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

13 No municipality having a population less than 1,000,000
14 shall require that any firefighter ~~fireman~~ appointed to the
15 lowest rank serve a probationary employment period of longer
16 than one year. The limitation on periods of probationary
17 employment provided in this amendatory Act of 1989 is an
18 exclusive power and function of the State. Pursuant to
19 subsection (h) of Section 6 of Article VII of the Illinois
20 Constitution, a home rule municipality having a population less
21 than 1,000,000 must comply with this limitation on periods of
22 probationary employment, which is a denial and limitation of
23 home rule powers. Notwithstanding anything to the contrary in
24 this Section, the probationary employment period limitation
25 may be extended for a firefighter who is required, as a
26 condition of employment, to be a certified paramedic, during
27 which time the sole reason that a firefighter may be discharged
28 without a hearing is for failing to meet the requirements for
29 paramedic certification ~~shall not apply to a fireman whose~~
30 ~~position also includes paramedic responsibilities.~~

31 (Source: P.A. 93-486, eff. 8-8-03.)

32 Section 10. The Fire Protection District Act is amended by
33 changing Section 16.13b as follows:

1 (70 ILCS 705/16.13b) (from Ch. 127 1/2, par. 37.13b)

2 Sec. 16.13b. Unless the employer and a labor organization
3 have agreed to a contract provision providing for final and
4 binding arbitration of disputes concerning the existence of
5 just cause for disciplinary action, no officer or member of the
6 fire department of any protection district who has held that
7 position for one year shall be removed or discharged except for
8 just cause, upon written charges specifying the complainant and
9 the basis for the charges, and after a hearing on those charges
10 before the board of fire commissioners, affording the officer
11 or member an opportunity to be heard in his own defense. In
12 such case the appointing authority shall file with the board of
13 trustees the reasons for such removal or discharge, which
14 removal or discharge shall not become effective unless
15 confirmed by a majority vote of the board of trustees. If
16 written charges are brought against an officer or member, the
17 board of fire commissioners shall conduct a fair and impartial
18 hearing of the charges, to be commenced within 30 days of the
19 filing thereof, which hearing may be continued from time to
20 time. The Chief of the department shall bear the burden of
21 proving the guilt of the officer or member by a preponderance
22 of the evidence. In case an officer or member is found guilty,
23 the board may discharge him, or may suspend him not exceeding
24 30 calendar days without pay. The board may suspend any officer
25 or member pending the hearing with or without pay, but in no
26 event shall the suspension pending hearing and the ultimate
27 suspension imposed on the officer or member, if any, exceed 30
28 calendar days without pay in the aggregate. If the board of
29 fire commissioners determines that the charges are not
30 sustained, the officer or member shall be reimbursed for all
31 wages withheld or lost, if any. In the conduct of this hearing,
32 each member of the board shall have power to secure by its
33 subpoena both the attendance and testimony of witnesses and the

1 production of books and papers relevant to the hearing.

2 Notwithstanding any other provision of this Section, a
3 probationary employment period may be extended beyond one year
4 for a firefighter who is required as a condition of employment
5 to be a certified paramedic, during which time the sole reason
6 that a firefighter may be discharged without a hearing is for
7 failing to meet the requirements for paramedic certification.

8 The age for mandatory retirement of firemen in the service
9 of any department of such district is 65 years, unless the
10 board of trustees shall by ordinance provide for an earlier
11 mandatory retirement age of not less than 60 years.

12 The provisions of the Administrative Review Law, and all
13 amendments and modifications thereof, and the rules adopted
14 pursuant thereto, shall apply to and govern all proceedings for
15 the judicial review of final administrative decisions of the
16 board of fire commissioners hereunder. The term
17 "administrative decision" is defined as in Section 3-101 of the
18 Code of Civil Procedure.

19 Nothing in this Section shall be construed to prevent the
20 Chief of the fire department from suspending without pay a
21 member of his department for a period of not more than 5
22 consecutive calendar days, but he shall notify the board in
23 writing of such suspension. Any fireman so suspended may appeal
24 to the board of fire commissioners for a review of the
25 suspension within 5 calendar days after such suspension. Upon
26 such appeal, the Chief of the department shall bear the burden
27 of proof in establishing the guilt of the officer or member by
28 a preponderance of the evidence. The board may sustain the
29 action of the Chief of the department, may reduce the
30 suspension to a lesser penalty, or may reverse it with
31 instructions that the officer or member receive his pay and
32 other benefits withheld for the period involved, or may suspend
33 the officer for an additional period of not more than 30 days,
34 or discharge him, depending upon the facts presented.

1 (Source: P.A. 86-562.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".