



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2901

Introduced 1/20/2006, by Sen. John J. Millner

SYNOPSIS AS INTRODUCED:

65 ILCS 5/3.1-30-5
65 ILCS 5/10-2.1-4

from Ch. 24, par. 3.1-30-5
from Ch. 24, par. 10-2.1-4

Amends the Illinois Municipal Code. Provides that the term of office for the chief of police may exceed that of the mayor or president of the municipality. Provides that the chief of police and the chief of the fire department may be removed or discharged from office only for just cause. Requires any candidate for the position of chief of police to be certified as a police officer by the Illinois Law Enforcement Training and Standards Board or hold a valid waiver issued by that Board.

LRB094 19146 HLH 54676 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 3.1-30-5 and 10-2.1-4 as follows:

6 (65 ILCS 5/3.1-30-5) (from Ch. 24, par. 3.1-30-5)

7 Sec. 3.1-30-5. Appointed officers in all municipalities.

8 (a) The mayor or president, as the case may be, by and with
9 the advice and consent of the city council or the board of
10 trustees, may appoint (1) a treasurer (if the treasurer is not
11 an elected position in the municipality), (2) a collector, (3)
12 a comptroller, (4) a marshal, (5) an attorney or a corporation
13 counsel, (6) one or more purchasing agents and deputies, (7)
14 the number of auxiliary policemen determined necessary by the
15 corporate authorities, (8) police matrons, (9) a commissioner
16 of public works, (10) a budget director or a budget officer,
17 and (11) other officers necessary to carry into effect the
18 powers conferred upon municipalities.

19 (b) By ordinance or resolution to take effect at the end of
20 the current fiscal year, the corporate authorities, by a
21 two-thirds vote, may discontinue any appointed office and
22 devolve the duties of that office on any other municipal
23 officer. After discontinuance, no officer filling the office
24 before its discontinuance shall have any claim against the
25 municipality for salary alleged to accrue after the date of
26 discontinuance.

27 (c) Vacancies in all appointed municipal offices may be
28 filled in the same manner as appointments are made under
29 subsection (a). The city council or board of trustees of a
30 municipality, by ordinance not inconsistent with this Code, may
31 prescribe the duties, define the powers, and fix the term of
32 office of all appointed officers of the municipality; but the

1 term of office, except for the chief of police and except as
2 otherwise expressly provided in this Code, shall not exceed
3 that of the mayor or president of the municipality.

4 (d) An appointed officer of a municipality may resign from
5 his or her office. If an appointed officer resigns, he or she
6 shall continue in office until a successor has been chosen and
7 has qualified. If there is a failure to appoint a municipal
8 officer, or the person appointed fails to qualify, the person
9 filling the office shall continue in office until a successor
10 has been chosen and has qualified. If an appointed municipal
11 officer ceases to perform the duties of or to hold the office
12 by reason of death, permanent physical or mental disability,
13 conviction of a disqualifying crime, or dismissal from or
14 abandonment of office, the mayor or president of the
15 municipality may appoint a temporary successor to the officer.

16 (Source: P.A. 87-1119; 88-537.)

17 (65 ILCS 5/10-2.1-4) (from Ch. 24, par. 10-2.1-4)

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

20 The board of fire and police commissioners shall appoint
21 all officers and members of the fire and police departments of
22 the municipality, including the chief of police and the chief
23 of the fire department, who shall hold their offices during
24 good behavior, subject to removal or discharge by the board for
25 just cause, unless the council or board of trustees shall by
26 ordinance as to them otherwise provide; except as otherwise
27 provided in this Section, and except that in any municipality
28 which adopts or has adopted this Division 2.1 and also adopts
29 or has adopted Article 5 of this Code, the chief of police and
30 the chief of the fire department shall be appointed by the
31 municipal manager, if it is provided by ordinance in such
32 municipality that such chiefs, or either of them, shall not be
33 appointed by the board of fire and police commissioners. To be
34 appointed as chief of police, the candidate must be certified
35 as a police officer by the Illinois Law Enforcement Training

1 and Standards Board or hold a valid waiver issued by that
2 Board.

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

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

21 All appointments to each department other than that of the
22 lowest rank, however, shall be from the rank next below that to
23 which the appointment is made except as otherwise provided in
24 this Section, and except that the chief of police and the chief
25 of the fire department may be appointed from among members of
26 the police and fire departments, respectively, regardless of
27 rank, unless the council or board of trustees shall have by
28 ordinance as to them otherwise provided. A chief of police or
29 the chief of the fire department, having been appointed from
30 among members of the police or fire department, respectively,
31 shall be permitted, regardless of rank, to take promotional
32 exams and be promoted to a higher classified rank than he
33 currently holds, without having to resign as chief of police or
34 chief of the fire department.

35 The sole authority to issue certificates of appointment
36 shall be vested in the Board of Fire and Police Commissioners

1 and all certificates of appointments issued to any officer or
2 member of the fire or police department of a municipality shall
3 be signed by the chairman and secretary respectively of the
4 board of fire and police commissioners of such municipality,
5 upon appointment of such officer or member of the fire and
6 police department of such municipality by action of the board
7 of fire and police commissioners.

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

11 Any full time member of a regular fire or police department
12 of any municipality which comes under the provisions of this
13 Division or adopts this Division 2.1 or which has adopted any
14 of the prior Acts pertaining to fire and police commissioners,
15 is a city officer.

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

35 Notwithstanding any other provision of this Section, a
36 non-homerule municipality of 130,000 or fewer inhabitants,

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

21 No municipality having a population less than 1,000,000
22 shall require that any firefighter appointed to the lowest rank
23 serve a probationary employment period of longer than one year.
24 The limitation on periods of probationary employment provided
25 in this amendatory Act of 1989 is an exclusive power and
26 function of the State. Pursuant to subsection (h) of Section 6
27 of Article VII of the Illinois Constitution, a home rule
28 municipality having a population less than 1,000,000 must
29 comply with this limitation on periods of probationary
30 employment, which is a denial and limitation of home rule
31 powers. Notwithstanding anything to the contrary in this
32 Section, the probationary employment period limitation may be
33 extended for a firefighter who is required, as a condition of
34 employment, to be a certified paramedic, during which time the
35 sole reason that a firefighter may be discharged without a
36 hearing is for failing to meet the requirements for paramedic

1 certification.

2 (Source: P.A. 93-486, eff. 8-8-03; 94-135, eff. 7-7-05.)