



Rep. Brandon W. Phelps

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LRB095 07172 HLH 35252 a

1 AMENDMENT TO HOUSE BILL 988

2 AMENDMENT NO. _____. Amend House Bill 988 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

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

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

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

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

12 (65 ILCS 5/10-2.1-4) (from Ch. 24, par. 10-2.1-4)

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

15 The board of fire and police commissioners shall appoint
16 all officers and members of the fire and police departments of
17 the municipality, including the chief of police and the chief
18 of the fire department, unless the council or board of trustees
19 shall by ordinance as to them otherwise provide; except as
20 otherwise provided in this Section, and except that in any
21 municipality which adopts or has adopted this Division 2.1 and
22 also adopts or has adopted Article 5 of this Code, the chief of
23 police and the chief of the fire department shall be appointed
24 by the municipal manager, if it is provided by ordinance in
25 such municipality that such chiefs, or either of them, shall

1 not be appointed by the board of fire and police commissioners.

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

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

20 All appointments to each department other than that of the
21 lowest rank, however, shall be from the rank next below that to
22 which the appointment is made except as otherwise provided in
23 this Section, and except that the chief of police and the chief
24 of the fire department may be appointed from among members of
25 the police and fire departments, respectively, regardless of
26 rank, unless the council or board of trustees shall have by

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

8 The sole authority to issue certificates of appointment
9 shall be vested in the Board of Fire and Police Commissioners
10 and all certificates of appointments issued to any officer or
11 member of the fire or police department of a municipality shall
12 be signed by the chairman and secretary respectively of the
13 board of fire and police commissioners of such municipality,
14 upon appointment of such officer or member of the fire and
15 police department of such municipality by action of the board
16 of fire and police commissioners. In any municipal fire
17 department that employs full time firefighters and is subject
18 to a collective bargaining agreement, a person who has not
19 qualified for regular appointment under the provisions of this
20 Division 2.1 shall not be used as a temporary or permanent
21 substitute for classified members of a municipality's fire
22 department or for regular appointment as a classified member of
23 a municipality's fire department unless mutually agreed to by
24 the employee's certified bargaining agent. Such agreement
25 shall be considered a permissive subject of bargaining.
26 Municipal fire departments covered by the changes made by this

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

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

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

22 Notwithstanding any other provision of this Section, the
23 Chief of Police of a department in a non-homerule municipality
24 of more than 130,000 inhabitants may, without the advice or
25 consent of the Board of Fire and Police Commissioners, appoint
26 up to 6 officers who shall be known as deputy chiefs or

1 assistant deputy chiefs, and whose rank shall be immediately
2 below that of Chief. The deputy or assistant deputy chiefs may
3 be appointed from any rank of sworn officers of that
4 municipality, but no person who is not such a sworn officer may
5 be so appointed. Such deputy chief or assistant deputy chief
6 shall have the authority to direct and issue orders to all
7 employees of the Department holding the rank of captain or any
8 lower rank. A deputy chief of police or assistant deputy chief
9 of police, having been appointed from any rank of sworn
10 officers of that municipality, shall be permitted, regardless
11 of rank, to take promotional exams and be promoted to a higher
12 classified rank than he currently holds, without having to
13 resign as deputy chief of police or assistant deputy chief of
14 police.

15 Notwithstanding any other provision of this Section, a
16 non-homerule municipality of 130,000 or fewer inhabitants,
17 through its council or board of trustees, may, by ordinance,
18 provide for a position of deputy chief to be appointed by the
19 chief of the police department. The ordinance shall provide for
20 no more than one deputy chief position if the police department
21 has fewer than 25 full-time police officers and for no more
22 than 2 deputy chief positions if the police department has 25
23 or more full-time police officers. The deputy chief position
24 shall be an exempt rank immediately below that of Chief. The
25 deputy chief may be appointed from any rank of sworn, full-time
26 officers of the municipality's police department, but must have

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

11 No municipality having a population less than 1,000,000
12 shall require that any firefighter appointed to the lowest rank
13 serve a probationary employment period of longer than one year.
14 The limitation on periods of probationary employment provided
15 in this amendatory Act of 1989 is an exclusive power and
16 function of the State. Pursuant to subsection (h) of Section 6
17 of Article VII of the Illinois Constitution, a home rule
18 municipality having a population less than 1,000,000 must
19 comply with this limitation on periods of probationary
20 employment, which is a denial and limitation of home rule
21 powers. Notwithstanding anything to the contrary in this
22 Section, the probationary employment period limitation may be
23 extended for a firefighter who is required, as a condition of
24 employment, to be a certified paramedic, during which time the
25 sole reason that a firefighter may be discharged without a
26 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; 94-984,
3 eff. 6-30-06.)

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

6 (70 ILCS 705/16.06) (from Ch. 127 1/2, par. 37.06)

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

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

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

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

25 (b) No person shall be appointed to the fire department
26 unless he or she is a person of good character and not a person

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