



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB3731

Introduced 2/28/2007, by Rep. Tom Cross

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.

LRB095 03955 HLH 23988 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 police officers determined necessary by
15 the corporate authorities, (8) police matrons, (9) a
16 commissioner of public works, (10) a budget director or a
17 budget officer, and (11) other officers necessary to carry into
18 effect the 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

1 before its discontinuance shall have any claim against the
2 municipality for salary alleged to accrue after the date of
3 discontinuance.

4 (c) Vacancies in all appointed municipal offices may be
5 filled in the same manner as appointments are made under
6 subsection (a). The city council or board of trustees of a
7 municipality, by ordinance not inconsistent with this Code, may
8 prescribe the duties, define the powers, and fix the term of
9 office of all appointed officers of the municipality; but the
10 term of office, except for the chief of police and except as
11 otherwise expressly provided in this Code, shall not exceed
12 that of the mayor or president of the municipality.

13 (d) An appointed officer of a municipality may resign from
14 his or her office. If an appointed officer resigns, he or she
15 shall continue in office until a successor has been chosen and
16 has qualified. If there is a failure to appoint a municipal
17 officer, or the person appointed fails to qualify, the person
18 filling the office shall continue in office until a successor
19 has been chosen and has qualified. If an appointed municipal
20 officer ceases to perform the duties of or to hold the office
21 by reason of death, permanent physical or mental disability,
22 conviction of a disqualifying crime, or dismissal from or
23 abandonment of office, the mayor or president of the
24 municipality may appoint a temporary successor to the officer.

25 (Source: P.A. 94-984, eff. 6-30-06.)

1 (65 ILCS 5/10-2.1-4) (from Ch. 24, par. 10-2.1-4)

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

4 The board of fire and police commissioners shall appoint
5 all officers and members of the fire and police departments of
6 the municipality, including the chief of police and the chief
7 of the fire department, who shall hold their offices during
8 good behavior, subject to removal or discharge by the board for
9 just cause, unless the council or board of trustees shall by
10 ordinance as to them otherwise provide; except as otherwise
11 provided in this Section, and except that in any municipality
12 which adopts or has adopted this Division 2.1 and also adopts
13 or has adopted Article 5 of this Code, the chief of police and
14 the chief of the fire department shall be appointed by the
15 municipal manager, if it is provided by ordinance in such
16 municipality that such chiefs, or either of them, shall not be
17 appointed by the board of fire and police commissioners. To be
18 appointed as chief of police, the candidate must be certified
19 as a police officer by the Illinois Law Enforcement Training
20 and Standards Board or hold a valid waiver issued by that
21 Board.

22 If the chief of the fire department or the chief of the
23 police department or both of them are appointed in the manner
24 provided by ordinance, they may be removed or discharged by the
25 appointing authority only for just cause. In such case the
26 appointing authority shall file with the corporate authorities

1 the reasons for such removal or discharge, which removal or
2 discharge shall not become effective unless confirmed by a
3 majority vote of the corporate authorities.

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 chief.
8 If he resigns as chief or is discharged as chief prior to
9 attaining eligibility to retire on pension, he shall revert to
10 and be established in whatever rank he currently holds, except
11 for previously appointed positions, and thereafter be entitled
12 to all the benefits and emoluments of that rank, without regard
13 as to whether a vacancy then exists in that rank.

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

1 chief of the fire department.

2 The sole authority to issue certificates of appointment
3 shall be vested in the Board of Fire and Police Commissioners
4 and all certificates of appointments issued to any officer or
5 member of the fire or police department of a municipality shall
6 be signed by the chairman and secretary respectively of the
7 board of fire and police commissioners of such municipality,
8 upon appointment of such officer or member of the fire and
9 police department of such municipality by action of the board
10 of fire and police commissioners.

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

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

19 Notwithstanding any other provision of this Section, the
20 Chief of Police of a department in a non-homerule municipality
21 of more than 130,000 inhabitants may, without the advice or
22 consent of the Board of Fire and Police Commissioners, appoint
23 up to 6 officers who shall be known as deputy chiefs or
24 assistant deputy chiefs, and whose rank shall be immediately
25 below that of Chief. The deputy or assistant deputy chiefs may
26 be appointed from any rank of sworn officers of that

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

12 Notwithstanding any other provision of this Section, a
13 non-homerule municipality of 130,000 or fewer inhabitants,
14 through its council or board of trustees, may, by ordinance,
15 provide for a position of deputy chief to be appointed by the
16 chief of the police department. The ordinance shall provide for
17 no more than one deputy chief position if the police department
18 has fewer than 25 full-time police officers and for no more
19 than 2 deputy chief positions if the police department has 25
20 or more full-time police officers. The deputy chief position
21 shall be an exempt rank immediately below that of Chief. The
22 deputy chief may be appointed from any rank of sworn, full-time
23 officers of the municipality's police department, but must have
24 at least 5 years of full-time service as a police officer in
25 that department. A deputy chief shall serve at the discretion
26 of the Chief and, if removed from the position, shall revert to

1 the rank currently held, without regard as to whether a vacancy
2 exists in that rank. A deputy chief of police, having been
3 appointed from any rank of sworn full-time officers of that
4 municipality's police department, shall be permitted,
5 regardless of rank, to take promotional exams and be promoted
6 to a higher classified rank than he currently holds, without
7 having to resign as deputy chief of police.

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

25 (Source: P.A. 93-486, eff. 8-8-03; 94-135, eff. 7-7-05; 94-984,
26 eff. 6-30-06.)