



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1547

Introduced 2/10/2005, by Rep. Larry McKeon

SYNOPSIS AS INTRODUCED:

5 ILCS 315/7	from Ch. 48, par. 1607
5 ILCS 315/14	from Ch. 48, par. 1614
65 ILCS 5/10-1-18	from Ch. 24, par. 10-1-18
65 ILCS 5/10-2.1-17	from Ch. 24, par. 10-2.1-17

Amends the Illinois Public Labor Relations Act. Provides that discipline and disciplinary due process procedures shall be mandatory subjects of bargaining for firefighters and peace officers. Provides that a home rule unit may not regulate these mandatory subjects of discipline and disciplinary due process procedures in an inconsistent manner. Amends the Illinois Municipal Code. Deletes provisions that stated, as to firefighters and peace officers, that in non-home rule units of government that due process was a permissive subject and not a mandatory subject, except where a collective bargaining agreement included due process provisions and was in effect on the effective date of the prior amendatory Act. Effective immediately.

LRB094 09420 AJO 39667 b

HOME RULE 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 Public Labor Relations Act is
5 amended by changing Sections 7 and 14 as follows:

6 (5 ILCS 315/7) (from Ch. 48, par. 1607)

7 Sec. 7. Duty to bargain. A public employer and the
8 exclusive representative have the authority and the duty to
9 bargain collectively set forth in this Section.

10 For the purposes of this Act, "to bargain collectively"
11 means the performance of the mutual obligation of the public
12 employer or his designated representative and the
13 representative of the public employees to meet at reasonable
14 times, including meetings in advance of the budget-making
15 process, and to negotiate in good faith with respect to wages,
16 hours, and other conditions of employment, not excluded by
17 Section 4 of this Act, or the negotiation of an agreement, or
18 any question arising thereunder and the execution of a written
19 contract incorporating any agreement reached if requested by
20 either party, but such obligation does not compel either party
21 to agree to a proposal or require the making of a concession.

22 The duty "to bargain collectively" shall also include an
23 obligation to negotiate over any matter with respect to wages,
24 hours and other conditions of employment, not specifically
25 provided for in any other law or not specifically in violation
26 of the provisions of any law. If any other law pertains, in
27 part, to a matter affecting the wages, hours and other
28 conditions of employment, such other law shall not be construed
29 as limiting the duty "to bargain collectively" and to enter
30 into collective bargaining agreements containing clauses which
31 either supplement, implement, or relate to the effect of such
32 provisions in other laws.

1 The duty "to bargain collectively" shall also include
2 negotiations as to the terms of a collective bargaining
3 agreement. The parties may, by mutual agreement, provide for
4 arbitration of impasses resulting from their inability to agree
5 upon wages, hours and terms and conditions of employment to be
6 included in a collective bargaining agreement. Such
7 arbitration provisions shall be subject to the Illinois
8 "Uniform Arbitration Act" unless agreed by the parties.

9 The duty "to bargain collectively" shall also mean that no
10 party to a collective bargaining contract shall terminate or
11 modify such contract, unless the party desiring such
12 termination or modification:

13 (1) serves a written notice upon the other party to the
14 contract of the proposed termination or modification 60 days
15 prior to the expiration date thereof, or in the event such
16 contract contains no expiration date, 60 days prior to the time
17 it is proposed to make such termination or modification;

18 (2) offers to meet and confer with the other party for the
19 purpose of negotiating a new contract or a contract containing
20 the proposed modifications;

21 (3) notifies the Board within 30 days after such notice of
22 the existence of a dispute, provided no agreement has been
23 reached by that time; and

24 (4) continues in full force and effect, without resorting
25 to strike or lockout, all the terms and conditions of the
26 existing contract for a period of 60 days after such notice is
27 given to the other party or until the expiration date of such
28 contract, whichever occurs later.

29 The duties imposed upon employers, employees and labor
30 organizations by paragraphs (2), (3) and (4) shall become
31 inapplicable upon an intervening certification of the Board,
32 under which the labor organization, which is a party to the
33 contract, has been superseded as or ceased to be the exclusive
34 representative of the employees pursuant to the provisions of
35 subsection (a) of Section 9, and the duties so imposed shall
36 not be construed as requiring either party to discuss or agree

1 to any modification of the terms and conditions contained in a
2 contract for a fixed period, if such modification is to become
3 effective before such terms and conditions can be reopened
4 under the provisions of the contract.

5 Collective bargaining for personal care attendants and
6 personal assistants under the Home Services Program shall be
7 limited to the terms and conditions of employment under the
8 State's control, as defined in this amendatory Act of the 93rd
9 General Assembly.

10 Collective bargaining for firefighters or peace officers
11 includes, as mandatory subjects of bargaining, discipline and
12 disciplinary due process procedures including removal or
13 discharge. A home rule unit may not regulate the mandatory
14 bargaining subjects of discipline and disciplinary due process
15 for firefighters and peace officers in a manner inconsistent
16 with the regulation by the State of the mandatory bargaining
17 subjects of discipline and disciplinary due process for
18 firefighters and peace officers under this Act. This Section is
19 a limitation under subsection (i) of Section 6 of Article VII
20 of the Illinois Constitution on the concurrent exercise by home
21 rule units of powers and functions exercised by the State.

22 (Source: P.A. 93-204, eff. 7-16-03.)

23 (5 ILCS 315/14) (from Ch. 48, par. 1614)

24 Sec. 14. Security Employee, Peace Officer and Fire Fighter
25 Disputes.

26 (a) In the case of collective bargaining agreements
27 involving units of security employees of a public employer,
28 Peace Officer Units, or units of fire fighters or paramedics,
29 and in the case of disputes under Section 18, unless the
30 parties mutually agree to some other time limit, mediation
31 shall commence 30 days prior to the expiration date of such
32 agreement or at such later time as the mediation services
33 chosen under subsection (b) of Section 12 can be provided to
34 the parties. In the case of negotiations for an initial
35 collective bargaining agreement, mediation shall commence upon

1 15 days notice from either party or at such later time as the
2 mediation services chosen pursuant to subsection (b) of Section
3 12 can be provided to the parties. In mediation under this
4 Section, if either party requests the use of mediation services
5 from the Federal Mediation and Conciliation Service, the other
6 party shall either join in such request or bear the additional
7 cost of mediation services from another source. The mediator
8 shall have a duty to keep the Board informed on the progress of
9 the mediation. If any dispute has not been resolved within 15
10 days after the first meeting of the parties and the mediator,
11 or within such other time limit as may be mutually agreed upon
12 by the parties, either the exclusive representative or employer
13 may request of the other, in writing, arbitration, and shall
14 submit a copy of the request to the Board.

15 (b) Within 10 days after such a request for arbitration has
16 been made, the employer shall choose a delegate and the
17 employees' exclusive representative shall choose a delegate to
18 a panel of arbitration as provided in this Section. The
19 employer and employees shall forthwith advise the other and the
20 Board of their selections.

21 (c) Within 7 days of the request of either party, the Board
22 shall select from the Public Employees Labor Mediation Roster 7
23 persons who are on the labor arbitration panels of either the
24 American Arbitration Association or the Federal Mediation and
25 Conciliation Service, or who are members of the National
26 Academy of Arbitrators, as nominees for impartial arbitrator of
27 the arbitration panel. The parties may select an individual on
28 the list provided by the Board or any other individual mutually
29 agreed upon by the parties. Within 7 days following the receipt
30 of the list, the parties shall notify the Board of the person
31 they have selected. Unless the parties agree on an alternate
32 selection procedure, they shall alternatively strike one name
33 from the list provided by the Board until only one name
34 remains. A coin toss shall determine which party shall strike
35 the first name. If the parties fail to notify the Board in a
36 timely manner of their selection for neutral chairman, the

1 Board shall appoint a neutral chairman from the Illinois Public
2 Employees Mediation/Arbitration Roster.

3 (d) The chairman shall call a hearing to begin within 15
4 days and give reasonable notice of the time and place of the
5 hearing. The hearing shall be held at the offices of the Board
6 or at such other location as the Board deems appropriate. The
7 chairman shall preside over the hearing and shall take
8 testimony. Any oral or documentary evidence and other data
9 deemed relevant by the arbitration panel may be received in
10 evidence. The proceedings shall be informal. Technical rules of
11 evidence shall not apply and the competency of the evidence
12 shall not thereby be deemed impaired. A verbatim record of the
13 proceedings shall be made and the arbitrator shall arrange for
14 the necessary recording service. Transcripts may be ordered at
15 the expense of the party ordering them, but the transcripts
16 shall not be necessary for a decision by the arbitration panel.
17 The expense of the proceedings, including a fee for the
18 chairman, established in advance by the Board, shall be borne
19 equally by each of the parties to the dispute. The delegates,
20 if public officers or employees, shall continue on the payroll
21 of the public employer without loss of pay. The hearing
22 conducted by the arbitration panel may be adjourned from time
23 to time, but unless otherwise agreed by the parties, shall be
24 concluded within 30 days of the time of its commencement.
25 Majority actions and rulings shall constitute the actions and
26 rulings of the arbitration panel. Arbitration proceedings
27 under this Section shall not be interrupted or terminated by
28 reason of any unfair labor practice charge filed by either
29 party at any time.

30 (e) The arbitration panel may administer oaths, require the
31 attendance of witnesses, and the production of such books,
32 papers, contracts, agreements and documents as may be deemed by
33 it material to a just determination of the issues in dispute,
34 and for such purpose may issue subpoenas. If any person refuses
35 to obey a subpoena, or refuses to be sworn or to testify, or if
36 any witness, party or attorney is guilty of any contempt while

1 in attendance at any hearing, the arbitration panel may, or the
2 attorney general if requested shall, invoke the aid of any
3 circuit court within the jurisdiction in which the hearing is
4 being held, which court shall issue an appropriate order. Any
5 failure to obey the order may be punished by the court as
6 contempt.

7 (f) At any time before the rendering of an award, the
8 chairman of the arbitration panel, if he is of the opinion that
9 it would be useful or beneficial to do so, may remand the
10 dispute to the parties for further collective bargaining for a
11 period not to exceed 2 weeks. If the dispute is remanded for
12 further collective bargaining the time provisions of this Act
13 shall be extended for a time period equal to that of the
14 remand. The chairman of the panel of arbitration shall notify
15 the Board of the remand.

16 (g) At or before the conclusion of the hearing held
17 pursuant to subsection (d), the arbitration panel shall
18 identify the economic issues in dispute, and direct each of the
19 parties to submit, within such time limit as the panel shall
20 prescribe, to the arbitration panel and to each other its last
21 offer of settlement on each economic issue. The determination
22 of the arbitration panel as to the issues in dispute and as to
23 which of these issues are economic shall be conclusive. The
24 arbitration panel, within 30 days after the conclusion of the
25 hearing, or such further additional periods to which the
26 parties may agree, shall make written findings of fact and
27 promulgate a written opinion and shall mail or otherwise
28 deliver a true copy thereof to the parties and their
29 representatives and to the Board. As to each economic issue,
30 the arbitration panel shall adopt the last offer of settlement
31 which, in the opinion of the arbitration panel, more nearly
32 complies with the applicable factors prescribed in subsection
33 (h). The findings, opinions and order as to all other issues
34 shall be based upon the applicable factors prescribed in
35 subsection (h).

36 (h) Where there is no agreement between the parties, or

1 where there is an agreement but the parties have begun
2 negotiations or discussions looking to a new agreement or
3 amendment of the existing agreement, and wage rates or other
4 conditions of employment under the proposed new or amended
5 agreement are in dispute, the arbitration panel shall base its
6 findings, opinions and order upon the following factors, as
7 applicable:

8 (1) The lawful authority of the employer.

9 (2) Stipulations of the parties.

10 (3) The interests and welfare of the public and the
11 financial ability of the unit of government to meet those
12 costs.

13 (4) Comparison of the wages, hours and conditions of
14 employment of the employees involved in the arbitration
15 proceeding with the wages, hours and conditions of
16 employment of other employees performing similar services
17 and with other employees generally:

18 (A) In public employment in comparable
19 communities.

20 (B) In private employment in comparable
21 communities.

22 (5) The average consumer prices for goods and services,
23 commonly known as the cost of living.

24 (6) The overall compensation presently received by the
25 employees, including direct wage compensation, vacations,
26 holidays and other excused time, insurance and pensions,
27 medical and hospitalization benefits, the continuity and
28 stability of employment and all other benefits received.

29 (7) Changes in any of the foregoing circumstances
30 during the pendency of the arbitration proceedings.

31 (8) Such other factors, not confined to the foregoing,
32 which are normally or traditionally taken into
33 consideration in the determination of wages, hours and
34 conditions of employment through voluntary collective
35 bargaining, mediation, fact-finding, arbitration or
36 otherwise between the parties, in the public service or in

1 private employment.

2 (i) In the case of peace officers, the arbitration decision
3 shall be limited to wages, hours, and conditions of employment
4 (which may include: (i) discipline and disciplinary due
5 process; and (ii) residency requirements in municipalities
6 with a population under 1,000,000, but those residency
7 requirements shall not allow residency outside of Illinois) and
8 shall not include the following: i) residency requirements in
9 municipalities with a population of at least 1,000,000; ii) the
10 type of equipment, other than uniforms, issued or used; iii)
11 manning; iv) the total number of employees employed by the
12 department; v) mutual aid and assistance agreements to other
13 units of government; and vi) the criterion pursuant to which
14 force, including deadly force, can be used; provided, nothing
15 herein shall preclude an arbitration decision regarding
16 equipment or manning levels if such decision is based on a
17 finding that the equipment or manning considerations in a
18 specific work assignment involve a serious risk to the safety
19 of a peace officer beyond that which is inherent in the normal
20 performance of police duties. Limitation of the terms of the
21 arbitration decision pursuant to this subsection shall not be
22 construed to limit the factors upon which the decision may be
23 based, as set forth in subsection (h).

24 In the case of fire fighter, and fire department or fire
25 district paramedic matters, the arbitration decision shall be
26 limited to wages, hours, and conditions of employment (which
27 may include: (i) discipline and disciplinary due process; and
28 (ii) residency requirements in municipalities with a
29 population under 1,000,000, but those residency requirements
30 shall not allow residency outside of Illinois) and shall not
31 include the following matters: i) residency requirements in
32 municipalities with a population of at least 1,000,000; ii) the
33 type of equipment (other than uniforms and fire fighter turnout
34 gear) issued or used; iii) the total number of employees
35 employed by the department; iv) mutual aid and assistance
36 agreements to other units of government; and v) the criterion

1 pursuant to which force, including deadly force, can be used;
2 provided, however, nothing herein shall preclude an
3 arbitration decision regarding equipment levels if such
4 decision is based on a finding that the equipment
5 considerations in a specific work assignment involve a serious
6 risk to the safety of a fire fighter beyond that which is
7 inherent in the normal performance of fire fighter duties.
8 Limitation of the terms of the arbitration decision pursuant to
9 this subsection shall not be construed to limit the facts upon
10 which the decision may be based, as set forth in subsection
11 (h).

12 The changes to this subsection (i) made by Public Act
13 90-385 (relating to residency requirements) do not apply to
14 persons who are employed by a combined department that performs
15 both police and firefighting services; these persons shall be
16 governed by the provisions of this subsection (i) relating to
17 peace officers, as they existed before the amendment by Public
18 Act 90-385.

19 To preserve historical bargaining rights, this subsection
20 shall not apply to any provision of a fire fighter collective
21 bargaining agreement in effect and applicable on the effective
22 date of this Act; provided, however, nothing herein shall
23 preclude arbitration with respect to any such provision.

24 (j) Arbitration procedures shall be deemed to be initiated
25 by the filing of a letter requesting mediation as required
26 under subsection (a) of this Section. The commencement of a new
27 municipal fiscal year after the initiation of arbitration
28 procedures under this Act, but before the arbitration decision,
29 or its enforcement, shall not be deemed to render a dispute
30 moot, or to otherwise impair the jurisdiction or authority of
31 the arbitration panel or its decision. Increases in rates of
32 compensation awarded by the arbitration panel may be effective
33 only at the start of the fiscal year next commencing after the
34 date of the arbitration award. If a new fiscal year has
35 commenced either since the initiation of arbitration
36 procedures under this Act or since any mutually agreed

1 extension of the statutorily required period of mediation under
2 this Act by the parties to the labor dispute causing a delay in
3 the initiation of arbitration, the foregoing limitations shall
4 be inapplicable, and such awarded increases may be retroactive
5 to the commencement of the fiscal year, any other statute or
6 charter provisions to the contrary, notwithstanding. At any
7 time the parties, by stipulation, may amend or modify an award
8 of arbitration.

9 (k) Orders of the arbitration panel shall be reviewable,
10 upon appropriate petition by either the public employer or the
11 exclusive bargaining representative, by the circuit court for
12 the county in which the dispute arose or in which a majority of
13 the affected employees reside, but only for reasons that the
14 arbitration panel was without or exceeded its statutory
15 authority; the order is arbitrary, or capricious; or the order
16 was procured by fraud, collusion or other similar and unlawful
17 means. Such petitions for review must be filed with the
18 appropriate circuit court within 90 days following the issuance
19 of the arbitration order. The pendency of such proceeding for
20 review shall not automatically stay the order of the
21 arbitration panel. The party against whom the final decision of
22 any such court shall be adverse, if such court finds such
23 appeal or petition to be frivolous, shall pay reasonable
24 attorneys' fees and costs to the successful party as determined
25 by said court in its discretion. If said court's decision
26 affirms the award of money, such award, if retroactive, shall
27 bear interest at the rate of 12 percent per annum from the
28 effective retroactive date.

29 (l) During the pendency of proceedings before the
30 arbitration panel, existing wages, hours, and other conditions
31 of employment shall not be changed by action of either party
32 without the consent of the other but a party may so consent
33 without prejudice to his rights or position under this Act. The
34 proceedings are deemed to be pending before the arbitration
35 panel upon the initiation of arbitration procedures under this
36 Act.

1 (m) Security officers of public employers, and Peace
2 Officers, Fire Fighters and fire department and fire protection
3 district paramedics, covered by this Section may not withhold
4 services, nor may public employers lock out or prevent such
5 employees from performing services at any time.

6 (n) All of the terms decided upon by the arbitration panel
7 shall be included in an agreement to be submitted to the public
8 employer's governing body for ratification and adoption by law,
9 ordinance or the equivalent appropriate means.

10 The governing body shall review each term decided by the
11 arbitration panel. If the governing body fails to reject one or
12 more terms of the arbitration panel's decision by a 3/5 vote of
13 those duly elected and qualified members of the governing body,
14 within 20 days of issuance, or in the case of firefighters
15 employed by a state university, at the next regularly scheduled
16 meeting of the governing body after issuance, such term or
17 terms shall become a part of the collective bargaining
18 agreement of the parties. If the governing body affirmatively
19 rejects one or more terms of the arbitration panel's decision,
20 it must provide reasons for such rejection with respect to each
21 term so rejected, within 20 days of such rejection and the
22 parties shall return to the arbitration panel for further
23 proceedings and issuance of a supplemental decision with
24 respect to the rejected terms. Any supplemental decision by an
25 arbitration panel or other decision maker agreed to by the
26 parties shall be submitted to the governing body for
27 ratification and adoption in accordance with the procedures and
28 voting requirements set forth in this Section. The voting
29 requirements of this subsection shall apply to all disputes
30 submitted to arbitration pursuant to this Section
31 notwithstanding any contrary voting requirements contained in
32 any existing collective bargaining agreement between the
33 parties.

34 (o) If the governing body of the employer votes to reject
35 the panel's decision, the parties shall return to the panel
36 within 30 days from the issuance of the reasons for rejection

1 for further proceedings and issuance of a supplemental
2 decision. All reasonable costs of such supplemental proceeding
3 including the exclusive representative's reasonable attorney's
4 fees, as established by the Board, shall be paid by the
5 employer.

6 (p) Notwithstanding the provisions of this Section the
7 employer and exclusive representative may agree to submit
8 unresolved disputes concerning wages, hours, terms and
9 conditions of employment to an alternative form of impasse
10 resolution.

11 (Source: P.A. 89-195, eff. 7-21-95; 90-202, eff. 7-24-97;
12 90-385, eff. 8-15-97; 90-655, eff. 7-30-98.)

13 Section 10. The Illinois Municipal Code is amended by
14 changing Sections 10-1-18 and 10-2.1-17 as follows:

15 (65 ILCS 5/10-1-18) (from Ch. 24, par. 10-1-18)

16 Sec. 10-1-18. (a) Except as hereinafter provided in this
17 Section, no officer or employee in the classified civil service
18 of any municipality who is appointed under the rules and after
19 examination, may be removed or discharged, or suspended for a
20 period of more than 30 days, except for cause upon written
21 charges and after an opportunity to be heard in his own
22 defense. The hearing shall be as hereinafter provided, unless
23 the employer and the labor organization representing the person
24 have negotiated an alternative or supplemental form of due
25 process based upon impartial arbitration as a term of a
26 collective bargaining agreement. ~~In non home rule units of
27 government, such bargaining shall be permissive rather than
28 mandatory unless such contract term was negotiated by the
29 employer and the labor organization prior to or at the time of
30 the effective date of this amendatory Act, in which case such
31 bargaining shall be considered mandatory.~~

32 Such charges shall be investigated by or before the civil
33 service commission, or by or before some officer or board
34 appointed by the commission to conduct that investigation. The

1 finding and decision of that commission or investigating
2 officer or board, when approved by the commission, shall be
3 certified to the appointing officer, and shall forthwith be
4 enforced by that officer. Before any officer or employee in the
5 classified service of any municipality may be interrogated or
6 examined by or before any disciplinary board, or departmental
7 agent or investigator, the results of which hearing,
8 interrogation or examination may be the basis for filing
9 charges seeking his removal or discharge, he must be advised in
10 writing as to what specific improper or illegal act he is
11 alleged to have committed; he must be advised in writing that
12 his admissions made in the course of the hearing, interrogation
13 or examination may be used as the basis for charges seeking his
14 removal or discharge; and he must be advised in writing that he
15 has the right to counsel of his own choosing present to advise
16 him at any hearing, interrogation or examination; and a
17 complete record of any hearing, interrogation or examination
18 shall be made and a complete transcript thereof made available
19 to such officer or employee without charge and without delay.
20 Nothing in this Division 1 limits the power of any officer to
21 suspend a subordinate for a reasonable period, not exceeding 30
22 days except that any employee or officer suspended for more
23 than 5 days or suspended within 6 months after a previous
24 suspension shall be entitled, upon request, to a hearing before
25 the civil service commission concerning the propriety of such
26 suspension. In the course of an investigation of charges, each
27 member of the commission, and of any board so appointed by it,
28 and any officer so appointed, may administer oaths and may
29 secure by its subpoena both the attendance and testimony of
30 witnesses, and the production of books and papers relevant to
31 the investigation. Nothing in this Section shall be construed
32 to require such charges or investigation in cases of persons
33 having the custody of public money for the safe keeping of
34 which another person has given bonds.

35 This subsection (a) does not apply to police or
36 firefighters in the classified civil service of a municipality

1 of 500,000 or fewer inhabitants.

2 (b) No officer or employee of a police or fire department
3 in the classified civil service of any municipality having
4 500,000 or fewer inhabitants who is appointed under the rules
5 and after examination, may be removed or discharged, or
6 suspended for a period of more than 5 calendar days, except for
7 cause upon written charges and after an opportunity to be heard
8 in his own defense. The hearing shall be as hereinafter
9 provided, unless the employer and the labor organization
10 representing the person have negotiated an alternative or
11 supplemental form of due process based upon impartial
12 arbitration as a term of a collective bargaining agreement. In
13 non-home rule units of government, such bargaining shall be
14 permissive rather than mandatory unless such contract term was
15 negotiated by the employer and the labor organization prior to
16 or at the time of the effective date of this amendatory Act, in
17 which case such bargaining shall be considered mandatory.

18 Such charges shall be investigated by or before the civil
19 service commission, or by or before some officer or board
20 appointed by the commission to conduct that investigation. The
21 finding and decision of that commission or investigating
22 officer or board, when approved by the commission, shall be
23 certified to the appointing officer, and shall forthwith be
24 enforced by that officer. Before any such officer or employee
25 of a police or fire department may be interrogated or examined
26 by or before any disciplinary board, or departmental agent or
27 investigator, the results of which hearing, interrogation or
28 examination may be the basis for filing charges seeking his
29 removal or discharge, he must be advised in writing as to what
30 specific improper or illegal act he is alleged to have
31 committed; he must be advised in writing that his admissions
32 made in the course of the hearing, interrogation or examination
33 may be used as the basis for charges seeking his removal or
34 discharge; and he must be advised in writing that he has the
35 right to have counsel of his own choosing present to advise him
36 at any hearing, interrogation or examination; and a complete

1 record of any hearing, interrogation or examination shall be
2 made and a complete transcript thereof made available to such
3 officer or employee without charge and without delay. Nothing
4 in this Division 1 limits the power of the chief officer of a
5 police or fire department to suspend a subordinate for a
6 reasonable period, not exceeding 5 calendar days, provided the
7 civil service commission is promptly notified thereof in
8 writing. Any employee or officer so suspended shall be
9 entitled, upon request, to a hearing before the civil service
10 commission concerning the propriety of such suspension. Upon
11 such hearing, the commission may sustain the action of the
12 chief of the department, may reverse it with instructions that
13 the person receive his pay for the period involved, or may
14 suspend the person for an additional period of not more than 30
15 days or discharge him, depending upon the facts presented. In
16 the course of an investigation of charges, each member of the
17 commission, and of any board so appointed by it, and any
18 officer so appointed, may administer oaths and may secure by
19 its subpoena both the attendance and testimony of witnesses,
20 and the production of books and papers relevant to the
21 investigation. If the charge is based upon an allegation of the
22 use of unreasonable force by a police officer, the charge must
23 be brought within 5 years after the commission of the act upon
24 which the charge is based. The statute of limitations
25 established in this Section 10-1-18(b) shall apply only to acts
26 of unreasonable force occurring on or after the effective date
27 of this amendatory Act of 1992.

28 (c) Whenever the corporate authorities of any municipality
29 in which this Division 1 is in operation, designates by
30 ordinance or whenever any general law of this state designates
31 any specific age of not less than 63 years as the maximum age
32 for legal employment of policemen or firemen in the service of
33 any municipality which has adopted or shall adopt this Division
34 1 or designates any minimum age for the automatic or compulsory
35 retirement of policemen or firemen in the service of that
36 municipality, any such policeman or fireman to whom such

1 ordinance or law may refer or apply upon attaining the
2 designated age of 63 years or upwards as set out in the
3 ordinance or law shall forthwith and immediately be retired
4 from the service of that municipality in accordance with the
5 terms or provisions of that ordinance or law. The civil service
6 commission of the municipality shall discharge or retire
7 automatically any policeman or fireman in the classified civil
8 service of the municipality at the time and in the manner
9 provided in that ordinance or law and certify the retirement or
10 discharge to the proper branch or department head. In the case
11 of any such policeman or fireman who has filed an application
12 for appointment in the classified civil service of the
13 municipality, the age stated in that application shall be
14 conclusive evidence against that policeman or fireman of his
15 age, but the civil service commission (except as respects
16 police department officers and employees in municipalities of
17 more than 500,000 population where the Police Board shall
18 exercise these powers as provided in Section 10-1-18.1) may
19 hear testimony and consider all evidence available in any case
20 in which any charge is filed against any such policeman or
21 fireman alleging that he understated his age in his application
22 for appointment into the classified civil service of the
23 municipality.

24 In addition to all the other powers now granted by law, the
25 corporate authorities of any municipality which has adopted or
26 shall adopt this Division 1 may by ordinance provide an age
27 limit of not less than 63 years as the maximum age for the
28 legal employment of any person employed as a policeman or
29 fireman under this Division 1, and may provide in that
30 ordinance for the automatic or compulsory retirement and
31 discharge of the policeman or fireman upon his attainment of
32 the designated retirement age.

33 This Section does not apply to the suspension, removal or
34 discharge of officers and civilian employees of the police
35 department in the classified civil service of a municipality of
36 more than 500,000 but that disciplinary action may be taken by

1 the Police Board, rather than the civil service commission, as
2 provided in Section 10-1-18.1.

3 (d) Commencing on January 1, 1993, each board or other
4 entity responsible for determining whether or not to file a
5 charge shall, no later than December 31 of each year, publish a
6 status report on its investigations of allegations of
7 unreasonable force. At a minimum, the status report shall
8 include the following information:

9 (1) the number of police officers against whom an
10 allegation of unreasonable force was made;

11 (2) the number of allegations of unreasonable force
12 made against each such police officer;

13 (3) the number of police officers against whom
14 disciplinary charges were filed on the basis of allegations
15 of unreasonable force;

16 (4) a listing of investigations of allegations of
17 unreasonable force pending as of the date of the report,
18 together with the dates on which such allegations were
19 made; and

20 (5) a listing of allegations of unreasonable force for
21 which the board has determined not to file charges.

22 These status reports shall not disclose the identity of any
23 witness or victim, nor shall they disclose the identity of
24 any police officer who is the subject of an allegation of
25 unreasonable force against whom a charge has not been
26 filed. The information underlying these status reports
27 shall be confidential and exempt from public inspection and
28 copying, as provided under Section 7 of the Freedom of
29 Information Act.

30 (Source: P.A. 91-650, eff. 11-30-99.)

31 (65 ILCS 5/10-2.1-17) (from Ch. 24, par. 10-2.1-17)

32 Sec. 10-2.1-17. Removal or discharge; investigation of
33 charges; retirement. Except as hereinafter provided, no
34 officer or member of the fire or police department of any
35 municipality subject to this Division 2.1 shall be removed or

1 discharged except for cause, upon written charges, and after an
2 opportunity to be heard in his or her own defense. The hearing
3 shall be as hereinafter provided, unless the employer and the
4 labor organization representing the person have negotiated an
5 alternative or supplemental form of due process based upon
6 impartial arbitration as a term of a collective bargaining
7 agreement. ~~In non home rule units of government, such~~
8 ~~bargaining shall be permissive rather than mandatory unless~~
9 ~~such contract term was negotiated by the employer and the labor~~
10 ~~organization prior to or at the time of the effective date of~~
11 ~~this amendatory Act, in which case such bargaining shall be~~
12 ~~considered mandatory.~~

13 If the chief of the fire department or the chief of the
14 police department or both of them are appointed in the manner
15 provided by ordinance, they may be removed or discharged by the
16 appointing authority. In such case the appointing authority
17 shall file with the corporate authorities the reasons for such
18 removal or discharge, which removal or discharge shall not
19 become effective unless confirmed by a majority vote of the
20 corporate authorities. The board of fire and police
21 commissioners shall conduct a fair and impartial hearing of the
22 charges, to be commenced within 30 days of the filing thereof,
23 which hearing may be continued from time to time. In case an
24 officer or member is found guilty, the board may discharge him,
25 or may suspend him not exceeding 30 days without pay. The board
26 may suspend any officer or member pending the hearing with or
27 without pay, but not to exceed 30 days. If the Board of Fire
28 and Police Commissioners determines that the charges are not
29 sustained, the officer or member shall be reimbursed for all
30 wages withheld, if any. In the conduct of this hearing, each
31 member of the board shall have power to administer oaths and
32 affirmations, and the board shall have power to secure by its
33 subpoena both the attendance and testimony of witnesses and the
34 production of books and papers relevant to the hearing.

35 The age for retirement of policemen or firemen in the
36 service of any municipality which adopts this Division 2.1 is

1 65 years, unless the Council or Board of Trustees shall by
2 ordinance provide for an earlier retirement age of not less
3 than 60 years.

4 The provisions of the Administrative Review Law, and all
5 amendments and modifications thereof, and the rules adopted
6 pursuant thereto, shall apply to and govern all proceedings for
7 the judicial review of final administrative decisions of the
8 board of fire and police commissioners hereunder. The term
9 "administrative decision" is defined as in Section 3-101 of the
10 Code of Civil Procedure.

11 Nothing in this Section shall be construed to prevent the
12 chief of the fire department or the chief of the police
13 department from suspending without pay a member of his
14 department for a period of not more than 5 calendar days, but
15 he shall notify the board in writing of such suspension. The
16 hearing shall be as hereinafter provided, unless the employer
17 and the labor organization representing the person have
18 negotiated an alternative or supplemental form of due process
19 based upon impartial arbitration as a term of a collective
20 bargaining agreement. In non-home rule units of government,
21 such bargaining shall be permissive rather than mandatory
22 unless such contract term was negotiated by the employer and
23 the labor organization prior to or at the time of the effective
24 date of this amendatory Act, in which case such bargaining
25 shall be considered mandatory.

26 Any policeman or fireman so suspended may appeal to the
27 board of fire and police commissioners for a review of the
28 suspension within 5 calendar days after such suspension, and
29 upon such appeal, the board may sustain the action of the chief
30 of the department, may reverse it with instructions that the
31 man receive his pay for the period involved, or may suspend the
32 officer for an additional period of not more than 30 days or
33 discharge him, depending upon the facts presented.

34 (Source: P.A. 91-650, eff. 11-30-99.)

35 Section 99. Effective date. This Act takes effect upon

1 becoming law.