



**94TH GENERAL ASSEMBLY**  
**State of Illinois**  
**2005 and 2006**  
**HB5218**

Introduced 01/24/06, by Rep. Brandon W. Phelps

**SYNOPSIS AS INTRODUCED:**

65 ILCS 5/10-1-14  
65 ILCS 5/10-2.1-4

from Ch. 24, par. 10-1-14  
from Ch. 24, par. 10-2.1-4

Amends the Municipal Code. Provides that a person who has not qualified for a regular civil service appointment may not be used as a substitute for a classified member of a municipality's fire or police department. Effective immediately.

LRB094 17353 HLH 52648 b

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 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  
16 examination, but laborers who have previously been in the  
17 service and were removed because their services were no longer  
18 required, shall be preferred, and be reinstated before other  
19 laborers are given positions, preference being given to those  
20 who have had the longest term of service, and laborers in the  
21 employ of the municipality on July 1, 1949, who, as of such  
22 date, have been employed under temporary authority for 3 years  
23 or more or during parts of 3 or more calendar years, shall be  
24 preferred also, and shall be placed upon the register for such  
25 positions without examination and shall be certified before  
26 other laborers are given positions, preference being given to  
27 those laborers under temporary authority who have had the  
28 longest term of service in such positions. In making such  
29 certification, sex shall be disregarded. The appointing  
30 officer shall notify the commission of each position to be  
31 filled, separately, and shall fill such place by the  
32 appointment of the person certified to him or her by the

1 commission therefor. Original appointment shall be on  
2 probation for a period not to exceed 6 months to be fixed by  
3 the rules but all time spent in attending training schools and  
4 seminars, except on-the-job training conducted by local Fire  
5 Department personnel, shall be excluded in calculating the  
6 probation period; provided that in municipalities with a  
7 population of more than 500,000 inhabitants, original  
8 appointment to the police department shall be on probation for  
9 a period not to exceed 9 months to be fixed by the rules of the  
10 department. The commission may strike off names of candidates  
11 from the register after they have remained thereon more than 2  
12 years. At or before the expiration of the period of probation,  
13 the head of the department or office in which a candidate is  
14 employed may, by and with the consent of the commission,  
15 discharge him or her upon assigning in writing his or her  
16 reason therefor to the commission. If he or she is not then  
17 discharged, his or her appointment shall be deemed complete. To  
18 prevent the stoppage of public business, or to meet  
19 extraordinary exigencies, the head of any department or office  
20 may, with the approval of the commission, make temporary  
21 appointment to remain in force not exceeding 120 days, and only  
22 until regular appointments under the provisions of this  
23 Division 1 can be made. No person who has not qualified for  
24 regular appointment under the provisions of this Division 1  
25 shall be otherwise utilized as a substitute for classified  
26 members of a municipality's fire or police department or for  
27 the regular appointment of a candidate from an eligibility list  
28 for appointment as a classified member of a municipality's fire  
29 or police department.

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

31 (65 ILCS 5/10-2.1-4) (from Ch. 24, par. 10-2.1-4)

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

34 The board of fire and police commissioners shall appoint  
35 all officers and members of the fire and police departments of

1 the municipality, including the chief of police and the chief  
2 of the fire department, unless the council or board of trustees  
3 shall by ordinance as to them otherwise provide; except as  
4 otherwise provided in this Section, and except that in any  
5 municipality which adopts or has adopted this Division 2.1 and  
6 also adopts or has adopted Article 5 of this Code, the chief of  
7 police and the chief of the fire department shall be appointed  
8 by the municipal manager, if it is provided by ordinance in  
9 such municipality that such chiefs, or either of them, shall  
10 not be appointed by the board of fire and police commissioners.

11 If the chief of the fire department or the chief of the  
12 police department or both of them are appointed in the manner  
13 provided by ordinance, they may be removed or discharged by the  
14 appointing authority. In such case the appointing authority  
15 shall file with the corporate authorities the reasons for such  
16 removal or discharge, which removal or discharge shall not  
17 become effective unless confirmed by a majority vote of the  
18 corporate authorities.

19 If a member of the department is appointed chief of police  
20 or chief of the fire department prior to being eligible to  
21 retire on pension, he shall be considered as on furlough from  
22 the rank he held immediately prior to his appointment as chief.  
23 If he resigns as chief or is discharged as chief prior to  
24 attaining eligibility to retire on pension, he shall revert to  
25 and be established in whatever rank he currently holds, except  
26 for previously appointed positions, and thereafter be entitled  
27 to all the benefits and emoluments of that rank, without regard  
28 as to whether a vacancy then exists in that rank.

29 All appointments to each department other than that of the  
30 lowest rank, however, shall be from the rank next below that to  
31 which the appointment is made except as otherwise provided in  
32 this Section, and except that the chief of police and the chief  
33 of the fire department may be appointed from among members of  
34 the police and fire departments, respectively, regardless of  
35 rank, unless the council or board of trustees shall have by  
36 ordinance as to them otherwise provided. A chief of police or

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

7 The sole authority to issue certificates of appointment  
8 shall be vested in the Board of Fire and Police Commissioners  
9 and all certificates of appointments issued to any officer or  
10 member of the fire or police department of a municipality shall  
11 be signed by the chairman and secretary respectively of the  
12 board of fire and police commissioners of such municipality,  
13 upon appointment of such officer or member of the fire and  
14 police department of such municipality by action of the board  
15 of fire and police commissioners. No person who has not  
16 qualified for placement upon a municipality's register of  
17 eligibles for appointment to a fire or police department shall  
18 be utilized as a substitute for a certificated member to the  
19 municipality's fire or police department or for candidates who  
20 have qualified for placement on a register of eligibles for  
21 appointment to the municipality's fire or police department.

22 The term "policemen" as used in this Division does not  
23 include auxiliary policemen except as provided for in Section  
24 10-2.1-6.

25 Any full time member of a regular fire or police department  
26 of any municipality which comes under the provisions of this  
27 Division or adopts this Division 2.1 or which has adopted any  
28 of the prior Acts pertaining to fire and police commissioners,  
29 is a city officer.

30 Notwithstanding any other provision of this Section, the  
31 Chief of Police of a department in a non-homerule municipality  
32 of more than 130,000 inhabitants may, without the advice or  
33 consent of the Board of Fire and Police Commissioners, appoint  
34 up to 6 officers who shall be known as deputy chiefs or  
35 assistant deputy chiefs, and whose rank shall be immediately  
36 below that of Chief. The deputy or assistant deputy chiefs may

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

13 Notwithstanding any other provision of this Section, a  
14 non-homerule municipality of 130,000 or fewer inhabitants,  
15 through its council or board of trustees, may, by ordinance,  
16 provide for a position of deputy chief to be appointed by the  
17 chief of the police department. The ordinance shall provide for  
18 no more than one deputy chief position if the police department  
19 has fewer than 25 full-time police officers and for no more  
20 than 2 deputy chief positions if the police department has 25  
21 or more full-time police officers. The deputy chief position  
22 shall be an exempt rank immediately below that of Chief. The  
23 deputy chief may be appointed from any rank of sworn, full-time  
24 officers of the municipality's police department, but must have  
25 at least 5 years of full-time service as a police officer in  
26 that department. A deputy chief shall serve at the discretion  
27 of the Chief and, if removed from the position, shall revert to  
28 the rank currently held, without regard as to whether a vacancy  
29 exists in that rank. A deputy chief of police, having been  
30 appointed from any rank of sworn full-time officers of that  
31 municipality's police department, shall be permitted,  
32 regardless of rank, to take promotional exams and be promoted  
33 to a higher classified rank than he currently holds, without  
34 having to resign as deputy chief of police.

35 No municipality having a population less than 1,000,000  
36 shall require that any firefighter appointed to the lowest rank

1 serve a probationary employment period of longer than one year.  
2 The limitation on periods of probationary employment provided  
3 in this amendatory Act of 1989 is an exclusive power and  
4 function of the State. Pursuant to subsection (h) of Section 6  
5 of Article VII of the Illinois Constitution, a home rule  
6 municipality having a population less than 1,000,000 must  
7 comply with this limitation on periods of probationary  
8 employment, which is a denial and limitation of home rule  
9 powers. Notwithstanding anything to the contrary in this  
10 Section, the probationary employment period limitation may be  
11 extended for a firefighter who is required, as a condition of  
12 employment, to be a certified paramedic, during which time the  
13 sole reason that a firefighter may be discharged without a  
14 hearing is for failing to meet the requirements for paramedic  
15 certification.

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

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law.