

IC 36-8-4

Chapter 4. Police and Fire Employment Policies in Cities

IC 36-8-4-1

Application of chapter

Sec. 1. This chapter applies to all cities.

As added by Acts 1981, P.L.309, SEC.53.

IC 36-8-4-2

Residence requirements

Sec. 2. (a) Members of the police and fire departments must reside in Indiana within:

- (1) the county in which the city is located; or
- (2) a county that is contiguous to the county in which the city is located.

(b) In a consolidated city, a member who was residing outside the county on January 1, 1975, is exempt from subsection (a).

(c) A city with a population of less than seven thousand five hundred (7,500) may adopt an ordinance that requires a member of the city's police or fire department to comply with the following:

- (1) Reside within the county in which the city is located.
- (2) Have adequate means of transportation into the city.
- (3) Maintain in the member's residence telephone service with the city.

(d) This subsection applies to a city that:

- (1) has a population of less than seven thousand five hundred (7,500); and
- (2) adopted an ordinance to establish the requirements described in this subsection before September 1, 1984.

A city may require, in addition to the requirements of subsection (c), that a member of the police or fire department reside within the city until the member has served in the department for five (5) years.

(e) An ordinance adopted under subsection (c) or described in subsection (d)(2) may not require a member of a city's police or fire department to reside within the county in which the city is located if the member resides outside the county on the date the ordinance is adopted.

As added by Acts 1981, P.L.309, SEC.53. Amended by Acts 1981, P.L.44, SEC.56; P.L.198-1984, SEC.1; P.L.266-1993, SEC.1; P.L.164-1995, SEC.21; P.L.235-1996, SEC.1; P.L.230-1997, SEC.1; P.L.65-2008, SEC.1.

IC 36-8-4-3

Use of departmental vehicles

Sec. 3. Members of the police and fire departments may not use vehicles owned or maintained by their department outside the county in which the city is located except during the performance of official duties or as provided for by department regulation.

As added by Acts 1981, P.L.309, SEC.53. Amended by P.L.199-1984, SEC.1.

IC 36-8-4-4

Provision of uniforms and equipment; cash allowance

Revisor's Note: IC 36-8-4-4, as added by Acts 1981, P.L.309, SEC.53 (which was effective 9-1-1981 until 7-1-2009), was printed incorrectly in the 1993 Edition of the Indiana Code but was correctly printed in the 1994 Supplement to the Indiana Code and subsequent Supplements and Editions of the Indiana Code.

Sec. 4. (a) A city shall provide the active members of the police and fire departments with all uniforms, clothing, arms, and equipment necessary to perform their duties. Except as provided in section 4.5 of this chapter, after one (1) year of regular service in either department, a member may be required by the city to furnish and maintain all of the active member's uniforms, clothing, arms, and equipment upon payment to the member by the city of an annual cash allowance of at least two hundred dollars (\$200). The city may credit the uniform allowance to each member against the active member's purchases during the calendar year and provide for the payment of any cash balance remaining at the end of the calendar year.

(b) All uniforms, clothing, arms, and equipment provided by the city under this section remain the property of the city. The city may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the city. Any property lost or destroyed through the carelessness or neglect of an active member shall be charged against the active member and the value deducted from the active member's pay.

As added by Acts 1981, P.L.309, SEC.53. Amended by P.L.8-2009, SEC.1.

IC 36-8-4-4.5

Body armor for active members of police departments

Sec. 4.5. (a) As used in this section, "body armor" has the meaning set forth in IC 35-47-5-13(a).

(b) A city shall provide an active member of the police department of the city with body armor for the torso. The city shall replace the body armor for the torso according to the replacement period recommended by the manufacturer of the body armor for the torso.

(c) An active member of the police department of a city shall not be required to maintain the body armor for the torso furnished under this section from any annual cash allowance paid to the member under section 4(a) of this chapter.

(d) Body armor for the torso provided by a city under this section remains the property of the city. The city may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the city.

As added by P.L.8-2009, SEC.2. Amended by P.L.34-2010, SEC.6.

IC 36-8-4-5

Care of police officers and firefighters injured or contracting illnesses as a result of performance of duties

Sec. 5. (a) A city shall pay for the care of a police officer or

firefighter who suffers an injury while performing the person's duty or contracts illness caused by the performance of the person's duty, including an injury or illness that results in a disability or death presumed incurred in the line of duty under IC 5-10-13. This care includes:

- (1) medical and surgical care;
- (2) medicines and laboratory, curative, and palliative agents and means;
- (3) X-ray, diagnostic, and therapeutic service, including during the recovery period; and
- (4) hospital and special nursing care if the physician or surgeon in charge considers it necessary for proper recovery.

(b) Expenditures required by subsection (a) shall be paid from the general fund of the city.

(c) A city that has paid for the care of a police officer or firefighter under subsection (a) has a cause of action for reimbursement of the amount paid under subsection (a) against any third party against whom the police officer or firefighter has a cause of action for an injury sustained because of or an illness caused by the third party. The city's cause of action under this subsection is in addition to, and not in lieu of, the cause of action of the police officer or firefighter against the third party.

As added by Acts 1981, P.L.309, SEC.53. Amended by P.L.169-1994, SEC.1; P.L.185-2002, SEC.4.

IC 36-8-4-6

Promotions

Sec. 6. (a) This section applies only to:

- (1) police departments in second and third class cities having a population of ten thousand (10,000) or more; and
- (2) fire departments in second and third class cities;

that are not governed by a merit system prescribed by statute or ordinance.

(b) Promotion of police officers or firefighters must be from the active personnel of the department.

(c) A person appointed fire chief must have had at least five (5) years of continuous service with the department immediately before his appointment. However, this requirement may be waived by a majority vote of the city legislative body upon request of the city executive, although the person must still have at least five (5) years service with a full-time, paid fire department or agency.

(d) A person appointed to a rank other than police or fire chief or deputy police chief must have had at least two (2) years of continuous service with the department immediately before his appointment.

As added by Acts 1981, P.L.309, SEC.53. Amended by Acts 1981, P.L.315, SEC.4; P.L.348-1987, SEC.2.

IC 36-8-4-6.5

Police chiefs or deputy police chiefs; requirements

Sec. 6.5. (a) This section applies to the appointment of a police

chief or deputy police chief in all cities.

(b) An applicant must meet the following requirements:

- (1) Have five (5) years of service as a police officer with a full-time, paid police department or agency.
- (2) Be a citizen of the United States.
- (3) Be a high school graduate or equivalent.
- (4) Be at least twenty-one (21) years of age.
- (5) Be free of mental illness.
- (6) Be physically fit.
- (7) Have successfully completed the minimum basic training requirements established by the law enforcement training board under IC 5-2-1, or have continuous service with the same department to which the applicant was appointed as a law enforcement officer before July 6, 1972.

(c) In addition to the requirements of subsection (b), an applicant for appointment as police chief or deputy police chief must have at least five (5) years of continuous service with the police department of that city immediately before the appointment. This requirement may be waived by the city executive.

As added by P.L.348-1987, SEC.3. Amended by P.L.148-1992, SEC.3; P.L.68-1996, SEC.8.

IC 36-8-4-7

Age limitations; aptitude, physical agility, and physical examinations

Sec. 7. (a) A person may not be appointed as a member of the police department or fire department after the person has reached thirty-six (36) years of age. A person may be reappointed as a member of the department only if the person is a former member or a retired member not yet receiving retirement benefits of the 1925, 1937, 1953, or 1977 fund and can complete twenty (20) years of service before reaching sixty (60) years of age.

(b) This section does not apply to a fire chief appointed under a waiver under section 6(c) of this chapter or a police chief appointed under a waiver under section 6.5(c) of this chapter.

(c) A person must pass the aptitude, physical agility, and physical examination required by the local board of the fund and by IC 36-8-8-19 to be appointed or reappointed as a member of the department.

(d) A fire chief appointed under a waiver under section 6(c) of this chapter or police chief appointed under a waiver under section 6.5(c) of this chapter who is receiving, or is entitled to receive, benefits from the 1925, 1937, 1953, or 1977 fund may receive those benefits while serving as chief, subject to all normal requirements for receipt of a benefit, including a separation from service.

As added by Acts 1981, P.L.309, SEC.53. Amended by Acts 1981, P.L.315, SEC.5; P.L.38-1986, SEC.3; P.L.55-1987, SEC.3; P.L.4-1992, SEC.31; P.L.213-1995, SEC.4; P.L.246-2001, SEC.13.

IC 36-8-4-8

Police officers; maximum work week; compensation for additional time

Sec. 8. (a) A member of the police department may not be required, except in case of a public emergency as determined by the city executive, to work more than six (6) days of eight (8) hours each in one (1) week, or more than an average of forty-eight (48) hours per week in one (1) year.

(b) If a member of the police department is requested or required to appear in court or to perform another service, and the time served does not fall within the limits of his normal eight (8) hour shift, then the member may be compensated for the additional time at a rate to be fixed by ordinance.

(c) This section does not apply to the police chief, chief of detectives, superintendent of the department, or matron of the department.

As added by Acts 1981, P.L.309, SEC.53.

IC 36-8-4-9

Firefighters; hours of work

Sec. 9. (a) A member of a regularly organized and paid fire department may not be required to work more than an average of fifty-six (56) hours per week. However, if on September 1, 1985, a fire department was using sixty-three (63) hours as the maximum average number of hours a member could work a week, the department may continue to use that figure as the standard. A member may not be on duty more than twenty-four (24) consecutive hours and must be off duty at least twenty-four (24) consecutive hours out of any forty-eight (48) hour period. Each member is entitled to an additional twenty-four (24) consecutive hours off duty in every eight (8) day period.

(b) Notwithstanding subsection (a), in case of emergency, or if the personnel of the fire department has been reduced below its regular strength because members are serving in the armed forces of the United States, the chief of the fire department, the assistant chief, or other officer in charge may assign a member of the fire department to continuous duty during the emergency.

As added by Acts 1981, P.L.309, SEC.53. Amended by P.L.343-1985, SEC.1.

IC 36-8-4-10

Public safety officers; preference for employment

Sec. 10. (a) Subject to subsection (c), the board or persons having the authority to employ members of the fire or police department shall give a preference for employment according to the following priority:

- (1) A war veteran who has been honorably discharged from the United States armed forces.
- (2) A person whose mother or father was a:
 - (A) firefighter of a unit;
 - (B) municipal police officer; or

- (C) county police officer;
who died in the line of duty (as defined in IC 5-10-10-2).
- (b) Subject to subsection (c), the board or person having the authority to employ members of a fire or police department may give a preference for employment to any of the following:
 - (1) A police officer or firefighter laid off by another city under section 11 of this chapter.
 - (2) A county police officer laid off by a sheriff's department under IC 36-8-10-11.1.
 - (3) A person who:
 - (A) was employed full-time or part-time by a township to provide fire protection and emergency services; and
 - (B) has been laid off by the township.
- (c) A person described in subsection (a) or (b) may not receive a preference for employment unless the person:
 - (1) applies; and
 - (2) meets all employment requirements prescribed:
 - (A) by law, including physical and age requirements; and
 - (B) by the fire or police department.

As added by Acts 1981, P.L.309, SEC.53. Amended by P.L.95-2003, SEC.1; P.L.110-2010, SEC.35.

IC 36-8-4-11

Layoffs; reinstatement

Sec. 11. (a) If it is necessary for the safety board to reduce the number of members of the police or fire department by layoff for financial reasons, the last member appointed must be the first to be laid off, with other members also laid off in reverse hiring order, until the desired level is achieved.

(b) If the department is increased in number again, the members of the department who have been laid off under this section shall be reinstated before any new member is appointed to the department. The reinstatements begin with the last member laid off.

(c) A member who is laid off shall keep the appointing authority advised of the member's current address. A member shall be informed of the member's reinstatement by written notice sent by certified mail to the member's last known address. Within twenty (20) calendar days after notice of reinstatement is sent to a member, the member must advise the hiring body that the member accepts reinstatement and will be able to commence employment on the date specified in the notice. All reinstatement rights granted to a member terminate upon the member's failure to accept reinstatement within that twenty (20) day period or five (5) years after the day on which a member's layoff begins.

As added by P.L.361-1983, SEC.1. Amended by P.L.344-1985, SEC.1; P.L.56-2010, SEC.1.

IC 36-8-4-12

Probationary appointments

Sec. 12. The safety board may provide that all appointments to the

police or fire department are probationary for a period not to exceed one (1) year. If the safety board finds, upon the recommendation of the chief of the department during the probationary period, that the conduct or capacity of a member is not satisfactory, the safety board shall notify the member in writing that he is being suspended or that he will not receive a permanent appointment. If a member is notified that he will not receive a permanent appointment, his employment immediately ceases. Otherwise, at the expiration of the probationary period, the member is considered regularly employed.

As added by P.L.361-1983, SEC.2.