DIGEST OF HB 1171 (Updated March 15, 2017 11:29 am - DI 102)

Citations Affected:  IC 36-8.

Synopsis: Disciplinary process for firefighters. Establishes minimum rights for a full-time, paid, nonprobationary member of a fire department to be represented in a meeting at which the chief of the fire department (chief) notifies the firefighter: (1) of the firefighter's termination or demotion with cause; or (2) that the chief is recommending the firefighter's termination or demotion with cause to the safety board. Provides that the firefighter's meeting with the chief concerning the firefighter's termination or demotion with cause may not proceed until the firefighter is provided at least 72 hours to obtain the requested representation. Excludes from these provisions: (1) a member of the fire department who holds an upper level policy making (Continued next page)

Effective: July 1, 2017.

Mahan, Frye R, Steuerwald, Lawson L
(SENATE SPONSORS — BOOTS, HOLDMAN, TAYLOR G)

January 9, 2017, read first time and referred to Committee on Veterans Affairs and Public Safety.

SENATE ACTION
February 20, 2017, read first time and referred to Committee on Pensions and Labor.
position; (2) a member of the fire department who holds a position in the fire department: (A) that is not an upper level policy making position; and (B) to which the member was appointed by the chief; and (3) a fire department with a merit system established under IC 36-8-3.5.
March 21, 2017

First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in this style type. Also, the word NEW will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in this style type or this style type reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

ENGROSSED

HOUSE BILL No. 1171

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 36-8-2.2 is added to the Indiana Code as a new chapter to read as follows [effective July 1, 2017]:

Chapter 2.2. Firefighter Representation

Sec. 1. (a) This chapter applies only to a firefighter who is a full-time, paid, nonprobationary member of a fire department.

(b) This chapter does not apply to any of the following:

(1) A member of the fire department who holds an upper level policy making position.

(2) A member of the fire department who holds a position in the fire department:

(A) that is not an upper level policy making position; and

(B) to which the member was appointed by the chief.

(3) A fire department having a merit system established under IC 36-8-3.5.

Sec. 2. (a) This chapter does not apply to any interview, interrogation, or other proceeding that is part of an investigation

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of criminal charges against a firefighter.

(b) This chapter does not apply to any interview, interrogation, or other interaction that is part of an investigation of a firefighter's conduct.

Sec. 3. As used in this chapter, "fire department" means a fire department established by a county, city, town, or township, including a fire protection district under IC 36-8-11 or a fire protection territory established under IC 36-8-19. The term does not include a volunteer fire department.

Sec. 4. A firefighter has at least the rights set forth in this chapter, in a meeting at which the chief of the fire department notifies the firefighter of the firefighter's:

(1) termination; or

(2) demotion with cause.

Sec. 5. (a) A firefighter has the right to be represented in any meeting under section 4 of this chapter by either or both of the following of the firefighter's own choosing and at the firefighter's own expense:

(1) Legal counsel.

(2) A labor organization representative or other representative.

(b) Nothing in this chapter prohibits a firefighter from waiving the firefighter's right of representation under this chapter.

Sec. 6. (a) A meeting under section 4 of this chapter may not proceed until the firefighter is provided at least seventy-two (72) hours to obtain the representation requested by the firefighter.

(b) A firefighter may request representation during a meeting under section 4 of this chapter, if the firefighter was not given the seventy-two (72) hour period described in subsection (a).

Sec. 7. This chapter does not affect a contract executed or renewed before July 1, 2017.

Sec. 8. The rights of a firefighter provided by this chapter are in addition to and do not abridge, diminish, or cancel the rights and privileges of a firefighter that are provided under contract or any other law.

SECTION 2. IC 36-8-3-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

Sec. 3.5. (a) This section applies to a member of the fire department of a city, town, or township to whom IC 36-8-2.2 applies.

(b) A member has at least the rights of representation set forth in IC 36-8-2.2 in any meeting under this chapter at which the chief
of the fire department notifies the member that the chief is
recommending to the safety board the member's termination or
demotion with cause.
COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred House Bill 1171, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 8, delete ":" and insert "concerns any matter that may result in the firefighter's:

(1) termination; or
(2) demotion with cause."

Page 2, delete lines 9 through 19.
Page 2, line 22, delete ":" and insert "and at the firefighter's own expense:"

and when so amended that said bill do pass.

(Reference is to HB 1171 as introduced.)

FRYE R

Committee Vote: yeas 9, nays 1.

COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred House Bill No. 1171, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 7.
Page 1, line 8, delete "2.5" and insert "2.2".
Page 1, line 11, after "Chapter" delete "2.5." and insert "2.2.".
Page 1, line 14, delete "a" and insert "any of the following:

(1) A".
Page 1, between lines 15 and 16, begin a new line block indented and insert:

"(2) A member of the fire department who holds a position in the fire department:

(A) that is not an upper level policy making position; and
(B) to which the member was appointed by the chief.

(3) A fire department having a merit system established under IC 36-8-3.5."

Page 1, line 16, after "Sec. 2." insert "(a)".
Page 2, between lines 1 and 2, begin a new paragraph and insert:

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"(b) This chapter does not apply to any interview, interrogation, or other interaction that is part of an investigation of a firefighter's conduct.".

Page 2, line 8, delete "in any interaction that concerns any matter that may".

Page 2, line 9, delete "result in" and insert "in a meeting at which the chief of the fire department notifies the firefighter of".

Page 2, line 13, delete "interaction" and insert "meeting".

Page 2, line 21, delete "An interaction" and insert "A meeting".

Page 2, line 22, delete "a reasonable:"

Page 2, delete lines 23 through 24.

Page 2, line 25, delete "to" and insert "at least seventy-two (72) hours to".

Page 2, run in lines 22 through 25.

Page 2, line 26, delete "at any time before".

Page 2, line 27, delete "or during an interaction" and insert "during a meeting".

Page 2, line 27, after "chapter" delete "." and insert ", if the firefighter was not given the seventy-two (72) hour period described in subsection (a):".

Page 2, line 37, delete "IC 36-8-2.5" and insert "IC 36-8-2.2".

Page 2, line 40, delete "IC 36-8-2.5" and insert "IC 36-8-2.2".

Page 2, line 40, delete "interaction or proceeding" and insert "meeting".

Page 2, line 40, after "chapter" insert "at which the chief of the fire department notifies the member that the chief is recommending to the safety board the member's termination or demotion with cause.".

Page 2, delete lines 41 through 42.

Delete pages 3 through 11.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1171 as printed January 24, 2017.)

BOOTS, Chairperson

Committee Vote: Yeas 7, Nays 0.