

CHAPTER 57—S. F. No. 520

An act providing that a firemen's civil service commission may be created in cities not of the first class and in villages having a population of 2000 inhabitants or more, and having a regularly employed and paid municipal fire department, and defining the powers and duties of such commission.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Civil Service Commission for Firemen created in certain cities.—There may be created in every city except cities of the first class, and in villages having a population of 2000 inhabitants or more, and having a regularly employed and paid fire department, a firemen's civil service commission with powers and duties as hereinafter provided.

Sec. 2. Last Federal census to control.—In determining the population of any such municipality, the last federal census or the last census taken therein by authority of the State of Minnesota, shall be conclusive as to the population thereof, for the purpose of this act.

Sec. 3. City or Village Council to adopt resolution.—Any city or village in the class mentioned in Section 1 of this act which may wish to avail itself of the provisions of this act, shall do so by a resolution of its common council, expressly accepting the provisions hereof, which resolution shall be adopted by a vote of a majority of all the members of said council, and be approved by the mayor of such city or the president of such village council, and this act shall not apply to any such city or village until the adoption as aforesaid of such resolution.

Sec. 4. Membership—Duties—Terms of office.—Said commission shall consist of three members who shall be citizens of the state and resident of such city or village, and shall be appointed by the council of said city or village, as the case may be, and when first created one commissioner shall be appointed for the term of one year, who shall be president of said commission, one for the term of two years, and one for the term of three years, and all said commissioners shall hold their office until their successors are appointed and qualified. No commissioner shall at the time of his appointment or while serving, hold any other office or employment under the city or village, the United States, the State of Minnesota, or any public corporation or political division thereof, other than the office of notary public. Each commissioner, before entering upon his duties, shall subscribe and file with the city clerk or village recorder, an oath for the faithful discharge of his duties. There shall be appointed each year thereafter by the said council one member of the said commission whose term of office shall be for three years,

and each member of said commission shall be president of said commission during the last year of the term for which he is appointed.

Sec. 5. Meetings.—The commission shall first meet immediately after its appointment and thereafter on the first Monday in February of each year at which said meetings it shall select from its members a secretary who shall serve until his successor is elected. The commission shall from time to time fix the times of its meetings, and adopt, amend, and alter rules for its procedure.

Sec. 6. Members to serve without pay.—Each commissioner shall serve without pay but the council may allow the secretary such compensation, not exceeding one hundred dollars per year, as it shall deem commensurate with the additional services rendered by said secretary. The council shall pay from the municipal treasury all expenses incurred by the commission in connection with the performance of its duties and shall furnish said commission with all supplies, stationery and equipment it may require, but all bills and accounts shall be audited and approved by the president and secretary of said commission before being paid by the council.

Sec. 7. Powers and duties of Commission.—The commission shall have absolute control and supervision over the employment, promotion, discharge and suspension of all officers and employees of the fire department of such city or village and these powers shall extend to and include the chief and assistant chief of such, and all inspectors, fire wardens, electricians, engineers, auto mechanics, clerks and other persons exclusively engaged in the fire prevention and protection service in said city or village.

The commission shall immediately after its appointment and organization grade and classify all of said employees of the fire department of said city or village and a service register shall be prepared for the purpose, in which shall be entered, in their classes, the names, ages, compensation, period of past employment and such other facts and data with reference to each employee as the commission may deem useful.

The commission shall keep a second register to be known as the application register in which shall be entered the names and addresses in the order of the date of application of all applicants for examination and the offices, or employments they seek. All applications shall be upon forms prescribed by the commission and shall contain such data and information as the commission shall deem necessary and useful.

Sec. 8. Same.—The commission shall, immediately after its appointment and from time to time thereafter, make, amend, alter and change rules to promote efficiency in the fire department service and to carry out the purposes of this chapter. The rules shall pro-

vide among other things, for :

(a) The classification of all offices and employments in the fire department.

(b) Public competitive examinations to test the relative fitness of applicants.

(c) Public advertisement of all examinations at least ten days in advance in a newspaper of general circulation in said city or village and posting said advertisement for ten days in the city or village hall and at each station house.

(d) The creation and maintenance of lists of eligible candidates after successful examination in order of their standing in the examination and without reference to the time of examination. Such lists shall be embraced in an eligible register. The commission may by rule provide for striking any name from the eligible register after it has been two years thereon.

(e) The rejection of candidates or eligibles who, after the entry of their names shall fail to comply with the reasonable rules and requirements of the commission in respect to age, residence, physical condition or otherwise, or who have been guilty of criminal, infamous, or disgraceful conduct, or of any wilful misrepresentation, deception or fraud in connection with the examination or in connection with their applications for employment.

(f) The certification of the name standing highest on the appropriate list to fill any vacancy.

(g) Temporary employment without examination, with the consent in each case of the commission, in cases of emergency, but no such temporary employment shall continue more than 30 days nor shall successive temporary employments be permitted for the same position.

(h) Promotion based on competitive examination and upon records of efficiency, character, conduct, and seniority.

(i) Suspension with or without pay, for not longer than 60 days and for leave of absence, with or without pay.

(j) Such other rules not inconsistent with the provisions of this act as may from time to time be found necessary to secure the purposes of this act.

Copies of such rules shall be kept posted in a conspicuous place at each fire station house and no rules of general application with reference to employment, promotion, discharge or suspension shall be effective until so posted.

Sec. 9. Removal or discharge—Hearings.—No officer or employee after six months' continuous employment shall be removed

or discharged except for cause, upon written charges and after an opportunity to be heard in his own defense as in this chapter hereinafter provided. Such charges shall be investigated by or before such civil service commission. The findings and decision of such commission shall be forthwith certified to the chief or other appointing or superior officer, and will be forthwith enforced by such officer. Nothing in this act shall limit the power of any officer to suspend a subordinate for a reasonable period not exceeding 60 days for the purpose of discipline, or pending investigation of charges when he deems such suspension advisable.

Sec. 10. Commission to grade employees.—The commission shall ascertain the duties of each office, position and employment in the fire protection service of such city or village, and designate by rule as well as may be practicable the grade of each office, employment or position. The commission shall prescribe standards of fitness and efficiency for each office, position and employment and for each grade, and adapt its examinations thereto.

Sec. 11. Examinations—Examiners.—All examinations shall be impartial, fair and practical and designed only to test the relative qualifications and fitness of applicants to discharge the duties of the particular employment which they seek to fill. No question in any examination shall relate to the political or religious convictions or affiliations of the applicant. All applicants for positions of trust and responsibility shall be specially examined as to moral character, sobriety and integrity, and all applicants for positions requiring special experience, skill or faithfulness shall be specially examined in respect to those qualities. It shall be the duty of the chief of the fire department and of every employee to act as an examiner or assistant examiner, at the request of the commission, without special compensation therefor. The members of the commission collectively or individually may act as examiners or assistant examiners.

Sec. 12. Notice of examinations.—Notice of the time, place and scope of each examination shall be given by publication and posting as specified in Section 8, and by mailing such notice to each applicant upon the appropriate list of the application register ten days in advance. The names of those found eligible upon examinations after giving credit for character and previous successful experience, shall be entered with their addresses and percentages on the eligible register. No name shall remain upon the eligible register more than two years without a new application and, if the rules of the commission so require, a new examination. When a vacancy has been filled or new appointment made the names selected shall be stricken from the eligible register and transferred to the service register.

Sec. 13. Charges to be filed—Trial.—Charges of inefficiency

or misconduct may be filed with the secretary of the commission by a superior officer or by any member of the commission of his own motion, and thereupon the commission shall try the charges after not less than ten days written notice to the accused. Such notice shall set forth the charges as filed. In the event that the charges are filed by a member of the commission the complaining commissioner shall not sit. The trial of said charges shall be open to the public and each commissioner shall have the power to issue subpoenas and to administer oaths and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. The commission shall require by subpoena the attendance of any witness requested by the accused who can be found in the county in which such city or village is located. The commission may make a complaint to the district court of disobedience of its subpoenas or orders under this section, and the court shall prescribe notice to the person accused and require him to obey the commission's subpoena and order, if found within the lawful powers of the commission, and punish disobedience as a contempt of court. Witnesses shall be entitled to the same fees and mileage as for attendance upon the district court, except that any officer, agent, or employee of said city or village who receives compensation for his services, shall not be entitled to fees or mileage.

Sec. 14. Suspension or removal.—If after investigation and trial by the civil service commission as herein provided an employee is found guilty of inefficiency, breach of duty, or misconduct, he may be removed, reduced or suspended and his name may be stricken from the service register. If the board shall determine that the charges are not sustained, the accused, if he has been suspended pending investigation, shall be immediately reinstated and shall be paid all back pay due for the period of suspension.

Findings and determinations hereunder and orders of suspension, reduction, or removal, shall be in writing and shall be filed within three days after the completion of such hearing with the secretary of the commission and it shall be the duty of the secretary to notify such employee of said decision in writing. Any person suspended, reduced, or removed by the commission after investigation may appeal from the order to the district court by serving written notice thereof upon the secretary within ten days after the filing of said order or the receipt by said employee of written notice of said order as above provided.

Within five days thereafter, the secretary shall certify to the clerk of the district court, the record of the proceedings, including all documents, testimony and minutes. The case shall then be at issue and shall be placed on the calendar by the clerk to be tried before the court without jury at the next general term thereof to be held in the county where said city or village is located at the place

nearest said city or village. The question to be determined by the court shall be:

"Upon the evidence was the order of the commission reasonable?" After trial in the district court an appeal may be taken from the decision thereof to the supreme court by the employee or the commission in the same manner as provided for other court cases.

Sec. 15. Certain acts to be misdemeanors.—An applicant for examination, appointment or promotion in the fire prevention service of said city or village who shall, either directly or indirectly, give, render or pay or promote to give, render or pay any money, service or other thing to any person, for or on account of or in connection with his examination, appointment or proposed appointment or promotion shall be guilty of a misdemeanor and shall also be subject to suspension or removal.

Sec. 16. Same.—Any officer or employee of the fire department, when operated under civil service in accordance with the provisions of this chapter, who shall in any manner directly or indirectly solicit, receive or pay, or be in any manner concerned in soliciting, receiving or paying any assessment, subscription or contribution for any party or political purpose shall be guilty of a misdemeanor and shall be subject to suspension or removal.

Sec. 17. Same.—Any person who shall solicit or receive directly, or indirectly, or be in any manner concerned in soliciting or receiving any assessment, contribution, or payment for any political purpose whatever from any officer or employee in a fire department operated under civil service as in this chapter provided for, shall be guilty of a misdemeanor.

Sec. 18. Commission may be abolished.—Any firemen's civil service commission hereafter created pursuant to the provisions of this act may be discontinued and abolished as follows: A petition signed by ten per cent of the number of legal voters voting at the last general municipal election shall be filed with the governing body of such city or village, and shall request that the following question be submitted to the voters, to-wit: "Shall the firemen's civil service commission be abolished?"

Sec. 19. Election.—When such petition is filed the governing body of such city or village shall cause said question to be submitted to the voters at the first following general municipal election.

Such commission shall be deemed to be abolished if a majority of the votes cast at said election be in favor of such abolishment; and the status of the fire department and all of the employees thereof shall thereafter be deemed to be the same as if said commission had not been created.

Sec. 20. This act shall take effect and be in force from and after the date of its passage.

Approved March 11, 1929.

CHAPTER 58—H. F. No. 7

An act to amend Section 7895, General Statutes 1923, relating to election of directors, trustees or managers.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Election of officers.—Section 7895, General Statutes 1923, is amended to read as follows:

“7895. Any benevolent, charitable, missionary, hospital, *educational* or religious corporation, whenever its certificate shall so provide, may authorize the election of a specified number of its directors, trustees, or managers by another corporation *or by any council, synod or other governing body of a religious denomination.*”

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved March 9, 1929.

CHAPTER 59—H. F. No. 79

An act amending Section 1, Chapter 108, General Laws 1927, relating to the inspection of nurseries.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. That Section 1, Chapter 108, General Laws 1927, be amended to read as follows:

“Section 1. Inspection of nurseries.—The state entomologist employed by the commissioner of agriculture is hereby designated as state inspector of nurseries and is authorized, either himself or by deputies duly appointed by him, to inspect all premises in Minnesota where nursery stock is grown or held for sale, and further to inspect all orchards or any premises whatsoever within the state, where he has reason to suspect the presence of injurious insects or injurious and contagious plant diseases. Nursery stock shall be regarded as including all field-grown plants (except herbaceous annuals) of any kind, also trees, field-grown shrubs, vines, cuttings, buds, grafts and scions. For this purpose he or his deputy or deputies shall have free access to any field, ground, packing ground, buildings, cellars, orchard, garden, elevator, warehouse, freight or express office or car, freight yard, vehicle, vessel, boat, container, and other places where the carrying out of the provisions of this