

CHAPTER 13.

[S. B. 78.]

CIVIL SERVICE IN POLICE DEPARTMENTS.

AN ACT relating to civil service in cities and towns and creating a board of civil service commissioners in cities having fully paid police officers and providing a civil service system based upon examination, investigation as to merit, efficiency and fitness for appointment, employment and promotion of all officers and men appointed in said police departments; and regulating the transfer, reinstatement, suspension and discharge of said officers and policemen and making the act inapplicable to certain cities and towns.

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

SECTION 1. The provisions of this act shall have no application to cities and towns which at the present time have provided for civil service in the police department or which shall subsequently provide for civil service in the police department by local charter or other regulations which said local charter or regulations substantially accomplish the purpose of this act, nor to cities having a police force of not more than two persons including the chief of police. Exceptions.

SEC. 2. If any of the cities or towns referred to in section 1 shall at any time repeal the charter provisions or other local acts of said cities or towns providing for civil service for policemen as referred to in section 1 of this act, in that event this act shall apply to all of such cities and towns which have at any time abolished civil service for members of the police department. Repeal of charter providing for civil service.

SEC. 3. There is hereby created in every city, town or municipality except those referred to in section 1, having fully paid policemen a civil service commission which shall be composed of three persons. Civil service commission.

Appoint-
ment.

The members of such commission shall be appointed by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are vested by law with the power and authority to select, appoint, or employ the chief of a police department in any such city, prior to the enactment of this act. The members of such commission shall serve without compensation. No

To serve
without com-
pensation.

Qualifica-
tions.

person shall be appointed a member of such commission who is not a citizen of the United States, a resident of such city for at least three (3) years immediately preceding such appointment, and an elector of the county wherein he resides. The term of office of such commissioners shall be for six (6) years, except that the first three members of such commission shall be appointed for different terms, as follows: One to serve for a period of two (2) years, one to serve for a period of four (4) years, and one to serve for a period of six (6) years.

Term of
office.

Removal.

Any member of such commission may be removed from office for incompetency, incompatibility or dereliction of duty, or malfeasance in office, or other good cause: *Provided, however,* That no member of the commission shall be removed until charges have been preferred, in writing, due notice and a full hearing had. The members of such commission shall devote due time and attention to the performance of the duties hereinafter specified and imposed upon them by this act. Two (2) members of such commission shall constitute a quorum and the votes of any two (2) members of such commission concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission under or by virtue of the provisions of this act. Confirmation of said appointment or appointments of commissioners by any legislative body shall not be required.

Quorum.

At the time of any appointment not more than two (2) commissioners shall be adherents of the same political party.

SEC. 4. The classified civil service and provisions of this act shall include all full paid employees of the police department of each city, town or municipality coming within its purview, including the chief of that department. All appointments to and promotions in said department shall be made solely on merit, efficiency and fitness, which shall be ascertained by open competitive examination and impartial investigation. No person shall be reinstated in or transferred, suspended or discharged from any such place, position or employment contrary to the provisions of this act.

Purview
of act.

SEC. 5. Immediately after appointment the commission shall organize by electing one of its members chairman and hold regular meetings at least once a month, and such additional meetings as may be required for the proper discharge of their duties.

Organization
of commis-
sion.

They shall appoint a secretary and chief examiner, who shall keep the records for the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe.

The secretary and chief examiner shall be appointed as a result of competitive examination which examination may be either original and open to all properly qualified citizens of the city, town or municipality, or promotional and limited to persons already in the service of the police department or of the police department and other departments of said city, town or municipality, as the commission may decide. The secretary and chief examiner may be subject to suspension, reduction or discharge in the same manner and subject to the same limita-

tions as are provided in the case of members of the police department. It shall be the duty of the civil service commission:

Rules and regulations.

(a) To make suitable rules and regulations not inconsistent with the provisions of this act. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this act, or which may be found to be in the interest of good personnel administration. Such rules and regulations may be changed from time to time. The rules and regulations and any amendments thereof shall be printed, mimeographed or multigraphed for free public distribution. Such rules and regulations may be changed from time to time;

Free distribution.

Tests practical.

(b) All tests shall be practical, and shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made, and may include tests of physical fitness and/or of manual skill;

10% credit for war veterans.

(c) The rules and regulations adopted by the commission shall provide for a credit of ten per cent (10%) in favor of all applicants for appointment under civil service, who, in time of war, or in any expedition of the armed forces of the United States, have served in and been honorably discharged from the armed forces of the United States, including the Army, Navy and Marine Corps and the American Red Cross. These credits apply to entrance examinations only;

Investigations.

(d) The commission shall make investigations concerning and report upon all matters touching the

enforcement and effect of the provisions of this act, and the rules and regulations prescribed hereunder; inspect all institutions, departments, offices, places, positions and employments affected by this act, and ascertain whether this act and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission as aforesaid, but the commission must make like investigation on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the commission or designated commissioner, or chief examiner, shall have the power to administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents and accounts appertaining to the investigation and also to cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a superior court judge in his judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this act, and punishable as such;

(e) Hearings and Investigations: How conducted. All hearings and investigations before the commission, or designated commissioner, or chief examiner, shall be governed by this act and by rules of practice and procedure to be adopted by the commission, and in the conduct thereof neither the commission, nor designated commissioner shall be

Hearings
conducted.

bound by the technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule or regulation made, approved or confirmed by the commission: *Provided, however,* That no order, decision, rule or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force or effect whatsoever unless and until concurred in by at least one (1) of the other two (2) members;

Appeals or
complaints.

(f) To hear and determine appeals or complaints respecting the administrative work of the personnel department; appeals upon the allocation of positions; the rejection of an examination, and such other matters as may be referred to the commission;

Roster.

(g) Establish and maintain in card or other suitable form a roster of officers and employees;

Competitive
tests.

(h) Provide for, formulate and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligible lists for the various classes of positions, and to provide that men laid off because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be reemployed;

Seniority.

Vacancies.

(i) When a vacant position is to be filled, to certify to the appointing authority, on written request, the name of the person highest on the eligible list for the class. If there are no such lists, to authorize provisional or temporary appointment list of such class. Such temporary of [or] provisional appointment shall not continue for a period longer than four (4) months; nor shall any person receive more than one (1) provisional appointment or serve more than

four (4) months as provisional appointee in any one fiscal year;

(j) Keep such records as may be necessary for the proper administration of this act. Records kept.

SEC. 6. For the benefit of the public service and to prevent delay, injury, or interruption therein by reason of the enactment of this act, all persons holding a position in the police department of any such city, including the chief thereof, when this act takes effect, who shall have served in such position for a period of at least six (6) months last past continuously, are hereby declared eligible for permanent appointment under civil service to the offices, places, positions or employments which they shall then hold, respectively, without examination or other act on their part, and not on probation; and every such person is hereby automatically adopted and inducted permanently into civil service, into such office, place, position or employment which such person then holds as completely and effectually to all intents and purposes as if such person had been permanently appointed thereto under civil service after examination and investigation. Incumbents eligible for permanent positions.

SEC. 7. An applicant for a position of any kind under civil service, must be a citizen of the United States of America and an elector of the county in which he resides, who can read and write the English language, and must have been a resident of said city for at least one (1) year. Applicants.

An applicant for a position of any kind under civil service must be of an age suitable for the position applied for, in ordinary good health, of good moral character and of temperate and industrious habits; these facts to be ascertained in such manner as the commission may deem advisable. Qualifications.

SEC. 8. The tenure of everyone holding an office, place, position or employment under the provisions Duration of employment.

of this act shall be only during good behavior, and any such person may be removed or discharged, suspended without pay, demoted, or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons:

Causes for removal.

(a) Incompetency, inefficiency or inattention to or dereliction of duty;

(b) Dishonesty, intemperance, immoral conduct, insubordination, discourteous treatment of the public, or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other wilful failure on the part of the employee to properly conduct himself; or any wilful violation of the provisions of this act or the rules and regulation to be adopted hereunder;

(c) Mental or physical unfitness for the position which the employee holds;

(d) Dishonest, disgraceful, immoral or prejudicial conduct;

(e) Drunkenness or use of intoxicating liquors, narcotics, or any other habit-forming drug, liquid or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any position under civil service;

(f) Conviction of a felony, or a misdemeanor, involving moral turpitude;

(g) Any other act or failure to act which in the judgment of the civil service commissioners is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.

Written accusation.

SEC. 9. No person in the classified civil service who shall have been permanently appointed or inducted into civil service under provisions of this act, shall be removed, suspended, demoted or discharged except for cause, and only upon written accusation of the appointing power, or any citizen or taxpayer;

a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission. Any person so removed, suspended, demoted or discharged may within ten (10) days from the time of his removal, suspension, demotion or discharge, file with the commission a written demand for an investigation, whereupon the commission shall conduct such investigation. The investigation shall be confined to the determination of the question of whether such removal, suspension, demotion or discharge was or was not made for political or religious reasons and was or was not made in good faith or [for] cause. After such investigation the commission may affirm the removal, or if it shall find that the removal, suspension, or demotion was made for political or religious reasons, or was not made in good faith for cause, shall order the immediate reinstatement of [or] reemployment of such person in the office, place, position or employment from which such person was removed, suspended, demoted or discharged, which reinstatement shall, if the commission so provides in its discretion, be retroactive, and entitle such person to pay or compensation from the time of such removal, suspension, demotion or discharge. The commission upon such investigation, [in] lieu of affirming the removal, suspension, demotion or discharge may modify the order of removal, suspension, demotion or discharge by directing a suspension, without pay, for a given period, and subsequent restoration to duty, or demotion in classification, grade, or pay; the findings of the commission shall be certified, in writing to the appointing power, and shall be forthwith enforced by such officer.

Right to investigation.

All investigations made by the commission pursuant to the provisions of this section shall be had by public hearing, after reasonable notice to the

Public hearing.

Appeal to
courts.

accused of the time and place of such hearing, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his defense. If such judgment or order be concurred in by the commission or a majority thereof, the accused may appeal therefrom to the court of original and unlimited jurisdiction in civil suits of the county wherein he resides. Such appeal shall be taken by serving the commission, within thirty (30) days after the entry of such judgment or order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the commission affecting or relating to such judgment or order, be filed by the commission with such court. The commission shall, within ten (10) days after the filing of such notice, make, certify and file such transcript with such court. The court of original and unlimited jurisdiction in civil suits shall thereupon proceed to hear and determine such appeal in a summary manner: *Provided, however,* That such hearing shall be confined to the determination of whether the judgment or order of removal, discharge, demotion or suspension made by the commission, was or was not made in good faith for cause, and no appeal to such court shall be taken except upon such ground or grounds.

Enforce-
ment of
act.

SEC. 10. It shall be the duty of all officers and employees of any such city to aid in all proper ways of carrying out the provisions of this act, and such rules and regulations as may, from time to time, be prescribed by the commission thereunder and to afford the commission, its members and employees, all reasonable facilities and assistance to inspect all books, papers, documents and accounts applying or in any way appertaining to any and all offices, places, positions and employments, subject to civil service, and also to produce said books, papers,

documents and accounts, and attend and testify, whenever required so to do by the commission or any commissioner.

SEC. 11. Whenever a position in the classified service becomes vacant, the appointing power, if it desires to fill the vacancy, shall make requisition upon the commission for the name and address of a person eligible for appointment thereto. The commission shall certify the name of the person highest on the eligible list for the class to which the vacant position has been allocated, who is willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the name of the person standing highest on said list held appropriate for such class. If more than one vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint such person to such vacant position.

Vacancy in
classified
service.

Whenever requisition is to be made, or whenever a position is held by a temporary appointee and an eligible list for the class of such position exists, the commission shall forthwith certify the name of the person eligible for appointment to the appointing power, and said appointing power shall forthwith appoint the person so certified to said position. No person so certified shall be laid off, suspended, or given leave of absence from duty, transferred or reduced in pay or grade, except for reasons which will promote the good of the service, specified in writing, and after an opportunity to be heard by the commission and then only with its consent and approval.

Eligible
list.

To enable the appointing power to exercise a choice in the filling of positions, no appointment, employment or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of three (3) to six

Probation-
ary service.

(6) months' probationary service, as may be provided in the rules of the Civil Service Commission during which the appointing power may terminate the employment of the person certified to him, or it, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems him unfit or unsatisfactory for service in the department, whereupon the appointing power shall designate the person certified as standing next highest on any such list and such person shall likewise enter upon said duties until some person is found who is deemed fit for appointment, employment or promotion for the probationary period provided therefor, whereupon the appointment, employment or promotion shall be deemed to be complete.

Appointing
power.

SEC. 12. All offices, places, positions and employments coming within the purview of this act, shall be created by the person or group of persons who, acting singly or in conjunction, as a mayor, city manager, chief, common council, commission or otherwise, it is vested by law with power and authority to select, appoint, or employ any person coming within the purview of this act, and nothing herein contained shall infringe upon the power and authority of any such person or group of persons, or appointing power, to fix the salaries and compensation of all employees employed hereunder.

Payroll.

SEC. 13. No treasurer, auditor, comptroller or other officer, or employee of any city, town or municipality in which this act is effective, shall approve the payment of or be in any manner concerned in paying, auditing or approving any salary, wage, or other compensation for services, to any person subject to the jurisdiction and scope of this act, unless a payroll, estimate or account for such salary, wage or other compensation, containing the names of the persons to be paid, the amount to be paid to each

such person, the services on account of which same is paid, and any other information which, in the judgment of the civil service commission, should be furnished on said payroll, bears the certificate of the civil service commission or of its secretary or other duly authorized agent, that the persons named in such payroll, estimate or account have been appointed or employed in compliance with the terms of this act and with the rules of the commission, and that the said payroll, estimate or account is, so far as known to the said commission, a true and accurate statement. The commission shall refuse to certify the pay of any public officer or employee whom it finds to be illegally or improperly appointed, and may further refuse to certify the pay of any public officer or employee who shall wilfully or through culpable negligence violate or fail to comply with this act or with the rules of the commission.

SEC. 14. Leave of absence, without pay, may be granted by any appointing power to any person under civil service: *Provided*, That such appointing power shall give notice of such leave to the commission. All temporary employment caused by leaves of absence shall be made from the eligible list of the classified civil service.

Leave of absence.

SEC. 15. It shall be the duty of the commission to begin and conduct all civil suits which may be necessary for the proper enforcement of this act and of the rules of the commission. The commission shall be represented in such suits by the chief legal officer of the city, but said commission may in any case be represented by special counsel appointed by it.

Civil suits.

SEC. 16. No commissioner or any other person, shall, by himself or in cooperation with one or more persons, defeat, deceive, or obstruct any person in respect of his right of examination or registration

Unlawful practices.

according to the rules and regulations of this act, or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to the provisions of this act, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified or persuade any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration of application or request to be examined or registered.

Contri-
butions.

SEC. 17. No person holding any office, place, position or employment subject to civil service, is under any obligation to contribute to any political fund or to render any political service to any person or party whatsoever, and no person shall be removed, reduced in grade or salary, or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote, or in any manner change the official rank, employment or compensation of any person under civil service, or promise or threaten so to do, for giving or withholding, or neglecting to make any contribution of money, or services, or any other valuable thing, for any political purpose.

Enact
legislation.

SEC. 18. The various cities affected by the provisions of this act, shall immediately upon the taking effect thereof, enact appropriate legislation for carrying this act into effect, and the failure upon the part of the duly constituted authorities of any such city so to do shall be considered a violation of this act and be punishable as such.

Offices and
clerical
assistants.

SEC. 19. The duly constituted authorities of each and every city coming within the purview of this

act, shall provide the commission with suitable and convenient rooms and accommodations and cause the same to be furnished, heated and lighted and supplied with all office supplies and equipment necessary to carry on the business of the commission and with such clerical assistance as may be necessary, all of which is to be commensurate with the number of persons in each such city coming within the purview of this act; and the failure upon the part of the duly constituted authorities to do so, shall be considered a violation of this act and shall be punishable as such.

SEC. 20. In ninety (90) days after the taking effect of this act, it shall be the duty of the duly constituted authorities in each such city, subject to the provisions of this act, to appoint and create a civil service commission as provided for in section 1 hereof, and the failure upon the part of said duly constituted authorities, or any of them, so to do, shall be deemed a violation of this act, and shall be punishable as such.

Commission to be appointed within 90 days.

SEC. 21. It shall be the duty of each commission appointed subject to the provisions of this act, to immediately organize and see to it that the provisions thereof are carried into effect, and to this end to make suitable rules and regulations not inconsistent with the purpose of this act, for the purpose of carrying the provisions thereof into effect; and the failure upon the part of said commission, or any individual member thereof to do so, shall be deemed a violation of this act, and shall be punishable as such.

Immediate organization.

SEC. 22. For the purpose of carrying out the provisions of this act, such city, town or municipality is hereby authorized to appropriate from the general fund not to exceed four-tenths of one per cent (.4 of 1%) of the total payroll of those included under the jurisdiction and scope of the act: *Provided,*

Municipal appropriation.

however, That if the city council or other proper legislative body shall make an appropriation for the support of said commission equal to or more than the said continuing appropriation in any year, this section shall not be operative for said year but otherwise shall be in full force and effect.

Misdemeanor.

SEC. 23. Any person who shall wilfully violate any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars (\$100) and by imprisonment in the county jail for not longer than thirty (30) days, or by both such fine and imprisonment. The court of original and unlimited jurisdiction in civil suits shall have jurisdiction of all such offenses defined by this act.

Penalty.

SEC. 24. As used in this act, the following mentioned terms shall have the following described meanings:

"Commission."

The term "commission" means the civil service commission herein created, and the term "commissioner" means any one of the three commissioners of that commission.

"Appointing power."

The term "appointing power" includes every person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are, invested by law with power and authority to select, appoint, or employ any person to hold any office, place, position or employment subject to civil service.

"Appointment."

The term "appointment" includes all means of selection, appointing or employing any person to hold any office, place, position or employment subject to civil service.

"City."

The term "city" includes all cities, towns and municipalities having a full paid police department.

"Full paid police department."

The term "full paid police department" means that the officers and policemen employed in such

are paid regularly by the city and devote their whole time to police duty: *Provided*, "Full paid police department" whenever used in this act shall also mean "full paid policemen."

SEC. 25. If any section, subsection, subdivision, sentence, clause or phrase of this act, shall for any reason be held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act.

Partial
invalidity.

SEC. 26. All acts and parts of acts in conflict with the provisions of this act are hereby repealed in so far as they conflict with the provisions of this act.

Conflicting
acts.

Passed the Senate January 29, 1937.

Passed the House February 10, 1937.

Approved by the Governor February 19, 1937.

CHAPTER 14.

[S. B. 87.]

DECLARATORY JUDGMENTS.

AN ACT relating to declaratory judgments, amending section 1, chapter 113, Laws of 1935, adding a new section and declaring an emergency.

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

SECTION 1. That section 1, chapter 113, Laws of 1935, be amended to read as follows:

Amends
§ 1, ch. 113,
Laws of 1935.

Section 1. Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed. An action or proceeding shall not be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirma-