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**WEST VIRGINIA CODE CHAPTER 8**  
**ARTICLE 14**

WV Legislature

**PART I. LAW AND ORDER AND POLICE FORCE OR DEPARTMENTS.**

**§8-14-1. Power and authority with respect to the preservation of law and order; police force or departments.**

Every municipality shall have plenary power and authority to protect persons and property within the municipality and preserve law and order therein, and, for this purpose, to provide for, establish, equip and maintain a police force or department. The police force or department in each municipality shall be subject to the authority, control and discipline of the administrative authority.

For the purposes of this article, the term "paid police department" shall be taken to mean only a municipal police department maintained and paid for out of public funds and whose employees are paid on a full-time basis out of public funds. The term shall not be taken to mean a department whose employees are paid nominal salaries or wages or are only paid for services actually rendered on an hourly basis.

**§8-14-2. Hours of duty for policemen in a paid police department under civil service; overtime compensation or time off; municipal emergencies.**

In any paid police department of any municipality now or hereafter operated under police civil service as provided in subsequent sections of this article, the members of any such department subject to and under civil service shall not be required to be on duty more than five days in any calendar week, nor more than eight hours in any one day, unless they shall be compensated as hereinafter in this section provided. For any time spent on duty by any member of a paid police department under civil service in excess of eight hours in any one day or in excess of forty hours in any one week, such member shall, notwithstanding any other provisions of this code to the contrary, be paid, at a rate not less than his regular rate of pay, for each full hour or allowed equal time off: Provided, That in time of municipal emergency as hereinafter in this section defined, the foregoing provisions with respect to additional pay or time off shall not apply. A municipal emergency for purposes of this section shall mean an unusual or abnormal condition beyond the municipality's control and a condition beyond its reasonable power to remove or overcome.

**§8-14-2a. Policemen who are required to work during holidays; how compensated.**

From the effective date of this section, if any municipal police officer is required to work during a legal holiday as is specified in subsection (a), section one, article two, chapter two of this code, or if a legal holiday falls on the police officer's regular scheduled day off, he or she is allowed equal time off at a time as may be approved by the chief of police under whom he or she serves or, in the alternative, shall be paid at a rate not less than one and one-half times his or her regular rate of pay: Provided, That if a special election of a political subdivision other than a municipality falls on a Saturday or Sunday, the municipality may choose not to recognize the day of the election as a holiday if a majority of the municipality's city council votes not to recognize the day of the election as a holiday.

**§8-14-3. Powers, authority, and duties of law-enforcement officials and policemen.**

The chief and any member of the police force or department of a municipality, any municipal sergeant, and any municipal fire marshal shall have all of the powers, authority, rights, and privileges within the corporate limits of the municipality with regard to the arrest of persons, the collection of claims, and the execution and return of any search warrant, warrant of arrest, or other process, which can legally be exercised or discharged by a deputy sheriff of a county: Provided, That any municipal fire marshal granted authority under this section shall have these powers, authority, rights, and privileges only to the limits described in §8-15-1 of this code. In order to arrest for the violation of municipal ordinances and as to all matters arising within the corporate limits and coming within the scope of his or her official duties, the powers of any chief, policeman, municipal fire marshal, or sergeant shall extend anywhere within the county or counties in which the municipality is located, and any chief, policeman, municipal fire marshal, or sergeant shall have the same authority of pursuit and arrest beyond his or her normal jurisdiction as has a sheriff. For an offense committed in his or her presence, any such officer may arrest the offender without a warrant and take the offender before the mayor or police court or municipal court to be dealt with according to law. His or her sureties are liable to all the fines, penalties, and forfeitures which a deputy sheriff is liable to, for any failure or dereliction in such office, to be recovered in the same manner and in the same courts in which the fines, penalties, and forfeitures are recovered against a deputy sheriff. In addition to the mayor, or police court judge or municipal court judge, if any, of a city, the chief of police of any municipality and in the absence from the station house of the chief of police the captains of police and lieutenants of police shall each have authority to administer oaths to complainants and to issue arrest warrants thereon for all violations of the ordinances of the municipality.

The mayor and police officers of every municipality and any municipal sergeant shall aid in the enforcement of the criminal laws of the state within the municipality, independently of any charter provision or any ordinance or lack of an ordinance with respect thereto, and to cause the arrest of, or arrest, any offender and take him or her before a magistrate to be dealt with according to the law. Failure on the part of any such official or officer to discharge any duty imposed by the provisions of this section is official misconduct for which he or she may be removed from office. Any official or officer has the same authority to execute a warrant issued by a magistrate, and the same authority to arrest without a warrant for offenses committed in his or her presence, as a deputy sheriff.

An officer or member of the police force or department of a municipality may not aid or assist either party in any labor trouble or dispute between employer and employee. They shall in these cases see that the statutes and laws of this state and municipal ordinances are enforced in a legal way and manner. Nor shall he or she engage in off-duty police work for any party engaged in or involved in the labor dispute or trouble between employer and employee.

The chief of police shall be charged with the keeping and security of the jail, and at any time that one or more prisoners are being held in the jail, he or she shall require that the jail be

attended by a police officer or other responsible person.

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### **PART III. POLICE MATRONS.**

#### **§8-14-4. Police matrons.**

The mayor of every city may appoint one or more reputable women as police matrons. Upon the death, resignation or removal of a police matron, any successor shall be appointed by the mayor as aforesaid.

Each police matron shall have, subject to the general control of the head of the police department, the entire care and control of all women under arrest in the police station for which she serves, and she may, at any time, call upon any police officer connected with such police station for assistance.

Whenever a woman is arrested and taken to a police station to which a matron is attached and when a matron is not present, it shall be the duty of the officer in charge of such police station to cause a matron to be immediately summoned, and it shall be the duty of the police matron to hold herself in readiness at all hours of the day and night to answer any and all calls from such police station whenever and so long as any woman is or remains confined therein.

The police matron herein provided for shall attend all sessions of the mayor's court, police court or municipal court, at any and all times, when any women is to be there arraigned, and the police matron shall have charge of all women there in attendance awaiting trial or awaiting transfer to any other place of detention.

In every station to which a police matron is attached, sufficient and proper accommodations shall be provided by those having charge of the police and fiscal affairs of the city, for all women confined therein, under arrest, and in case such accommodations shall be insufficient and improper, the matron shall notify the mayor, and it shall be the duty of the mayor promptly to lay the matter before the governing body and it shall be the duty of such governing body to provide, at the expense of the city, all such sufficient and proper accommodations.

**PART IV. SPECIAL SCHOOL ZONE AND PARKING LOT OR  
PARKING BUILDING POLICE OFFICERS.**

**§8-14-5. Special school zone police officers.**

Every municipality shall have plenary power and authority to provide by ordinance for the appointment of special school zone police officers, who shall have the duty of controlling and directing traffic upon designated parts of the streets, avenues, roads, alleys or ways at or near schools, and who, in the performance of such duty, shall be vested with all the powers of local police officers. Such special school zone police officers shall be in uniform, shall display a badge or other sign of authority, shall serve at the will and pleasure of the appointing authority, and shall not come within the civil service provisions of this article or the policemen's pension and relief fund provisions of article twenty-two of this chapter. The governing body of the municipality may require such special school zone police officers to give bond, payable to the municipality, in its corporate name, with such sureties and in such penalty as the governing body may see fit, conditioned for the faithful performance of their duties.

**§8-14-5a. Parking enforcement officers.**

(a) A municipality or parking authority created by a municipality may employ parking enforcement officers, whose sole duties are to patrol and to enforce municipal parking ordinances upon or within designated municipal parking areas and upon municipal streets. Parking enforcement officers may sign complaints and issue citations.

(b) Parking enforcement officers shall:

- (1) Be in uniform;
- (2) Display a badge or other sign of authority; and
- (3) Serve at the will and pleasure of their employer.

(c) The governing body of the municipality may require the parking enforcement officers to give a surety bond, payable to the municipality. The governing body shall set the amount of the bond conditioned for the faithful performance of their duties. Nothing in this section may be construed to mean that parking enforcement officers come within the civil service provisions of this article or the policemen's pension and relief fund provisions of article twenty-two of this chapter.

**PART V. CIVIL SERVICE FOR CERTAIN POLICE DEPARTMENTS.**

**§8-14-6. Qualifications for appointment or promotion to positions in certain paid police departments to be ascertained by examination; provisions exclusive as to appointments, etc.; definitions.**

(a) All appointments and promotions to all positions in all paid police departments of Class I and Class II cities shall be made only according to qualifications and fitness to be ascertained by examinations, which, so far as practicable, shall be competitive, as hereinafter provided.

(b) No individual, except the chief or deputy chiefs of police, if the position of deputy chief of police has been previously created by the city council of that Class I or Class II city, may be appointed, promoted, reinstated, removed, discharged, suspended or reduced in rank or pay as a paid member of a paid police department, regardless of rank or position, of any Class I or Class II city in any manner or by any means other than those prescribed in the following sections of this article: Provided, That an individual appointed chief or deputy chief of police who held a position as a member of a paid police department in that police department before the appointment as chief or deputy chief of police shall be reinstated to the officer's previous rank following his or her term as chief or deputy chief of police.

(c) The term "member of a paid police department", whenever used in the following sections of this article, means an individual employed in a paid police department who is clothed with the police power of the state in being authorized to carry deadly weapons, make arrests, enforce traffic and other municipal ordinances, issue summons for violations of traffic and other municipal ordinances, and perform other duties which are within the scope of active, general law enforcement.

(d) The term "appointing officer", as used in the following sections of this article, means the Class I or Class II city officer in whom the power of appointment of members of a paid police department is vested by charter provision or ordinance of the city.

**§8-14-7. Policemen's civil service commission generally.**

(a) In every Class I and Class II city having a paid police department, there shall be a "Policemen's Civil Service Commission."

(b) The commission shall consist of three commissioners, as follows:

(1) One shall be appointed by the mayor of the city;

(2) One shall be appointed by the local fraternal order of police; and

(3) One shall be appointed by the local chamber of commerce, or if there is none, by a local business association.

(c) The commissioners shall be qualified voters of the city for which they are appointed.

(1) At least two of the commissioners shall be individuals in full sympathy with the purposes of the civil service provisions of this article.

(2) Not more than two of the commissioners, at any one time, may be registered to vote as members of the same political party.

(d) In the event there is no local chamber of commerce or local business association at the time any appointment is to be made by it, the appointment shall be made by the other two commissioners by mutual agreement.

(e) Members shall serve terms of four years, staggered in accordance with prior enactments of this section.

(f)(1) If any commissioner of the civil service commission ceases to be a member of the commission by virtue of death, final removal or other cause, a new commissioner shall be appointed to fill the unexpired term of the commissioner within ten days after the excommissioner has ceased to be a member of the commission.

(2) The appointment shall be made by the officer or body who in the first instance appointed the commissioner who is no longer a member of the commission, except that in the case of a vacancy in an appointment made by the Governor, which vacancy occurs after the effective date of this article, the appointment for the unexpired term shall be made by the mayor.

(g) Each year the three members of the commission shall, together, elect one of their number to act as president of the commission, who serves as president for one year.

(h) The mayor may, at any time, remove any commissioner or commissioners for good cause, which shall be stated in writing and made a part of the records of the commission.

(1) Once the mayor has removed any commissioner, the mayor shall within ten days file in

the office of the clerk of the circuit court of the county in which the city or the major portion of the territory of the city is located a petition setting forth in full the reason for the removal and praying for the confirmation by the circuit court of the action of the mayor in so removing the commissioner.

(2) A copy of the petition shall be served upon the commissioner removed simultaneously with its filing in the office of the clerk of the circuit court and has precedence on the docket of the court and shall be heard by the court as soon as practicable upon the request of the removed commissioner or commissioners.

(i)(1) All rights vested in the circuit court by this section may be exercised by the judge thereof in vacation.

(2) If no term of the circuit court is being held at the time of the filing of the petition, and the judge cannot be reached in the county in which the petition was filed, the petition shall be heard at the next succeeding term of the circuit court, whether regular or special, and the commissioner or commissioners removed remains removed until a hearing is had upon the petition of the mayor.

(3) The court or the judge thereof in vacation shall hear and decide the issues presented by the petition.

(j)(1) The mayor or commissioner or commissioners, as the case may be, against whom the decision of the court or the judge thereof in vacation is rendered, has the right to petition the Supreme Court of Appeals for a review of the decision of the circuit court or the judge thereof in vacation as in other civil cases.

(2) If the mayor fails to file a petition in the office of the clerk of the circuit court within ten days after the removal of the commissioner or commissioners, the commissioner or commissioners shall immediately resume his or her or their position or positions as a member or members of the policemen's civil service commission.

(k) Any resident of the city has the right at any time to file charges against and seek the removal of any member of the policemen's civil service commission of the city.

(1) The charges shall be filed in the form of a petition in the office of the clerk of the circuit court of the county in which the city or the major portion of the territory of the city is located, and a copy of the petition shall be served upon the commissioner or commissioners sought to be removed.

(2) The petition shall be matured for hearing and heard by the circuit court or the judge thereof in vacation in the same manner as civil proceedings in the circuit courts of this state are heard, and the party against whom the circuit court's decision is rendered has the right to petition the Supreme Court of Appeals for a review of the action of the circuit court, as in other civil cases.

(l) A commissioner may not hold another office under the United States, this state, or any municipality, county or other political subdivision thereof, nor may a commissioner serve on a political committee or take an active part in the management of a political campaign, except that a commissioner may serve as a notary public or on another local, regional or state board or commission in a part-time capacity.

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**§8-14-8. Recorder ex officio clerk of commission; clerical and stenographic services.**

The recorder of the city shall be ex officio clerk of the policemen's civil service commission and shall supply to the commission without extra compensation all necessary clerical and stenographic services for the work of the commission.

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**§8-14-9. Rooms, stationery, etc., to be furnished by city; appropriations required.**

It shall be the duty of the mayor and the heads of the departments of government of every Class I and Class II city having a paid police department to cause suitable and convenient rooms and accommodations to be assigned and provided, furnished, heated and lighted for carrying on the work and examinations of the commission. The commission may order from the proper authorities the necessary stationery, postage stamps, official seal and other articles to be supplied, and the necessary printing to be done, for its official use. It shall be the duty of the officers of every such city to aid the commission in all proper ways in carrying out the civil service provisions of this article, and to allow the reasonable use of public buildings, and to heat and light the same, for holding examinations and investigations, and in all proper ways to facilitate the same.

All Class I and Class II cities subject to the civil service provisions of this article are hereby required to appropriate sufficient funds for the purpose of carrying out such provisions.

**§8-14-10. Powers, authority and duties of policemen's civil service commission.**

The policemen's civil service commission in each Class I and Class II city shall:

(1) Prescribe and enforce rules and regulations for carrying into effect the civil service provisions of this article. All rules and regulations so prescribed may, from time to time, be added to, amended or rescinded: Provided, That all rules and regulations shall be approved by the mayor and the governing body before they go into effect, but when so approved shall not be changed or rescinded except by the commission with the approval of the mayor and the governing body: Provided, however, That if the mayor and governing body take no action on a proposed rule and regulation or a proposed change or rescission submitted to them within a period of twenty days from the date of submission, then the same shall become effective as though approved by the mayor and governing body.

(2) Keep minutes of its own proceedings, and records of its examinations and other official actions. All recommendations of applicants for office, received by the said commission or by any officer having authority to make appointments to office, shall be kept and preserved for a period of ten years, and all such records, recommendations of former employees excepted, and all written causes of removal, filed with it, shall, subject to reasonable regulation, be open to public inspection.

(3) Make investigations, either sitting as a body or through a single commissioner, concerning all matters touching the enforcement and effect of the civil service provisions of this article and the rules and regulations prescribed hereunder or concerning the action of any examiner or subordinate of the commission or any individual in the public service with respect to the execution of the civil service provisions of this article; and, in the course of such investigations, each commissioner shall have the power to administer oaths and affirmations, and to take testimony.

(4) Have the power to subpoena and require the attendance of witnesses, and the production thereby of books and papers pertinent to the investigations and inquiries herein authorized, and examine them and such public records as it shall require, in relation to any matter which it has the authority to investigate. The fees of such witnesses for attendance and travel shall be the same as for witnesses before the circuit courts of this state, and shall be paid from the appropriation for the incidental expenses of the commission. All officers in the public service, and their deputies, clerks, subordinates and employees shall attend and testify when required to do so by said commission. Any disobedience to, or neglect of, any subpoena issued by the said commissioners, or any one of them, to any person, shall be held a contempt of court, and shall be punished by the circuit court of the county in which the city or the major portion of the territory thereof is located, or the judge thereof in vacation, as if such subpoena had been issued therefrom. The judge of such court shall, upon the application of any one of said commissioners, in any such case, cause the process of said court to issue to compel such person or persons disobeying or neglecting any such subpoena to appear and to give testimony and produce evidence before the said commissioners, or any one of them, and shall have the power to punish any such contempt.

(5) Make an annual report to the mayor showing its own actions, and its rules and regulations, and all of the exceptions thereto in force, and the practical effects thereof, and any suggestions it may have for the more effectual accomplishment of the purposes of the civil service provisions of this article. Such report shall be made available for public inspection within five days after the same shall have been delivered to the mayor of the city.

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**§8-14-11. Rules and regulations for all examinations; probationary appointments.**

The policemen's civil service commission in each Class I and Class II city shall make rules and regulations providing for both competitive and medical examinations for appointments and promotions to all positions in the paid police department in such city, and for such other matters as are necessary to carry out the purposes of the civil service provisions of this article. Any such commission shall have the power and authority to require by rules and regulations a physical fitness examination as a part of its competitive examination or as a part of its medical examination: Provided, That after June 30, 1981, the medical requirements for appointment to all positions in the paid police department in such city shall include, but not be limited to, the medical requirements stated in section sixteen, article twenty-two of this chapter. Due notice of the contents of all such rules and regulations and of any modifications thereof shall be given, by mail, in due season, to the appointing officer; and said rules and regulations and any modifications thereof shall also be printed for public distribution. All original appointments to any positions in a paid police department subject to the civil service provisions of this article shall be for a probationary period of one year: Provided, That at any time during the probationary period the probationer may be discharged for just cause, in the manner provided in section twenty of this article. If, at the close of this probationary term, the conduct or capacity of the probationer has not been satisfactory to the appointing officer, the probationer shall be notified, in writing, that he will not receive absolute appointment, whereupon his employment shall cease; otherwise, his retention in the service shall be equivalent to his final appointment.

**§8-14-12. Form of application; age and residency requirements; exceptions.**

(a) The policemen's civil service commission in each Class I and Class II city shall require a person applying for admission to any competitive examination provided under the civil service provisions of this article or under the commission's rules to file in its office, within a reasonable time prior to the proposed examination, a formal application in which the applicant shall state under oath or affirmation:

(1) The applicant's full name, residence, and post-office address;

(2) The applicant's United States citizenship, age, and the place and date of the applicant's birth;

(3) The applicant's state of health and the applicant's physical capacity for the public service;

(4) The applicant's business and employments and residences for at least three previous years; and

(5) Other information as may reasonably be required, touching upon the applicant's qualifications and fitness for the public service.

(b) Applications shall be furnished by the commission, without charge. The commission may require, in connection with the application, the certificates of citizens, physicians, and others, having pertinent knowledge concerning the applicant, as the good of the service may require.

(c) Notwithstanding the provisions of §11-5-1 *et seq.* of this code, a person may not submit an application for original appointment if the person is less than 18 years of age at the date of the individual's application. There shall be no other age-based restrictions on applications for original appointments.

(d) Notwithstanding the requirements established in this section, if an applicant: (1) Formerly served upon the paid police department of the city to which he or she makes application, for a period of more than his or her probationary period; (2) resigned from the department at a time when there were no charges of misconduct or other misfeasance pending against the applicant; and (3) applies for appointment by reinstatement within a period of two years from the date of resignation from the paid police department to which the individual seeks appointment by reinstatement, then the individual is eligible for appointment by reinstatement in the discretion of the policemen's civil service commission. Age will not be a factor in appointment consideration. The applicant, providing his or her former term of service so justifies, may be appointed by reinstatement to the paid police department without a competitive examination, but the applicant shall undergo a medical examination. The applicant shall be the lowest in rank in the department next above the probationers of the department.

**§8-14-13. Character and notice of competitive examinations; qualifications of applicants; press representatives; posting eligible list; medical examinations.**

All competitive examinations for appointments or promotions to all positions shall be practical in their character, and shall relate to such matters, and include such inquiries, as will fairly and fully test the comparative merit and fitness of the individual or individuals examined to discharge the duties of the employment sought by him or them. All competitive examinations shall be open to all applicants who have fulfilled the preliminary requirements specified in the other civil service provisions of this article.

Adequate public notice of the date, time and place of every competitive examination together with information as to the kind of position to be filled, shall be given at least one week prior to such competitive examination. The said commission shall adopt reasonable rules and regulations for permitting the presence of representatives of the press at any such competitive examination. The commission shall post, in a public place at its office, the eligible list, containing the names and grades of those who have passed such competitive examinations for positions in the paid police department, and shall indicate thereon such appointments as may be made from said list.

All applicants for appointment or promotion to any position in a paid police department of a Class I or Class II city who have passed the competitive examination specified above shall, before being appointed or promoted, undergo a medical examination which shall be conducted under the supervision of a board composed of two doctors of medicine appointed for such purpose by the appointing officer of the city. Such board must certify that an applicant is free from any bodily or mental defects, deformity or diseases which might incapacitate him from the performance of the duties of the position desired and is physically fit to perform such duties before said applicant shall be appointed or promoted to any position. Notwithstanding the first sentence of this paragraph, in the event the commission deems it expedient, the medical examination may be given prior to the competitive examination, and if the medical examination is not passed as aforesaid, the applicant shall not be admitted to the competitive examination.

**§8-14-13a. Individual review of test and answers from promotional examination.**

(a) Any applicant for promotion to any position in a paid police department may personally review such applicant's examination questions, answers and scores to all parts of any competitive examination within five days after the posting of results of the competitive examination. Such five days shall not include the day the examination results are posted, nor any day that the office of the recorder of the city is not open for business to the public. The commission shall not certify the list of eligibles until all procedures before the commission under this section have been exhausted. The commission shall provide any applicant requesting review of such applicant's examination questions, answers and scores with a location to review such materials.

(b) If any applicant feels aggrieved by the answers and/or scores received on a promotional competitive examination, the commission shall, at the request of such applicant made within five days as calculated above, appoint a date, time and place for a public hearing, at which time such applicant may appear, with or without counsel. The commission shall review all parts of the competitive examination questions, answers and scores of the aggrieved applicant, and testimony shall be taken.

The commission shall subpoena, at the expense of the applicant, any competent witnesses requested by such applicant.

(c) After such review, the commission shall render a decision either in favor of the applicant, and therefore adjust the certified eligibility list to provide for such applicant's adjusted score, or the commission shall rule that the applicant's prior score should remain unchanged. Any decision rendered by the commission under this section shall be in writing and shall set forth findings of fact and conclusions of law relied upon to reach such decision.

(d) The commission shall not certify a list of eligibles after the completion of a competitive promotional examination until all applicants for such position have exhausted the procedures before the commission set forth in this section.

(e) If any applicant is aggrieved by a decision rendered by the commission under this section, such applicant may, within twenty days of the date of the commission's decision, seek judicial review thereof in the circuit court of the county wherein such municipality is located. Nothing in this section shall be construed as depriving such applicant of the right to seek a writ of mandamus to the appropriate court within the time specified in this subsection.

**§8-14-14. Refusal to examine or certify; review thereof.**

The commission may refuse to examine an applicant, or after examination to certify as eligible one, who is found to lack any of the established preliminary requirements for the examination or position for which he applies; or who is physically so disabled as to be rendered unfit for the performance of the duties of the position desired; or who is addicted to the habitual use of intoxicating liquors or drugs; or who has been guilty of any crime or of infamous or notoriously disgraceful conduct; or who has been dismissed from public service for delinquency or misconduct; or who has made a false statement of any material fact, or practiced or attempted to practice any deception or fraud, in his application, in any such examination, or in securing his eligibility; or who refuses to comply with the rules and regulations of the commission.

If any applicant feels aggrieved by the action of the commission in refusing to examine him, or after examination in refusing to certify him as eligible, the commission shall, at the request of such applicant, appoint a date, time and place for a public hearing; at which time such applicant may appear, by himself or counsel, or both, and the commission shall then review its refusal to make such examination or certification, and testimony shall be taken. The commission shall subpoena, at the expense of the applicant, any competent witnesses requested by him. After such review, the commission shall file in its records the testimony taken and shall again make a decision, which decision shall be final and not subject to judicial review, but under no circumstances shall the provisions of this article be construed, in the case of a refusal to examine an applicant for promotion or to certify an applicant as eligible for promotion, as depriving such applicant of his right to seek a writ of mandamus, if the application for such writ is made within twenty days from the date of the decision refusing to examine or to certify him as eligible for promotion.

**§8-14-15. Appointments from list of eligibles.**

Every position, unless filled by promotion, reinstatement or reduction, shall be filled only in the manner specified in this section. The appointing officer shall notify the policemen's Civil Service Commission of any vacancy or vacancies in a position or positions which he or she desires to fill and shall request the certification of eligibles. The commission shall forthwith certify the names of at least one but no more than three eligible individuals ranked according to their averages at preceding competitive examinations held under the civil service provisions of this article within a period of three years next preceding the date of the prospective appointment. The appointing officer shall, thereupon, with sole reference to the relative merit and fitness of the candidates, make an appointment or appointments from the names so certified: *Provided*, That should he make objection, to the commission, to one or more of these individuals, for any of the reasons stated in section fourteen of this article, and should such objection be sustained by the commission, after a public hearing along the lines of the hearing provided for in said section fourteen of this article, if any such hearing is requested, the commission shall thereupon strike the name of any such individual from the eligible list, and certify the next highest name for each individual so stricken. As each subsequent vacancy occurs, in the same or another position, precisely the same procedure shall be followed: *Provided, however*, That after any name has been three times rejected for the same or another position in favor of a name or names below it on the same list, the said name shall be stricken from the list. When there are a number of positions of the same kind to be filled at the same time, each appointment shall, nevertheless, be made separately and in accordance with the foregoing provisions. When an appointment is made under the provisions of this section it shall be, in the first instance, for the probationary period of one year, as provided in §8-14-11 of this code.

**§8-14-15a. Veteran qualification for examinations required during probation period.**

(a) Any person who has served on active duty in the Armed Forces of the United States, was honorably discharged from that service, and who has successfully completed the course of instruction required to qualify him or her for rating as a military police officer, law-enforcement specialist or other equivalent rating in his or her particular branch of the Armed Forces, may submit to the Civil Service Commission a photostatic copy of the certificate issued to him or her certifying successful completion of such course of instruction and a photostatic copy of his or her discharge from the Armed Forces. The Civil Service Commission shall allow, upon request of the veteran, that he or she be permitted to take any examinations required during the probationary period without first having to complete a training course for that subject: Provided, That if the veteran does not pass the examination or examinations, he or she may be subject to the same reexamination requirements of persons who have not applied under the provisions of this section.

(b) A veteran wishing to utilize the provisions of section (a) must have first met the requirements contained in §8-14-12 and §8-14-13 of this code.

(c) The veteran must successfully pass all examinations and any other requirements of his or her probation period, to be eligible for absolute appointment.

**§8-14-16. Noncompetitive examination for filling vacancy; provisional appointment.**

Whenever there are urgent reasons for filling a vacancy in any position in a paid police department of a Class I or Class II city and there is no list of individuals eligible for appointment after a competitive examination, the appointing officer may nominate an individual to the policemen's civil service commission for noncompetitive examination; and if such nominee shall be certified by the said commission as qualified, after such noncompetitive examination and a medical examination, he may be appointed provisionally, to fill such vacancy until a selection and appointment can be made after competitive examination, in the manner prescribed in section fifteen of this article; but such provisional appointment shall not continue for a longer period than three months, nor shall successive provisional appointments be made to the same position, under the provisions of this section.

**§8-14-17. Vacancies filled by promotions; eligibility for promotion; rights of chief.**

(a) Vacancies in positions in a paid police department of a Class I or Class II city shall be filled, so far as practicable, by promotions from among individuals holding positions in the next lower grade in the department.

(b) Promotions shall be based upon experience and by written competitive examinations to be provided by the Policemen's Civil Service Commission: Provided, That except for the chief or deputy chiefs of police, if the position of deputy chief of police has been previously created by the city council of that Class I or Class II city, no individual is eligible for promotion from the lower grade to the next higher grade until the individual has completed at least two years of continuous service in the next lower grade in the department immediately prior to the examination: Provided, however, That notwithstanding the provisions of section six of this article, any member of a paid police department of a Class I or Class II city now occupying the office of chief or deputy chief of police of that paid police department, or hereafter appointed to the office of chief or deputy chief of police, except as hereinafter provided in this section, is entitled to all of the rights and benefits of the civil service provisions of this article, except that he or she may be removed from the office of chief or deputy chief of police without cause, and the time spent by the member in the office of chief or deputy chief of police shall be added to the time served by the member during the entire time he or she was a member of that paid police department prior to his or her appointment as chief or deputy chief of police, and shall in all cases of removal, except for removal for good cause, retain the regular rank within that paid police department which he or she held at the time of his or her appointment to the office of chief or deputy chief of police or which he or she has attained during his or her term of service as chief or deputy chief of police.

(c) The provisions of this section apply and inure to the benefit of all individuals who have ever been subject to the provisions of this article. The commission may determine in each instance whether an increase in salary constitutes a promotion.

**§8-14-18. No inquiry shall be made concerning political or religious opinions or affiliations of applicants, etc.**

No question in any form of application or in or during any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant; nor shall inquiry be made concerning such opinions or affiliations; and all disclosures thereof shall be discountenanced. No discrimination shall be exercised, threatened or promised by any individual in a paid police department of a Class I or Class II city against, or in favor of, an applicant, eligible, or member of such a paid police department because of his political or religious opinions or affiliations.

**§8-14-19. Political activities of members prohibited; exceptions.**

(a) A member of a paid police department may not:

(1) Solicit any assessment, subscription or contribution for any political party, committee or candidate from any person who is a member or employee of the municipality by which they are employed;

(2) Use any official authority or influence, including, but not limited to, the wearing by a municipal police officer of his or her uniform for the purpose of interfering with or affecting the nomination, election or defeat of any candidate or the passage or defeat of any ballot issue: Provided, That this subdivision shall not be construed to prohibit any municipal police officer from casting his or her vote at any election while wearing his or her uniform;

(3) Coerce or command anyone to pay, lend or contribute anything of value to a party, committee, organization, agency or person for the nomination, election or defeat of a ballot issue; or

(4) Be a candidate for or hold any other public office in the municipality in which he or she is employed: Provided, That any municipal police officer that is subject to the provisions of 5 U.S.C. §1501, et seq., may not be a candidate for elective office.

(b) Other types of partisan or nonpartisan political activities not inconsistent with the provisions of subsection (a) of this section are permissible political activities for municipal police officers.

(c) No person may be appointed or promoted to or demoted or dismissed from any position held by a municipal police officer or in any way favored or discriminated against because of his or her engagement in any political activities authorized by the provisions of this section. Any elected or appointed official who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be punished by the penalties contained in section twenty-six, article fifteen of this chapter.

(d) Any member of any such paid police department violating the provisions of this section shall have his appointment vacated and he shall be removed, in accordance with the pertinent provisions of this section.

(e) Any three residents of any such city may file their written petition with the policemen's civil service commission thereof setting out therein the grounds upon which a member of the paid police department of such city should be removed for a violation of subsection (a) of this section. Notice of the filing of such petition shall be given by said commission to the accused member, which notice shall require the said member to file a written answer to the charges set out in the petition within thirty days of the date of said notice. The said petition and answer thereto, if any, shall be entered upon the records of the commission. If such answer is not filed within the time stated, or any extension thereof for cause which in the discretion

of the commission may be granted, an order shall be entered by the commission declaring the appointment of said member vacated; if such answer is filed within the time stated, or any extension thereof for cause which in the discretion of the commission may be granted, the accused member may demand within such period a public hearing on the charges, or the commission may, in its discretion and without demand therefor, set a time for a public hearing on said charges, which hearing shall be within thirty days of the filing of said answer, subject, however, to any continuances which may in the discretion of the commission be granted. A written record of all testimony taken at such hearing shall be kept and preserved by the commission, which record shall be sealed and not be open to public inspection, if no appeal be taken from the action of the commission. The commission at the conclusion of the hearing, or as soon thereafter as possible, shall enter an order sustaining, in whole or in part, the charges made or shall dismiss the charges as unfounded. In the event the charges are sustained in whole or in part, the order shall also declare the appointment of said member to be vacated and thereupon the proper municipal authorities shall immediately remove said member from the police force and from the payroll of said city. Notice of the action of the commission shall be given by registered letter to the mayor and chief of police of the city; and for failure to immediately comply with the order of the commission such officer or officers shall be punished for contempt, upon application of the commission to the circuit court of the county in which the city or the major portion of the territory thereof is located.

(f) An appeal from the ruling of the commission may be had in the same manner and within the same time as specified in section twenty of this article for an appeal from a ruling of a commission after hearing held in accordance with the provisions of said section.

**§8-14-20. Removal, discharge, suspension or reduction in rank or pay; hearing; attorney fees; appeal; reduction in number of members.**

(a) No member of any paid police department subject to the civil service provisions of this article may be removed, discharged, suspended or reduced in rank or pay except for just cause, which may not be religious or political, except as provided in section nineteen of this article; and no such member may be removed, discharged, suspended or reduced in rank or pay except as provided by the civil service provisions of this article, and in no event until the member has been furnished with a written statement of the reasons for the action. In every case of such removal, discharge, suspension or reduction, a copy of the statement of reasons therefor and of the written answer thereto, if the member desires to file such written answer, shall be furnished to the policemen's civil service commission and entered upon its records. If the member demands it, the commission shall grant a public hearing, which hearing shall be held within a period of ten days from the filing of the charges in writing or the written answer thereto, whichever shall last occur. At the hearing, the burden shall be upon the removing, discharging, suspending or reducing officer, hereinafter in this section referred to as "removing officer", to show just cause for his or her action, and in the event the removing officer fails to show just cause for the action before the commission, then the member shall be reinstated with full pay, forthwith and without any additional order, for the entire period during which the member may have been prevented from performing his or her usual employment, and no charges may be officially recorded against the member's record. The member, if reinstated or exonerated, shall, if represented by legal counsel, be awarded reasonable attorney fees to be determined by the commission and paid by the governing body. A written record of all testimony taken at the hearing shall be kept and preserved by the commission, which record shall be sealed and not be open to public inspection unless an appeal is taken from the action of the commission.

(b) In the event the commission sustains the action of the removing officer, the member has an immediate right of appeal to the circuit court of the county wherein the city or the major portion of the territory thereof is located. In the event that the commission reinstates the member, the removing officer has an immediate right of appeal to the circuit court. In the event either the removing officer or the member objects to the amount of the attorney fees awarded to the member, the objecting party has an immediate right of appeal to the circuit court. Any appeal must be taken within ninety days from the date of entry by the commission of its final order. Upon an appeal being taken and docketed with the clerk of the circuit court of the county, the circuit court shall proceed to hear the appeal upon the original record made before the commission and no additional proof may be permitted to be introduced. The circuit court's decision is final, but the member or removing officer, as the case may be, against whom the decision of the circuit court is rendered has the right to petition the Supreme Court of Appeals for a review of the circuit court's decision as in other civil cases. The member or removing officer also has the right, where appropriate, to seek, in lieu of an appeal, a writ of mandamus. The member, if reinstated or exonerated by the circuit court or by the Supreme Court of Appeals, shall, if represented by legal counsel, be awarded reasonable attorney fees as approved by the court and the fees shall be paid by the

governing body.

(c) The removing officer and the member shall at all times, both before the commission and upon appeal, be given the right to employ counsel to represent them.

(d) If for reasons of economy or other reasons it is deemed necessary by any Class I or Class II city to reduce the number of paid members of its paid police department, the city shall follow the procedure set forth in this subsection. The reduction in members of the paid police department of the city shall be effected by suspending the last person or persons, including probationers, who have been appointed to the paid police department. The removal shall be accomplished by suspending the number desired in the inverse order of their appointment: Provided, That in the event the said paid police department is increased in numbers to the strength existing prior to the reduction of members, the members suspended under the terms of this subsection shall be reinstated in the inverse order of their suspension before any new appointments to said paid police department are made.

**§8-14-21. Election to determine if civil service provisions of article shall apply to Class III city or Class IV town or village; existing police civil service not affected; certain regular members automatically covered.**

Any Class III city or Class IV town or village having a paid police department and which has not prior to the effective date of this article established a police civil service system, may, by ordinance, provide for an election to determine whether the civil service provisions of this article shall apply to such city, town or village. Such election shall be held at the first regular municipal or general election held therein after the adoption of said ordinance and shall be conducted and the results thereof ascertained as provided by law for other elections. The ballots, or ballot labels where voting machines are used, shall have printed thereon:

/ For Police Civil Service

/ Against Police Civil Service

If a majority of all of the legal votes cast on this question be against police civil service, then none of the civil service provisions of this article shall apply within such city, town or village. If a majority of all of the legal votes cast on this question be for police civil service, then all of the civil service provisions of this article shall apply within such city, town or village with like effect as if such Class III city or Class IV town or village were a Class I or Class II city: Provided, That all members of the paid police department of such city, town or village who were so employed by such city, town or village on the date of the election and who, as of such date, have had four or more years' service as members of any paid police department (including the years any member occupied the office of chief of any such paid police department) shall be considered to have been appointed as members under the civil service provisions of this article and shall hold their positions as members in accordance therewith. All members of the paid police department of such city, town or village who do not have, as of the date of such election, four or more years' service as members of a paid police department (including the years any member occupied the office of chief of any such paid police department) shall be subject to all examinations provided for in the civil service provisions of this article for members, except that if any such individual has sustained an injury or injuries in the line of duty while in police service, such injury or injuries shall not disqualify such individual under the medical examination required under the civil service provisions of this article.

The provisions of this section shall not apply to any such city, town or village operating under police civil service on the effective date of this article.

**§8-14-22. Offenses and penalties.**

Any individual who makes an appointment or promotion to any position, or selects an individual for employment, contrary to the civil service provisions of this article, or wilfully refuses or neglects otherwise to comply with, or to conform to, any of the civil service provisions of this article, or violates any of such provisions, shall be deemed guilty of a misdemeanor.

Any commissioner or examiner, or any other individual, who shall wilfully, by himself or in cooperation with one or more persons, defeat, deceive or obstruct any individual with respect to his right of examination or registration according to the civil service provisions of this article, or to any rules and regulations prescribed pursuant thereto, or who shall wilfully or corruptly, falsely mark, grade, estimate, or report upon any such examination or proper standing of any individual so examined, registered or certified, pursuant to the civil service provisions of this article, or aid in so doing, or who shall wilfully or corruptly furnish to any individual any special or secret information, for the purpose of either improving or injuring the prospects or chances of appointment or promotion to any position of any individual so examined, registered or certified, or to be so examined, registered or certified, or who shall impersonate any other individual, or permit or aid in any manner any other individual to impersonate him, in connection with any such examination or registration, or application or request to be examined or registered, shall, for each offense, be deemed guilty of a misdemeanor.

Any person convicted of any such misdemeanor offense shall be punished by a fine of not less than \$50, nor more than \$1,000, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

**§8-14-23. Repeal of conflicting acts and provisions; civil service provisions of article exclusive; status or tenure not affected; certain members automatically covered; continuance of police civil service systems.**

All acts, whether general, special, local or special legislative charters, or parts thereof, in relation to any civil service measure affecting any paid police department inconsistent with the civil service provisions of this article shall be, and the same are, hereby repealed insofar as such inconsistencies shall exist. It is intended by the civil service provisions of this article to furnish a complete and exclusive system for the appointment, promotion, reinstatement, removal, discharge, suspension and reduction of all members of all paid police departments subject to the civil service provisions of this article.

The status or tenure of all members of any paid police department subject to the civil service provisions of this article, which members were employed on the effective date of this article, shall not be affected by the enactment of this article, but all such members shall be subject to all of the civil service provisions of this article with like effect as if they had been appointed members hereunder.

When a Class III city which does not have a police civil service system becomes a Class II city for which police civil service is made mandatory by the provisions of this article, all members of the paid police department of such city who were employed by such city on the effective date of the transition of such city to a Class II city and who, as of such date, have had four or more years' service as members of any paid police department (including the years any member occupied the office of chief of any such paid police department) shall be considered to have been appointed as members under the civil service provisions of this article and shall hold their positions as members in accordance therewith. All members of the paid police department of such city who do not have, as of such date, four or more years' service as members of a paid police department (including the years any member occupied the office of chief of any such paid police department) shall be subject to all examinations provided for in the civil service provisions of this article for members, except that if any such individual has sustained an injury or injuries in the line of duty while in police service, such injury or injuries shall not disqualify such individual under the medical examination required under the civil service provisions of this article.

Any police civil service system established in accordance with the provisions of former article five-a of this chapter or this article fourteen shall be or remain mandatory and shall be governed by the provisions of this article fourteen (with like effect, in the case of a Class III city or Class IV town or village, as if such Class III city or Class IV town or village were a Class I or Class II city), and shall not be affected by the transition from one class of municipal corporation to a lower class as specified in section three, article one of this chapter.

**§8-14-24. Right to receive complete standard uniform; right to acquire badge; and right to keep service weapon.**

(a) A police officer, upon honorable retirement, is authorized to maintain at his or her own cost a complete standard uniform from the law-enforcement agency of which he or she was a member and shall be issued an identification card indicating his or her honorable retirement from the law-enforcement agency. The uniform may be worn by the officer in retirement only on the following occasions: Police Officer's Memorial Day, Law-Enforcement Appreciation Day, at the funeral of a law-enforcement officer or during any other police ceremony. The honorably retired officer is authorized to acquire a badge of the law-enforcement agency from which he or she is retired with the word "retired" placed on it.

(b) Upon retirement, a police officer is entitled to keep, without charge, his or her service weapon after a determination by the chief of police:

(1) That the police officer is retiring honorably with at least twenty years of recognized law-enforcement service; or

(2) That the police officer is retiring with less than twenty years of service and that he or she is totally physically disabled as a result of service as a police officer.

(c) Notwithstanding the provisions of subsection (b) of this section, the chief of police may not award a service weapon to any police officer who has been declared mentally incompetent by a licensed physician or a court of law, or who, in the opinion of the chief of police, constitutes a danger to any person or the community.