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215

ENROLLED BILL

Senate Bill No. 215

(By Mr. Smith)

Passed March 12, 1931

In Effect From Passage

Originating in the Senate Takes effect from Passage
M. S. Lodge Clerk of the Senate. W. H. R. R. R. Clerk of the House of Delegates.

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Wm. S. Lodge
Chairman House Committee.

Wm. S. Lodge
Chairman Senate Committee.

ENROLLED BILL

(S. B. No. 215)

[Passed March 12, 1931; in effect from passage.]

AN ACT to amend and re-enact certain sections of chapter eleven of the acts of the legislature of one thousand nine hundred and twenty-one (municipal charters), as amended, in whole or in part, by chapter seventy-seven of the general acts of one thousand nine hundred and twenty-three, and chapter twenty-seven of the acts of one thousand nine hundred and twenty-five (municipal charters), and chapter seventeen of the acts of one thousand nine hundred and twenty-seven (municipal charters), and chapter eleven of the acts of one thousand nine hundred and twenty-nine (municipal charters), in relation to

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Chairman House Committee.

the charter of the city of Huntington.

Be it enacted by the Legislature of West Virginia:

That sections three, eighteen, twenty, thirty, forty-three, forty-four, seventy-five, seventy-six, seventy-seven, and seventy-eight of the acts of the legislature of one thousand nine hundred and twenty-one (municipal charters), if and as amended, in whole or in part, by chapter seventy-seven of the general acts of one thousand nine hundred and twenty-three, and chapter twenty-seven of the acts of one thousand nine hundred and twenty-five (municipal charters), and chapter seventeen of the acts of one thousand nine hundred and twenty-seven (municipal charters), and chapter eleven of the acts of one thousand nine hundred and twenty-nine (municipal charters), in relation to the charter of the city of Huntington, be amended by changes, additions and/or consolidations, and re-enacted so as to read as follows:

That section three be amended by adding thereto a new section, designated section three(a), as follows:

Section 3(a). That all of the territory added to the corporate limits of the city of Huntington by chapter eleven of the acts of one thousand nine hundred and twenty-nine (municipal charters), shall be and remain a part of the first ward of said

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5 city, as heretofore established, bounded and described by and
6 in section three.

Sec. 18. In addition to the municipal authorities mentioned
2 in sections four and seven of this act, the city shall have a
3 city clerk, treasurer, auditor, police judge, city attorney, chief
4 of police, chief of fire department, city engineer, and such other
5 officers and agents now existing and as the board of commis-
6 sioners may hereafter change or create. The board of commis-
7 sioners shall have the right to abolish any office which now
8 exists, or to combine the duties of two or more offices, but it
9 shall not have the power to create any new office except by
10 ordinance made and adopted in the manner provided in this
11 act. The mayor shall have the sole and exclusive right to name
12 and appoint the police judge, the chief of police, chief of the
13 fire department, and the city jailer, and all other officers in the
14 police department and fire department who as such are not
15 under civil service.

16 All other officers and employees of the city (excepting those
17 under civil service) shall be named, appointed and elected by
18 the board of commissioners.

Sec. 20. Candidates to be voted for at any general municipal

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2 election for mayor or for the other members of the board of
3 commissioners, or members of the citizens board, shall be nomi-
4 nated on the fourth Monday in April preceding such election,
5 in the same manner as candidates for state and county offices
6 are nominated under the general election laws of the state.

Sec. 30. All officers appointed exclusively by the mayor (as
2 provided in section eighteen) shall hold their respective offices
3 at the pleasure of the mayor, and may be removed from office
4 by the mayor for or without cause, and all officers who are
5 appointed by the board of commissioners shall hold their re-
6 spectve offices at the pleasure of the board, and may be removed
7 from office by the board for or without cause.

Sec. 43. If there shall occur at any time a vacancy in the
2 office of mayor or in the office of commissioner, by death, resig-
3 nation or removal from office hereinafter provided, the citizens
4 board shall fill such vacancy by appointment for the unexpired
5 term, and for that purpose the citizens board shall immediately
6 convene; but the person so appointed to fill any such vacancy
7 shall be of the same political party as the mayor or commis-
8 sioner whose office is vacated.

9 If the citizens board, after an investigation and hearing,

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10 should find that the mayor or any commissioner is permanently
11 incapacitated for the performance of his duties during the re-
12 mainder of his term of office, the board may, by a vote of two-
13 thirds of its members, declare the office vacant. The mayor or
14 any commissioner may also be removed from office for cause
15 as provided in said act of one thousand nine hundred and
16 twenty-one. The person so appointed shall take and subscribe
17 to the oath of office and execute bond required by said act of
18 one thousand nine hundred and twenty-one.

Sec. 44. That section forty-four be amended by adding there-
2 to a new section, designated forty-four(a).

Sec. 44(a). The mayor shall, on entering upon the duties of
2 his office, designate and file with the city clerk (and shall
3 record the same in the minute book) the name of one of the
4 other two commissioners as vice-mayor of the city, which other
5 commissioner so designated shall, under the title of vice-mayor,
6 perform the duties of the mayor, so far as required, by the
7 mayor, during the absence of the mayor from the city or when
8 required by the citizens board while he is otherwise temporarily
9 incapacitated.

Sec. 75. The city shall create a board of five to be styled

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2 "the civil service board", consisting of four members and
3 the president of the citizens board, ex officio, who shall pre-
4 side at all meetings of the board, but shall have the right to
5 vote only in case of a tie on any question arising before the
6 board. The citizens board shall appoint two members for the
7 board from each of the dominant political parties of the city,
8 and who shall not be a member of the citizens board or hold
9 an office or position with the city.

10 A member of the civil service board may be removed from
11 office in the manner and for the causes provided for the re-
12 moval of the mayor. The term of office of the members of
13 said board shall be the same as that for which the mayor was
14 elected.

15 The duties of the civil service board shall be to examine
16 and certify all applications for positions in the police depart-
17 ment or fire department, except the chiefs thereof; to hear and
18 determine all appeals made by members of either of those
19 departments, who are under civil service; to hear evidence,
20 summons witnesses and render judgments in all cases in which
21 charges have been preferred against any officer of either of
22 those departments; to make promotions, upon the recommenda-

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tion of the mayor, of members of either of the departments
when it is deemed advisable for increased efficiency; to pre-
scribe rules for the conduct of the members and officers of
those departments; to make rules and regulations governing
the actions of the board and to keep the same in the records
of its proceedings.

The civil service board shall hold meetings for the purpose
of examining and certifying the eligibles to the appointment
of the police department and fire department, and to that end
shall give at least ten days' public notice of the time, place and
purpose of such meetings. The board may be called into
special session by its president or by a majority of its members
for the purpose of disposing of any matters coming within its
purview. The board shall hold at least two meetings during
any calendar year, and as many more meetings as may be
necessary to meet the requirements for the efficient manage-
ment of its affairs.

The city clerk shall be ex-officio clerk of said board.

Appointments to the police department and fire department
shall be made from the applicants of said respective positions,
which applicants, under civil service examinations, receive an

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44 average grade of sixty or more, giving preference to the ap-
45 plicant receiving the highest grade and whose grade certificate
46 is the oldest, and likewise making such appointments so as not
47 to give either of the dominant political parties in the city, as
48 nearly as may be, more than one-half of the total number of
49 men under civil service in either department. When the list
50 of names of applicants who are eligible as prescribed in this
51 section shall have been exhausted, or when either dominant
52 political party shall be entitled to appointment and there shall
53 be no member of such party eligible on the list, then such ap-
54 pointment may be made from the list of persons who may
55 apply therefor, disregarding those applicants who stood the
56 civil service examination and received thereon a grade below
57 sixty.

58 All persons now under civil service in either of said depart-
59 ments shall have advantage of civil service and shall continue
60 in office, unless removed for cause and in the manner provided
61 in this section.

62 The mayor, or chief of either the police department or fire
63 department by and with the mayor's consent, may, as a matter
64 of discipline, suspend, without pay, for a period of not ex-

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65 ceeding thirty days, any officer or member of either of those
66 departments, for just cause, by giving such officer or member
67 written notice of such suspension, defining the cause or causes
68 therefor. Such suspended officer or member shall have the
69 right, within ten days, but not later, to appeal to the civil
70 service board, if he deems such suspension unjust. If such
71 accused officer or member, upon a hearing before the civil
72 service board, is found not guilty, then he shall immediately
73 report for duty, and he shall be paid for the time lost by his
74 suspension. The mayor may, upon evidence which he deems
75 sufficient, dismiss any member of the police department or fire
76 department, by giving written notice to such person, clearly
77 defining the charges preferred against him, and fixing a time,
78 not later than ten days from that time, on which such member
79 may appear for trial before the civil service board; and should
80 the board, upon trial, find him guilty of the charges preferred,
81 the dismissal by the mayor shall stand affirmed, without pay
82 from the time of his dismissal by the mayor. But if such
83 person shall be acquitted of the charges preferred by the
84 mayor, he shall be reinstated to his position and shall be paid
85 for the time lost by him because of his dismissal by the mayor.

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86 The action of the civil service board thereabout, in either of the
87 event of suspension or dismissal by the mayor as aforesaid,
88 shall be final, and no appeal therefrom shall lie.

89 The civil service board may make reasonable rules governing
90 the conduct of all persons while on duty and off duty, who are
91 under civil service; and the violation of such rules may be
92 cause for suspension or dismissal as provided in this section;
93 but causes for suspension or dismissal, as herein provided, is
94 not limited to the violation of said rules promulgated by the
95 board.

96 In making examinations and determining the fitness and
97 qualifications of applicants for positions the civil service board
98 shall take into consideration the size, age, health, physical ap-
99 pearance, habits, and moral surroundings of the applicant; and
100 after such examinations the board shall at once place on record
101 in the minutes of the civil service board the result of such
102 examination, giving the names of the applicants, positions
103 sought by them, and their respective percentages based on one
104 hundred, and stating the political party, if any, to which the
105 applicant holds allegiance.

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106 All other acts and parts of acts coming within the purview
107 of this act, and inconsistent herewith, and not included in the
108 provisions of this act, are hereby repealed.

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Charles W. McAdams
Chairman House Committee.

Joseph W. Tully
Chairman Senate Committee.

J. Alfred Taylor
Speaker of the House of Delegates.

R. H. Kilg
Clerk of the House of Delegates.

W. J. Atch
President of the Senate.

M. S. Hodges
Clerk of the Senate.

The within is *Approved*
this *19th* day of *March*, 1931.

W. J. Atch
Governor.

Filed in the office of the Secretary of State
of West Virginia *MAR 20 1931*
GEORGE W. STARR,
Secretary of State.