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ENROLLED BILL

Senate Bill No. 34

(By Mr. Beneke)

Passed January 27, 1931

In Effect From Passage

Originated in the Senate Takes effect from passage Passage
M. S. Hayes, Clerk. R. H. Hall, Clerk of the House of Delegates.

CORRECTLY ENROLLED
Conceit M. Davis, Chairman House Committee. Joseph B. Smith, Chairman Senate Committee.

ENROLLED BILL

(S. B. No. 34)

[Passed January 27, 1931; in effect from passage.]

AN ACT to amend and re-enact section ninety-eight, of chapter seventy-three, of the acts of the legislature of one thousand nine hundred and twenty-three, charter of the City of Wheeling, relating to civil service commission and trial board.

Be it enacted by the Legislature of West Virginia:

That section ninety-eight, of chapter seventy-three of the acts of the legislature of one thousand nine hundred and twenty-three, charter of the City of Wheeling, relating to civil service commission and trial board, be amended and re-enacted as follows:

Section 98. The city council shall elect a civil service commission for the purpose of examining applicants for positions and promotions in the police and fire departments. The civil

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Chairman House Committee.

Joseph D. Smith

Chairman Senate Committee.

4 service commission shall consist of three citizens, not all of
5 whom shall be of one political party. At the first election of
6 members of the civil service commission after the passage of
7 this act one member shall be elected for a term of six years,
8 one member for a term of four years, and one member for a
9 term of two years. Thereafter the term of office of each mem-
10 ber shall be six years. Any vacancies occurring in the com-
11 mission shall be filled by the council. For the purpose of con-
12 ducting tests in the departments specified, the civil service
13 commission shall conduct practical examinations annually or
14 oftener, fixing grades and classifications as they may deter-
15 mine, and a list of those successfully passing the examinations
16 prescribed shall be furnished the city manager, such list to be
17 known as the eligible list and selections must be made from
18 among the three applicants rated highest for the appointments
19 necessary to be made. Said list and all examination papers
20 shall be kept on file in the office of the city clerk and available
21 to the public at all times: *Provided*, Any appointees in the de-
22 partments under civil service shall be subjected to examinations
23 from time to time in the interest of efficiency, and that the
24 passing of the required examinations prior to entering the

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25 city's employ shall not constitute a life tenure in office. No
26 member of the civil service during his incumbency shall be
27 the holder of any state, county or municipal office.

28 (a) The Civil Service Commission is hereby constituted a
28a trial board to hear and determine any charges that may be
28b filed with it against any policeman or fireman of said city.

28c No officer or employe in the City of Wheeling who shall
29 have been appointed under said rules and after said examina-
30 tion, shall be removed or discharged except for cause, upon
31 written charges and after an opportunity to be heard in his
32 own defense. Such charges shall be investigated by or before
33 said civil service commission, or by or before some officer or
34 board appointed by said commission to conduct such investiga-
35 tion. The finding and decision of such commission or investi-
36 gating officer or board, when approved by said commission,
37 shall be forthwith enforced by the head of the department to
38 which the officer or employe tried belongs. Nothing in this act
39 shall limit the power of any officer to suspend a subordinate
40 for a reasonable period, not exceeding thirty days. In the
41 course of an investigation of charges, each member of the
42 commission, and of any board so appointed by it, and any

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43 officer so appointed, shall have power to secure by its subpoena
44 both the attendance and testimony of witnesses, and the pro-
45 duction of books and papers relevant to such investigation.

46 (b) Charges shall be filed with the commission and shall
47 state specifically the facts alleged to constitute the cause for
48 discharge. Investigations of charges may be broad in their
49 character and evidence may be heard upon any facts or cir-
50 cumstances pertinent or applicable to such charges.

51 (c) The commission shall cause copies of written charges
52 filed with it against any officer or employe in the classified
53 service, to be served personally upon the officer or employe
54 against whom such charges are filed, or shall have the same
55 mailed to his address as shown by the records of the commis-
56 sion, notifying him of the time and place of the investigation,
57 which shall be held not less than five days after the serving or
58 mailing of said notice.

59 (d) The commission may, in its discretion, grant continu-
60 ances of investigations of charges at the request of the officers
61 or employe so charged, but in case any continuance causes the
62 postponement of a hearing beyond the thirty day suspension
63 period specified in the civil service act, a waiver of salary

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64 during such continuance beyond the thirty day period shall
65 be required. The commission may continue the hearing of
66 charges of its own accord, but not beyond the thirty day sus-
67 pension period.

68 (e) The finding and decision of the commission, or any
69 officer or board appointed by it, following an investigation of
70 charges, shall be entered in the minutes of the commission's
71 proceedings and a copy of same certified to the department
72 head or employing officer for enforcement. If the finding or
73 decision is that an officer or employe is guilty of charges in-
74 vestigated, and removal or discharge is ordered, such order of
75 removal or discharge shall become effective forthwith, in the
76 event no appeal is taken to the circuit court of the county
77 wherein the hearing was held. If the party is found innocent
78 he shall be paid for the time of suspension, and reinstated to
79 former position.

80 (f) Any person who shall be served with a subpoena to
81 appear and testify or to produce books or papers, issued by
82 the commission or by any commissioner or by any board or
83 person acting under the orders of the commission in the course
84 of an investigation conducted either under the provisions of

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85 section I of this act, and who shall refuse or neglect to ap-
86 pear or to testify or to produce books and papers relevant to
87 said investigations, as commanded in such subpoena, shall be
88 guilty of a misdemeanor, and shall, on conviction, be pun-
89 ished as provided in section seven of this act. The circuit
90 court of Ohio county, or the judge thereof in vacation, upon
91 application of any such commissioner, or officer or board, may
92 in his discretion compel the attendance of witnesses, the pro-
93 duction of books and papers, and giving of testimony before
94 the commission, or before any such commissioner, investigating
95 board or officer, by attachment, contempt or otherwise, in
96 the same manner as the production of evidence may be com-
97 pelled before said court. Every person, who, having taken
98 an oath or made affirmation before the commission, officer, or
99 board appointed by the commission, authorized to administer
100 oaths, shall swear or affirm falsely shall be guilty of perjury.
101 (g) Any person who shall violate any of the provisions of
102 this section, or any rule promulgated in accordance with the
103 provisions thereof, shall be guilty of a misdemeanor, and
104 shall, upon conviction be punished by a fine of not less than
105 twenty-five dollars nor more than one hundred dollars, or by

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106 imprisonment in the county jail for a term not exceeding six
107 months, or both by fine and imprisonment.

108 (h) Petitions for rehearing of persons removed or dis-
109 charged from the classified service after investigation as pro-
110 vided in section I of the civil service act, may be filed with the
111 commission within thirty days after its finding and decision
112 has been recorded. Petitions shall state fully the grounds
113 upon which applications for rehearings are based. In case
114 said petitions are allowed, rehearings of original charges with
115 any new evidence bearing thereon shall be conducted and
116 findings and decisions as a result of such rehearings entered,
117 but in case said petitions are not allowed, the original order
118 shall remain in effect.

Samuel M. Mason
Chairman House Committee.

119 (i) Appeals from the findings and decisions of the com-
120 missioners, its investigating officers, or boards may be taken
121 to the circuit court within ten days after the entry of the
122 order, in like manner as appeals in all other cases, but the
123 decision of the circuit court on such appeal shall be final.

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Joseph D. Smith
Chairman Senate Committee.

Charles C. Meadows
Chairman House Committee.

J. Alfred Taylor
Speaker of the House of Delegates.

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

W. G. White
President of the Senate.

M. S. Hodges
Clerk of the Senate.

The within is *approved*

this *11th* day of *February*, 1931.

W. G. Conley
Governor.

Filed in the office of the Secretary of State
of West Virginia FEB 17 1931
GEORGE W. SHARP,
Secretary of State.