

Rec, Mar. 11, 1933

Vetoed

560

ENROLLED BILL

(REGULAR SESSION, 1933)

House Bill No. 560

(By Mr. Randolph)

Passed March 10, 1933

In Effect twenty days from Passage

in the.....
John S. Hall.
Alor.

Clerk of the House of Delegates.

CORRECTLY ENROLLED

Chairman, Senate Committee.

James L. Smith
Chairman House Committee.

(H. B. No. 560)

[Passed March 10, 1923; in effect ninety days from passage.]

~~AN~~ ACT to amend and reenact section twenty-two, chapter six (municipal charters), acts of the legislature of West Virginia, regular session, one thousand nine hundred twenty-one, relating to civil service for the fire department of the city of Clarksburg.

Be it enacted by the Legislature of West Virginia:

That section twenty-two, chapter six (municipal charters), acts of the legislature of West Virginia, regular session, one thousand nine hundred twenty-one, be amended and reenacted to read as follows:

Section 22. There shall be created a board of said city to
2 be known as the civil service board, consisting of the city man-
3 ager, who shall be a member and chairman *ex officio*, and two

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4 other members. The city council shall appoint these two mem-
5 bers by a majority vote and they shall be from different politi-
6 cal parties. At the first election of members of the board, one
7 member shall be appointed for a term of two years and one
8 member to a term of four years, and each two years thereafter
9 the council shall appoint one member to a term of four years.
10 If a vacancy shall occur in the civil service board the council
11 shall appoint a member to fill out the unexpired term of the
12 vacating member from the same political party as the vacating
13 member. The members of the board shall be bona fide residents
14 *13-a* and citizens of the city of Clarksburg; nor shall a member of
15 the city council or any other city employee (with the exception
16 of the city manager) be a member of the civil service board.
17 Said members (other than city manager) may be removed
18 only by the circuit court of Harrison county, West Virginia,
19 for any grounds or cause for which a member of the county
20 court or other county officer may be removed and as provided
21 in section eighty-three. The members shall receive such salary
22 as may be annually fixed by the council, but shall not exceed
23 sixty dollars per annum per member: *Provided, however, That*

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23 the city manager shall receive no additional compensation for
24 his services.

25 Except as to the chief of the fire department, said civil serv-
26 ice board shall have full power to examine all applicants for
27 positions in the fire department of said city; to prescribe the
28 qualifications for appointments; to appoint, promote, reduce,
29 suspend, fine, discipline, dismiss and to govern the conduct of
30 all employees of the department; to hear and determine all
31 appeals made by the members of the fire department, and to
32 hear evidence, summon witnesses and render judgments in all
33 cases in which charges have been preferred against any mem-
34 ber of said department: *Provided, however,* That the chief of
35 the fire department may suspend any member of the fire de-
36 partment for any offense which in his judgment is against the
37 best interests of the fire department, and shall present such
38 reasons for suspension of said member to the civil service
39 board, who shall give said member a free and impartial trial
40 and shall render their decision on the basis of evidence
41 presented only and not for any other reason. Neglect of
42 duty, incompetency, intoxication on duty, disrespect of an

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43 officer, or such conduct of a member as may injure the morale
44 of the fire department shall constitute sufficient reasons for
45 the fire chief to suspend a member. If the charges preferred
46 against a member shall not be sustained by the civil service
47 board, said member shall be reinstated with full pay from the
48 time of such suspension: *And provided further*, That if a
49 member is not satisfied with the decision of the board, he shall
50 have the right to appeal his case to the council of the city of
51 Clarksburg, and that an affirmative vote of two-thirds of the
52 council of said city shall be necessary for reinstatement of
53 said member.

54 The civil service board shall prescribe such rules and reg-
55 ulations as may be necessary or practicable for governing the
56 members of the fire department and governing its own actions,
57 and shall keep the same in the records of its proceedings, and
58 said board shall provide for retirements in conformity with
59 the law in force and operation in said department relating to
60 pensions of employees of said department.

61 The city clerk shall act as secretary of the civil service board
62 (without additional compensation) and it shall be his duty

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63 to attend all meetings of the board and keep an accurate rec-
64 ord of all transactions of the board in a book provided for the
65 purpose, and such records shall at all times be open for pub-
66 lic inspection.

67 It shall require at least two members of the board to con-
68 stitute a quorum to transact its regular business, but it shall
69 be necessary for all members to be present in all cases where
70 a member of the fire department is to be tried on charges that
71 may have been presented against him. In the event that it is
72 impossible for a member of the board to be present at the
73 time for which the trial is set, such trial shall be postponed
74 until it is possible for all members to appear, but such post-
75 ponement shall not exceed ten days.

76 . Said board shall hold meetings in January, April, July
77 and October of each year for the purpose of certifying and
78 examining eligibles for appointment to the fire department
79 and shall give notice of ten days by one publication in a news-
80 paper published in the city of Clarksburg, of the time, place
81 and purpose of such meetings; and said board may be called
82 into special session by the city manager or by a majority of

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H. D. Hyatt

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83 its members at any time for the purpose of disposing of any
84 matters within its jurisdiction and may act without notice
85 except for the purpose hereinbefore provided. Said board
86 shall organize its duties hereunder on June first, one thousand
87 nine hundred thirty-three or as soon thereafter as practicable:
88 *Provided, however,* That the regular paid members of the fire
89 department in the service at the time of the organizing of the
90 civil service board shall not be required to pass the examina-
91 tion and shall continue in such employment during good be-
92 havior, fitness and efficient service.

93 Appointments to the fire department shall be made upon
94 merit and fitness only and without regard to political or re-
95 ligious affiliations of the applicant. After an examination,
96 said board shall certify a list of these applicants who have
97 been found duly qualified and showing the respective stand-
98 ing or ranking of such applicants. Such list shall be posted
99 in the office of the city clerk and shall be open to public in-
100 spection and shall be valid for such time as the board may fix
101 under its rules but not to exceed one year. Should a vacancy oc-
102 cur in said department the same shall be filled by the city man-

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103 ager from the applicant of highest standing on or remaining
104 on any such eligible register for which such applicant shall
105 have qualified: *Provided, however,* That in cases of emergency
106 the city manager or the fire chief may make temporary appoint-
107 ments without such examination when no qualified eligibles
108 are available.

109 The chief of the fire department shall serve as such during
110 his appointment by the council, and at any time he fails to
111 receive this appointment he shall not be removed from the
112 department but shall automatically be retained as a first grade
113 fireman with the rights of such if he has been a member of
114 the fire department for two years. He shall have general
115 supervision and control of the property and appliances of the
116 city to be used for the prevention and extinguishment of fires.
117 He shall be under the direction, authority and subject to the
118 orders of the city manager at all times in the administration
119 of the fire department. He shall make such inspection as
120 may be required of buildings throughout the city in relation
121 to the matter of fire risks. He shall, under the direction of
122 the city manager, discharge all the duties that may be im-

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123 posed upon him by any ordinances or resolutions adopted or
124 passed by the council or by the rules and regulations of the
125 city service board under the powers of said board. He may
126 be suspended at any time by the city manager for the same
127 cause or reason that a regular fireman may be suspended, and
128 shall have the same right to a trial before the civil service
129 board and shall also have the right to appeal his case to the
130 council of the city of Clarksburg if he is not satisfied with
131 the decision of the civil service board, as hereinbefore pro-
132 vided.

133 All acts or parts of acts in conflict with the provisions of
134 this act are, for the purpose of this act only, hereby repealed.

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Filed in the office of the Secretary of State
of West Virginia
MAR 17 1933

Wm. S. O'BRIEN,
Secretary of State

David A. H. 12
Chairman Senate Committee.

James C. Smith
Chairman House Committee.

B. S. Shriver
Speaker of the House of Delegates.

John S. Hall
Clerk of the House of Delegates.

A. B. M. ...
President of the Senate.

Samuel ...
Clerk of the Senate.

The within is *disapproved*

this *16th* day of *March* 1933.

H. S. Kemp
Governor.

The within bill is disapproved
at the request of Byron B.
Randolph who introduced the
same - This 16th day of March, 1933,
H. S. Kemp
Governor.