WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1935

ENROLLED

HOUSE BILL No. 305

(By Mr. Perry)

PASSED March 9th, 1935

In Effect from Passage
AN ACT to amend and reenact section fifty-two, chapter one hundred sixty-one, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, relating to civil service under the Huntington charter.

Be it enacted by the Legislature of West Virginia:

That section fifty-two, chapter one hundred sixty-one, acts of the Legislature of West Virginia, second extraordinary session, one thousand nine hundred thirty-three, be amended and reenacted to read as follows:

Section 52. The city shall create a board to be styled "the civil service board," consisting of four members and the mayor, a member ex officio. The mayor shall preside at all meetings of the board, but shall have the right to vote only in
case of a tie on any question arising before the board. The
mayor shall appoint two members of the board from each of
the dominant political parties of the city, and they shall be
appointed and confirmed. In this manner, the mayor shall
transmit to the council and names of the persons whom he ap-
points to the civil service board; and the council may, at its
next regular meeting, or special meeting called for that pur-
pose, or at any adjournment thereof for not more than five
days, reject any or all of said appointments so made by the
mayor by majority vote of the members of council present at
such meeting. If any one of such appointees is rejected by
the council, the action thereabout shall be transmitted to the
mayor, who shall, without delay, transmit to the council the
name of another person or persons, as the case may be, for
such office, and action thereon by the council shall be in the
same manner as in the first instance, and, if rejected, then the
mayor shall transmit another name, or other names, for mem-
ers of said board until the council shall not have, in the man-
er herein provided, rejected the person or persons so appoint-
ed by the mayor for said board. All such appointments by
the mayor shall stand approved and as final, unless rejected by
A member of the civil service board may be removed from office in the manner and for the causes provided for the removal of the mayor by section ten of this act. The term of office of the members of said board shall be the same as that for which the mayor was elected: Provided, That the members of the present civil service board shall hold their positions on said board until their successors shall have been named, in the manner herein provided, by the mayor elected at the general election, one thousand nine hundred thirty-four.

The duties of the civil service board shall be to examine and certify all applications for positions in the police departments or fire department, except the chiefs thereof; to hear and determine all appeals made by members of either of those department, who are under civil service; to hear evidence, summon witnesses and render judgments in all cases in which charges have been preferred against any officer of either of those departments; to make promotions of members of either of the departments when it is deemed advisable for increased efficiency; 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 the mayor 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 management 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, by the civil service board, from the applicants for said respective positions, which applicants, under civil service examinations, receive any average grade of sixty or more, giving preference to the applicant receiving the highest grade and whose grade certificate is the oldest, and likewise making such appointments so as not to give either of
the dominant political parties in the city, as nearly as may be,
more than one-half of the total number of men under civil
service in either department. The mayor shall appoint special
officers, if any, for either or both of said departments, from
the approved civil service lists for said departments, respec-

tively, keeping political division as hereinbefore set out: Pro-

vised, That no person shall serve, as a special officer, for more
than thirty days in any one calendar year. When the list of
names of applicants who are eligible as prescribed in this sec-
tion shall have been exhausted, or when either dominant po-
litical party shall be entitled to appointment and there shall
be no member of such party eligible on the list, then such ap-
pointment may be made from the list of persons who may
apply therefor, disregarding those applicants who stood the
civil service examination and received thereon a grade below
sixty.

All persons now under civil service in either of said de-
partments shall have advantage of civil service and shall con-
tinue in office unless removed for cause and in the manner
provided in this section.

Policemen and firemen now in office, and those hereafter
87 appointed, shall obey all the rules and regulations promulgated by the mayor for the organization and operation of the respective departments which, when posted at the headquarters of the respective departments, shall be notice thereof. Any violation of said rules by any member of the department shall be sufficient cause for his suspension or dismissal in the manner provided in this section.

94 The mayor, or chief of either the police department or fire department by and with the mayor's consent, may, as a matter of discipline, suspend, without pay, for a period of not exceeding thirty days, any officer or member of either of those departments, for just cause, by giving such officer or member written notice of such suspension, defining the cause or causes therefor. Such suspended officer or member shall have the right, within ten days, but not later, to appeal to the civil service board, if he deems such suspension unjust. If such accused officer or member, upon a hearing before the civil service board, is found not guilty, then he shall immediately report for duty, and he shall be paid for the time lost by his suspension. The mayor may, upon evidence of reasonable cause therefor, dismiss any member of the police department or fire
108 department, by giving written notice to such person, clearly
109 defining the charges preferred against him, and fixing a time,
110 not later than ten days from that time, on which such mem-
111 ber may appear for trial before the civil service board; and
112 should the board, upon trial, find him guilty of the charges
113 preferred, the dismissal by the mayor shall stand affirmed,
114 without pay from the time of his dismissal by the mayor. But
115 if such person shall be acquitted of the charges preferred by
116 the mayor, he shall be reinstated to his position and shall be
117 paid for the time lost by him because of his dismissal by the
118 mayor. The action of the civil service board thereabout, in
119 either the event of suspension or dismissal by the mayor or
120 the board as aforesaid, shall be final, and no appeal therefrom
121 shall lie.

122 The civil service board may make reasonable rules govern-
123 ing the conduct of all persons while on duty and off duty,
124 who are under civil service, in addition to the rules promul-
125 gated by the mayor; and the violation of such rules may be
126 cause for suspension or dismissal as provided in this section;
127 but causes for suspension or dismissal, as herein provided, is
not limited to the violation of said rules promulgated by the
board.

In making examinations and determining the fitness and
qualifications for positions the civil service board shall take
into consideration the size, health, physical appearance, habits
and moral surroundings of the applicant; and after such ex-
aminations the board shall at once place on record in the
minutes of the civil service board the result of such examina-
tion, giving the names of the applicants, positions sought by
them, and their respective percentages based on one hundred,
and stating the political party, if any, to which the applicant
holds allegiance.

I certify that the foregoing act, having been presented to the Governor for
his approval, and not having been returned
by him to the House of the Legislature in
which it originated within the time pre-
scribed by the constitution of the state, has
become a law without his approval.

This the 15th day of March, 1935.

[Signature]

SECRETARY OF STATE
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the

Takes effect.... passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates.

The within... this the...

day of..., 1935.

Governor.

Filed in the office of the Secretary of State of West Virginia, MAR 15, 1935.

Wm. S. O'Brien,
Secretary of State