

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1935



ENROLLED

HOUSE BILL No. 305

(By Mr. Perry)



PASSED March 9th 1935

In Effect from Passage

305

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(By MR. PERRY)

[Passed March 9, 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
2 civil service board," consisting of four members and the mayor,
3 or, a member exofficio. The mayor shall preside at all meetings
4 of the board, but shall have the right to vote only in

5 case of a tie on any question arising before the board. The
6 mayor shall appoint two members of the board from each of
7 the dominant political parties of the city, and they shall be
8 appointed and confirmed. In this manner, the mayor shall
9 transmit to the council and names of the persons whom he ap-
10 points to the civil service board; and the council may, at its
11 next regular meeting, or special meeting called for that pur-
12 pose, or at any adjournment thereof for not more than five
13 days, reject any or all of said appointments so made by the
14 mayor by majority vote of the members of council present at
15 such meeting. If any one of such appointees is rejected by
16 the council, the action thereabout shall be transmitted to the
17 mayor, who shall, without delay, transmit to the council the
18 name of another person or persons, as the case may be, for
19 such office, and action thereon by the council shall be in the
20 same manner as in the first instance, and, if rejected, then the
21 mayor shall transmit another name, or other names, for mem-
22 bers of said board until the council shall not have, in the man-
23 ner herein provided, rejected the person or persons so appoint-
24 ed by the mayor for said board. All such appointments by
25 the mayor shall stand approved and as final, unless rejected by

26 the council at the time and in the manner herein prescribed.

27 A member of the civil service board may be removed from
28 office in the manner and for the causes provided for the re-
29 moval of the mayor by section ten of this act. The term of
30 office of the members of said board shall be the same as that
31 for which the mayor was elected: *Provided*, That the mem-
32 bers of the present civil service board shall hold their positions
33 on said board until their successors shall have been named,
34 in the manner herein provided, by the mayor elected at the
35 general election, one thousand nine hundred thirty-four.

35-a The duties of the civil service board shall be to examine
36 and certify all applications for positions in the police de-
37 partments or fire department, except the chiefs thereof; to
38 hear and determine all appeals made by members of either of
39 those department, who are under civil service; to hear evi-
40 dence, summon witnesses and render judgments in all cases
41 in which charges have been preferred against any officer of
42 either of those departments; to make promotions of members
43 of either of the departments when it is deemed advisable for
44 increased efficiency; to make rules and regulations governing

45 the actions of the board and to keep the same in the records
46 of its proceedings.

47 The civil service board shall hold meetings for the purpose
48 of examining and certifying the eligibles to the appointment
49 of the police department and fire department, and to that
50 end shall give at least ten days' public notice of the time,
51 place and purpose of such meetings. The board may be called
52 into special session by the mayor or by a majority of its mem-
53 bers for the purpose of disposing of any matters coming with-
54 in its purview. The board shall hold at least two meetings
55 during any calendar year, and as many more meetings as may
56 be necessary to meet the requirements for the efficient man-
57 agement of its affairs.

58 The city clerk shall be exofficio clerk of said board.

59 Appointments to the police department and fire depart-
60 ment shall be made, by the civil service board, from the ap-
61 plicants for said respective positions, which applicants, under
62 civil service examinations, receive any average grade of sixty
63 or more, giving preference to the applicant receiving the
64 highest grade and whose grade certificate is the oldest, and
65 likewise making such appointments so as not to give either of

66 the dominant political parties in the city, as nearly as may be,
67 more than one-half of the total number of men under civil
68 service in either department. The mayor shall appoint special
69 officers, if any, for either or both of said departments, from
70 the approved civil service lists for said departments, respec-
71 tively, keeping political division as hereinbefore set out: *Pro-*
72 *vided*, That no person shall serve, as a special officer, for more
73 than thirty days in any one calendar year. When the list of
74 names of applicants who are eligible as prescribed in this sec-
75 tion shall have been exhausted, or when either dominant po-
76 litical party shall be entitled to appointment and there shall
77 be no member of such party eligible on the list, then such ap-
78 pointment may be made from the list of persons who may
79 apply therefor, disregarding those applicants who stood the
80 civil service examination and received thereon a grade below
81 sixty.

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

86 Policemen and firemen now in office, and those hereafter

87 appointed, shall obey all the rules and regulations promul-
88 gated by the mayor for the organization and operation of the
89 respective departments which, when posted at the headquar-
90 ters of the respective departments, shall be notice thereof.
91 Any violation of said rules by any member of the department
92 shall be sufficient cause for his suspension or dismissal in the
93 manner provided in this section.

94 The mayor, or chief of either the police department or fire
95 department by and with the mayor's consent, may, as a mat-
96 ter of discipline, suspend, without pay, for a period of not
97 exceeding thirty days, any officer or member of either of those
98 departments, for just cause, by giving such officer or member
99 written notice of such suspension, defining the cause or causes
100 therefor. Such suspended officer or member shall have the
101 right, within ten days, but not later, to appeal to the civil serv-
102 ice board, if he deems such suspension unjust. If such ac-
103 cused officer or member, upon a hearing before the civil service
104 board, is found not guilty, then he shall immediately report
105 for duty, and he shall be paid for the time lost by his suspen-
106 sion. The mayor may, upon evidence of reasonable cause
107 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.

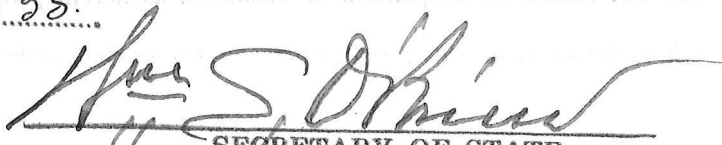
122 The civil service board may make reasonable rules govern-
123 ing the conduct of all persons while on duty and off duty,
124 who are under civil service, in addition to the rules promul-
125 gated by the mayor; and the violation of such rules may be
126 cause for suspension or dismissal as provided in this section;
127 but causes for suspension or dismissal, as herein provided, is

128 not limited to the violation of said rules promulgated by the
129 board.

130 In making examinations and determining the fitness and
131 qualifications for positions the civil service board shall take
132 into consideration the size, health, physical appearance, habits
133 and moral surroundings of the applicant; and after such ex-
134 aminations the board shall at once place on record in the
135 minutes of the civil service board the result of such examina-
136 tion, giving the names of the applicants, positions sought by
137 them, and their respective percentages based on one hundred,
138 and stating the political party, if any, to which the applicant
139 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...



SECRETARY OF STATE

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

Clinton L. Howard

Chairman Senate Committee

Arnold M. Tickers

Chairman House Committee

Originated in the House

Takes effect from passage.

Thurmond
Clerk of the Senate

W. L. Hall
Clerk of the House of Delegates

Chas. E. Hodges
President of the Senate

John H. Rafter
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