

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1937



ENROLLED

HOUSE BILL No. 2

(By Messrs Jimison & Ruess)



PASSED March 1, 1937

In Effect June 1, 1937, Passage

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House Bill No. 2

(By MESSRS. JIMISON AND RUSSEK)

[Passed March 1, 1937; in effect June 1, 1937.]

AN ACT to provide for the appointment and promotion of members of paid police departments in cities and municipalities; to provide for the creation and maintenance of a civil service commission for that purpose; to establish rules and procedure therefor; to regulate the manner in which demotions and discharge of employees of paid police departments shall be made, and the rights and limitations of said employees in that respect; to provide for other matters relating to the duties and powers of said civil service commission, defining its powers, limiting its authority, etc.; and providing penalties for the violation of the provision of this act.

Be it enacted by the Legislature of West Virginia:

Section 1. *Competitive Examinations for Appointments to*

2 *and Promotions in Paid Police Departments; Except the Of-*
3 *fice of Chief of Police.* All appointments to and promotions
4 in all paid police departments of cities and municipalities of
5 five thousand population or more, shall be made only
6 according to qualifications and fitness to be ascertained by
7 examinations, which, so far as practicable, shall be com-
8 petitive, as hereinafter provided. On and after the date this
9 act takes effect no person except the chief of police shall be
10 appointed, reinstated, promoted or discharged as a paid mem-
11 ber of said department of any city or municipality in the
12 state of West Virginia subject to the provisions hereof, in
13 any manner or by any means other than those prescribed in
14 this act.

Sec. 2. *Civil Service Commission: Appointment; Quali-*
2 *cations; Removal.* There shall be a "civil service commis-
3 sion" in each city or municipality of five thousand popu-
4 lation or more, having a police department, in which mem-
5 bers thereof are paid by said city or municipality. The
6 civil service commission in each shall consist of three com-
7 missioners, one of whom shall be appointed by the governor;
8 one of whom shall be appointed by the local fraternal order *✓ of*

9 police and the third shall be appointed by the local cham-
10 ber of commerce, or if there be none, by a business men's
11 association. The persons appointed commissioners shall be
12 qualified voters of the city or municipality for which they
13 are appointed; and at least two of said commissioners shall
14 be persons in full sympathy with the purposes of this act.
15 Not more than two of the said commissioners, at any one
16 time, shall be adherents of the same political party. The
17 commissioners in each city or municipality shall be appointed
18 as follows: On the date this act takes effect, the person,
19 organization or board having appointive power to this civil
20 service commission shall appoint three commissioners, the first
21 of which to be appointed by the governor shall serve for six
22 years from the date of his appointment; the second commis-
23 sioner to be appointed by the local fraternal order of police
24 shall serve for four years from the date of his appointment;
25 and the third commissioner to be appointed by the chamber
26 of commerce, or business men's association of each city or
27 municipality shall serve for a term of two years from the
28 date of his appointment; in the absence of the existence of
29 a chamber of commerce or business men's association at the

30 time any appointment is to be made, this third appointment
31 shall be made by the other two commissioners by mutual
32 agreement; thereafter all appointments shall be made for
33 periods of four years each by the appointing power herein-
34 before designated. In event that any commissioner of said
35 civil service commission shall cease to be a member thereof
36 by virtue of death, removal, or other cause, a new commis-
37 sioner shall be appointed to fill out the unexpired term of
38 said commissioner within ten days after said excommissioner
39 shall have ceased to be a member of said commission. Such
40 appointment shall be made by the person, officer or body who
41 in the first instance appointed the commissioner who is no
42 longer a member of the commission. The three members of
43 the commission shall, together, elect one of their number to
44 act as president of the commission, who shall serve as presi-
45 dent for one year. Each year thereafter the commissioners
46 shall elect one of their number president, the member so
47 elected to serve one year. The governor, mayor, city man-
48 ager, or principal executive officer of any city or municipi-
49 pality may, at any time, remove a commissioner or commis-
50 sioners for good cause, which shall be stated in writing and

51 made a part of the records of the commission: *Provided,*
52 *however,* That once the governor, mayor, city manager, or
53 principal executive officer, has to remove any commissioner,
54 or commissioners such removal shall be temporary only and
55 shall be in effect for a period of ten days, if at the end of
56 said period of ten days the circuit court of the county in
57 which said city or municipality is located, is in term or
58 session. Within said ten-day period the governor, mayor,
59 city manager or principal executive officer, shall file in the
60 office of the clerk of the circuit court of said county a petition
61 setting forth in full the reason for said removal and praying
62 for the confirmation of said circuit court of the action of the
63 governor, mayor, city manager or principal executive officer,
64 in so removing the said commissioner or commissioners. A
65 copy of said petition, in writing, shall be served upon the
66 commissioner or commissioners so removed simultaneously
67 with its filing in the office of the clerk of the circuit court
68 and shall have precedence on the docket of said court and
69 shall be heard by said court as soon as practicable upon the
70 request of the removed commissioner or commissioners. All
71 rights hereby vested in said circuit court may be exercised

72 by the judge thereof during vacation. In event that no term
73 of circuit court is being held at the time of the filing of said
74 petition, and the judge thereof can not be reached in the
75 county wherein the petition was filed, said petition shall be
76 heard at the next succeeding term of said circuit court,
77 whether regular or special, and the commissioner or commis-
78 sioners so suspended shall remain suspended until a hearing
79 is had upon the said petition of the governor, mayor, city
80 manager, or principal executive officer of the city. The court,
81 or the judge thereof, in vacation, shall hear and decide upon
82 said petition. The contestant or contestants against whom
83 the decision of the court or judge thereof, in vacation, shall
84 be rendered, shall have the right to petition the supreme
85 court of appeals for a review of the decision of the circuit
86 court, or the judge thereof, in vacation, as in chancery cases.
87 In the event that the governor, mayor, city manager, or prin-
88 cipal executive officer of the city, shall fail to file his petition
89 in the office of the clerk of the circuit court, as hereinbefore
90 provided, within ten days after the removal of said com-
91 missioner, or commissioners, such commissioner or commis-

92 sioners shall immediately resume his or their position or
93 positions of the civil service commission.

94 Any citizen or citizens shall have the right, at any time,
95 to file charges against any member of the civil service com-
96 mission; such charges shall be filed in the form of a petition
97 in the office of the clerk of the circuit court, a copy of said
98 petition, in writing, to be served upon the commissioner or
99 commissioners sought to be removed. Said petition shall be
100 matured for hearing and heard by the circuit court of the
101 county wherein the said city or municipality for which said
102 commissioner or commissioners serves, as members of the
103 civil service commission in the same manner as chancery pro-
104 ceedings in the circuit courts of West Virginia are heard,
105 saving the right to petition the supreme court of appeals for
106 a review of the action of the circuit court of the contestant
107 or contestants against whom the circuit court's decision is
108 rendered.

109 No commissioner shall hold any other office under the
110 United States, the state of West Virginia, or any city,
111 municipality, county or other political subdivision thereof;
112 nor shall any commissioner serve on any political committee

113 or take any active part in the management of any political
114 campaign.

Sec. 3. *Clerk of Civil Service Commission.* The city clerk
2 or city recorder of any city or municipality under the terms of
3 this act shall be ex officio clerk of the civil service commission
4 and shall supply to the commission without extra compen-
5 sation all necessary clerical and stenographic services for the
6 work of the civil service commission.

Sec. 4. *Offices and Supplies.* It shall be the duty of the
2 mayor, city manager, or principal executive officer, and heads
3 of departments of every city or municipality of five thou-
4 sand population or more, to cause suitable and convenient
5 rooms and accommodations to be assigned and provided, and to
6 be furnished, heated and lighted for carrying on the work and
7 examinations of the civil service commission. The civil service
8 commission may order from the proper authorities the neces-
9 sary stationery, postage stamps, official seal and other articles
10 to be supplied, and the necessary printing to be done, for its
11 official use. It shall be the duty of the officers of every city or
12 municipality to aid the civil service commission in all proper
13 ways in carrying out the provisions of this act, and to allow

14 the reasonable use of public buildings, and to heat and light
15 the same, for holding examinations and investigations, and in
16 all proper ways to facilitate the same.

Sec. 5. *Powers and Duties of Commission.* The civil serv-

2 ice commission in each city or municipality, within the terms
3 of this act, shall:

4 First: Keep minutes of its own proceedings, and records
5 of its examinations and other official actions. All recommen-
6 dations of applicants for office, received by the said commis-
7 sion or by any officer having authority to make appointments
8 to office, shall be kept and preserved for a period of ten years,
9 and all such records, recommendations of former employees
10 excepted, and all written causes of removal, filed with it,
11 shall, subject to reasonable regulation, be open to public in-
12 spection;

13 Second: Make investigations, either by sitting as a body
14 or through a single commissioner, concerning all matters
15 touching the enforcement and effect of the provisions of this
16 act, and the rules and regulations prescribed thereunder,
17 concerning the action of any person in the public service in
18 respect to the execution of this act; and, in the course of

19 such investigation, each commissioner shall have the power
20 to administer oaths and affirmations, and to take testimony;

21 Third: Have power to subpœna and require the attendance
22 of witnesses, and the production thereby of books and papers
23 pertinent to the investigations and inquiries hereby author-
24 ized and to examine them and such public records as it shall
25 require, in relation to any matter which it has the authority
26 to investigate. The fees of such witnesses for attendance and
27 travel shall be the same as for witnesses before the circuit
28 courts, and shall be paid from the appropriation for the
29 incidental expense of the commission. All officers in the
30 public service, and their deputies, clerks, subordinates and
31 employees shall attend and testify when required to do so by
32 said commission and all cities and municipalities are re-
33 quired to appropriate sufficient funds for the purpose of
34 carrying out the provisions of this act. Any disobedience to,
35 or neglect of any one of them, to any person, shall be held a
36 contempt of court, and shall be punished by any circuit court,
37 within the county in which is the city, from the civil service
38 commission of which the said subpœna had issued, as if such
39 subpœna had been issued therefrom. Any judge of any of said

40 courts shall, upon the application of any one of said commis-
41 sioners, in such cases, cause the process of said court to issue
42 to compel such person or persons, disobeying or neglecting
43 any such subpoena, to appear and to give testimony before the
44 said commissioners, or any of them and shall have power to
45 punish any such contempt;

45-a Fourth: Make an annual report to the mayor, city man-
45-b ager, or principal executive officer showing its own action,
46 and rules and regulations, and all the exceptions thereto in
47 force, and the practical effects thereof, and any suggestions
48 it may approve for the more effectual accomplishment of the
49 purposes of this act. Such report shall be available for public
50 inspection five days after the same shall have been delivered
51 to the mayor, city manager, or principal executive officer of
52 any city or municipality.

Sec. 6. *Rules and Regulations for Examinations and Ap-*
2 *pointments.* The civil service commission, in each city or mu-
3 nicipality, shall make rules and regulations providing for ex-
4 aminations for positions in the paid police department in
5 each city or municipality under this act, and for appoint-
6 ments to and promotions therein, and for such other matters

7 as are necessary to carry out the purposes of this act. Due no-
8 tice of the contents of such rules and regulations and of any
9 modifications thereof shall be given, by mail, in due season, to
10 appointing officers affected thereby; and said rules and regu-
11 lations and modifications thereof shall also be printed for pub-
12 lic distribution. All original appointments to any positions in
13 police departments within the terms of this act shall be for a
14 probationary period of six months: *Provided, however, That*
15 at any time during the probationary period the appointee may
16 be dismissed for just cause, in the manner provided in section
17 thirteen of this act. If, at the close of this probationary term,
18 the conduct or capacity of the probationer has not been satis-
19 factory to the appointing officer, the probationer shall be
20 notified, in writing, that he will not receive absolute appoint-
21 ment, whereupon his employment shall cease; otherwise, his
22 retention in the service shall be equivalent to his final ap-
23 pointment.

Sec. 7. *Examinations; Eligible Lists.* All examinations for
2 positions or promotions shall be practical in their character,
3 and shall relate to such matters, and include such inquiries,
4 as will fairly and fully test the comparative merit and fitness

5 of the person or persons examined to discharge the duties of the
6 employment sought by him or them. All examinations shall be
7 open to all applicants who have fulfilled the preliminary re-
8 quirements, stated in other sections of this act. All applicants
9 for any position in police department shall, as hereinafter stat-
10 ed, subject to regulations adopted by the civil service commis-
11 sion, be required to submit to a physical examination before be-
12 ing admitted to the regular examinations held by the commis-
13 sion. Said applicant shall have been a resident for three years
14 next preceding date of his application, of the city or municipal-
15 ity in which he seeks to obtain employment in the police depart-
16 ment. Adequate public notice of the time and place of every
17 examination held under the provisions of this act, together
18 with information as to the kind of position or place to be
19 filled, shall be given at least one week prior to such examina-
20 tion. The said commission shall adopt reasonable regulations
21 for permitting the presence of representatives of the press at
22 the examinations. The commission shall post, in a public
23 place at its office, the eligible list, containing the names and
24 grades of those who have passed examinations for positions
25 in police departments, under this act, and shall indicate

26 thereon such appointments as may be made from said lists.

Sec. 8. *Application for Examination; Refusal to Examine.*

2 The civil service commission, in each city or municipality, shall
3 require persons applying for admission to any examination
4 provided for under this act or under the rules and regulations
5 of the said commission, to file in its office, within a reasonable
6 time prior to the proposed examination, a formal application
7 in which the applicant shall state under oath or affirmation:

8 First: His full name, residence, and post office address;

9 Second: His United States citizenship, age, and the place
10 and date of his birth;

11 Third: His health, and his physical capacity for public
12 service;

13 Fourth: His business and employments and residences
14 for at least three previous years;

15 Fifth: Such other information as may reasonably be re-
16 quired, touching the applicant's qualifications and fitness for
17 the public service.

18 Blank forms for such applications shall be furnished by
19 the said commission, without charge, to all persons request-
20 ing the same. The said commission may require, in connec-

21 tion with such application, such certificate of citizens, phy-
22 sician or others, having knowledge of the applicant, as the
23 good of the service may require. The said commission may
24 refuse to examine an applicant, or, after examination, to
25 certify as eligible, one who is found to lack any of the estab-
26 lished preliminary requirements for the examination or posi-
27 tion or employment for which he applies; or who is physically
28 so disabled as to be rendered unfit for the performance of
29 the duties of the position to which he seeks appointment; or
30 who is addicted to the habitual use of intoxicating liquors
31 or drugs; or who has been guilty of any crime, or of in-
32 famous or notoriously disgraceful conduct; or who has been
33 dismissed from the public service for delinquency or mis-
34 conduct; or who has made a false statement of any material
35 fact, or practiced or attempted to practice any deception or
36 fraud in his application, in his examination, or in securing
37 his eligibility; or who refuses to comply with the rules and
38 regulations of the commission.

39 If any applicant feels himself aggrieved by the action of
40 the commission in refusing to examine him, or after an ex-
41 amination, to certify him as an eligible, as provided in this

42 section, the commission shall, at the request of such applicant,
43 appoint a time and place for a public hearing; at which time
44 such applicant may appear, by himself or counsel, or both,
45 and the commission shall then review its refusal to make
46 such examination or certification, and testimony shall be
47 taken. The commission shall subpoena, at the expense of the
48 applicant, any competent witnesses requested by him. After
49 such review, the commission shall file the testimony taken, in
50 its records, and shall again make a decision, which decision
51 shall be final.

Sec. 9. *Making Appointments from Eligible List Except for*
2 *the Office of Chief of Police.* Every position or employment,
3 unless filled by promotion, reinstatement, or reduction, shall
4 be filled only in the following manner: The appointing officer
5 shall notify the civil service commission of any vacancy in the
6 service which he desires to fill, and shall request the certifica-
7 tion of eligibles. The commission shall forthwith certify, from
8 the eligible list, the names of three persons thereon who re-
9 ceived the highest averages at preceding examinations held
10 under the provisions of this act within a period of three years
11 next preceding the date of such appointment. The appointing

12 officer shall, thereupon, with sole reference to the relative mer-
13 it and fitness of the candidates, make an appointment from the
14 three names so certified: *Provided, however,* That should he
15 make objection, to the commission, to one or more of these per-
16 sons, for any of the reasons stated in section eight of this act,
17 and should such objection be sustained by the commission, as
18 provided in section eight of this act, the commission shall
19 thereupon strike the name of such person from the eligible list,
20 and certify the next highest name for each person so stricken off.
21 As each subsequent vacancy occurs, in the same or another po-
22 sition, precisely the same procedure shall be followed: *Pro-*
23 *vided, however,* That after any name has been three times
24 rejected for the same or another position, in favor of a name
25 or names below it on the same list, the said name shall be
26 stricken from the list. When there are a number of positions
27 of the same kind to be filled at the same time, each appoint-
28 ment shall, nevertheless, be made separately and in accord-
29 ance with the foregoing provisions. When an appointment is
30 made under the provisions of this section it shall be, in the
31 first instance, for the probationary period of six months as
32 provided in section six of this act.

33 The term "appointing officer" as used in this act shall be
34 construed to mean the city or municipal officer in whom the
35 power of appointment of members to a paid police department
36 is vested by the charter of a city or municipality in which an
37 appointment shall be made.

Sec. 10. *Filling Vacancy When There is no Eligible List.*

2 Whenever there are urgent reasons for filling a vacancy in
3 any position in the police department and there is no list of
4 persons eligible for appointment after a competitive examina-
5 tion, the appointing officer may nominate a person to the civil
6 service commission for noncompetitive examination; and if
7 such nominee shall be certified by the said commission as
8 qualified, after such noncompetitive examination, he may be
9 appointed provisionally, to fill such vacancy until a selection
10 and appointment can be made after competitive examination,
11 in the manner prescribed in section nine; but such provisional
12 appointment shall not continue for a longer period than
13 three months, nor shall successive provisional appointments
14 be made to the same position, under this provision.

Sec. 11. *Filling Vacancies by Promotion.* Vacancies in

2 positions in the police department shall be filled, so far as

3 practicable, by promotion from among persons holding posi-
4 tions in the next lower grade in the department. Promotions
5 shall be based upon merit to be ascertained by tests to be
6 provided by the civil service commission and upon the su-
7 perior qualifications of the persons promoted, as shown by
8 his previous service and experience: *Provided, however, That*
9 except for chief of police no person shall be eligible for
10 promotion from the lower grade to the next higher grade
11 until such person shall have completed at least two years'
12 service in the next lower grade in the department. The com-
13 mission shall have the power to determine in each instance
14 whether an increase in salary constitutes a promotion.

Sec. 12. *Physical Examination of Applicants; Exception in*
2 *Case of Reappointment.* All applicants for any position in
3 the police department shall undergo a physical examination
4 which shall be conducted under the supervision of a com-
5 mission composed of two doctors of medicine appointed for
6 that mission by the mayor, city manager, or principal execu-
7 tive officer of the city or municipality. Said commission shall
8 certify that an applicant is free from any bodily or mental
9 defects, deformity or diseases that might incapacitate him

10 from the performance of the duties of the position desired
11 before said applicant shall be permitted to take further ex-
12 amination. No application will be received if the person ap-
13 plying is less than twenty-one years of age or more than
14 thirty-five years of age at the date of his application: *Pro-*
15 *vided, however,* That in event any applicant has formerly
16 served upon the police department of the city to which he
17 makes application, for a period of more than six months, and
18 has resigned from the department at a time when there were
19 no charges of misconduct or other misfeasance pending
20 against such applicant, within a period of two years next
21 preceding the date of his application, and is a resident of the
22 city or municipality, and is still a resident of the city or
23 municipality of the police department on which he seeks
24 reinstatement, then such person shall be eligible for rein-
25 statement in the discretion of the civil service commission,
26 even though such applicant shall be over the age of thirty-
27 five years. Such applicant, providing his former term of
28 service so justifies, may be reappointed to the police depart-
29 ment without examination other than a physical examination;
30 if such person shall be so reinstated to the police department.

31 he shall be the lowest in rank in the department next above
32 the probationers of the department. *Provided further,* That
33 any person who is, at the time this act goes into effect, serving
34 upon the police department of the city to which he makes
35 application, and has served in such capacity for at least six
36 months prior to the time this act takes effect, shall be eligible
37 to take the examination provided for herein even though such
38 applicant shall be over the age of thirty-five years.

Sec. 13. *Removal, Discharge, Retirement, etc. of Members*
2 *of Police Department.* No member of any police department
3 within the terms of this act shall be removed, discharged or
4 reduced in rank or pay except for just cause, which shall not
5 be religious or political, except as hereinafter provided in
5-a section twenty-one; further, no such employee shall be
6 removed, discharged or reduced except as provided in this
7 act, and in no event until he shall have been furnished with
8 a written statement of the reasons for such action. In every
9 case of such removal or reduction, a copy of the statement
10 of reasons therefor and of the written answer thereto, if the
11 person sought to be removed desires to file such written
12 answer, shall be furnished to the civil service commission

13 and entered upon its records. If the person sought to be
14 removed or reduced shall demand it, the civil service com-
15 mission shall grant him a public hearing, which hearing shall
16 be held within a period of ten days from the filing of the
17 charges in writing and the written answer thereto. At such
18 hearing the burden shall be upon the removing officer to
19 justify his action and in event that the civil service commis-
20 sion finds the action of the removing officer unjustified, then
21 the person removed shall be reinstated with full pay
22 for the entire period during which he may have been pre-
23 vented from performing his usual employment, and no
24 charges shall be officially recorded against his record. A writ-
25 ten record of all testimony taken at such hearing shall be kept
26 and preserved by the civil service commission, which record
27 shall be sealed and not be open to public inspection,
28 if no appeal be taken from the action of the com-
29 mission. In event that the civil service commission shall
30 sustain the action of the removing officer the person removed
31 shall have an immediate right of appeal to the circuit court
32 of the county wherein the city or municipality is situated.
33 Said appeal shall be taken within ninety days from the entry

34 by the civil service commission of its final order; upon such
35 an appeal being taken and docketed with the clerk of the
36 circuit court of said county, the circuit court shall proceed
37 to hear the appeal upon the original record taken therein and
38 no additional proof shall be permitted to be introduced. The
39 circuit court's decision shall be final, saving to the employee,
40 however, the right to petition the supreme court of appeals
41 for a review of the circuit court's decision.

42 The removing officer and the person sought to be removed
43 shall at all times, both before the civil service commission and
44 upon appeal, be given the right to employ counsel to repre-
45 sent them: *Provided, however,* That if for reasons of economy
46 or other reasons it shall be deemed necessary by any city or
47 municipality to reduce the number of paid members of any po-
48 lice department then said municipality shall follow the fol-
49 lowing procedure:

50 First: If there be any paid policemen eligible for retire-
51 ment under the terms of a pension fund act, if such fund
52 exists in said city or municipality, then such reduction in
53 numbers shall be made by retirement on pension of all such
54 eligible paid members of the police department;

55 Second: If the number of paid policemen eligible for re-
56 tirement under the pension fund of said city or municipality,
57 if such pension fund exist, is sufficient to effect the reduction
58 in numbers of said paid police department desired by said
59 city or municipality, or if there is no eligible person for re-
60 tirement under the pension fund of said city or municipality,
61 or no pension fund exists in said city or municipality, then
62 reduction in members of the paid police department of said
63 city or municipality shall be effected by suspending the last
64 man or men, including probationers, that have been appointed
65 to said police department. Such removal shall be accom-
66 plished by suspending the number desired in the inverse
67 order of their appointment: *Provided, further,* That in event
68 the said police department shall again be increased in num-
69 bers to the strength existing prior to such reduction of mem-
70 bers the said policemen suspended under the terms of this
71 act shall be reinstated in the inverse order of their suspen-
72 sion before any new appointments to said police department
73 shall be made.

Sec. 14. *No political or Religious Test Permitted.* No

2 question in any form of application or in any examination

3 shall be so framed as to elicit information concerning the
4 political or religious opinions or affiliations of any applicant;
5 nor shall inquiry be made concerning such opinions or affilia-
6 tions; and all disclosures thereof shall be discountenanced.
7 No discrimination shall be exercised, threatened, or promised
8 by any person in the police department against, or in favor
9 of, an applicant, eligible, or employee in police departments
10 under this act because of his political or religious opinions
11 or affiliations.

Sec. 15. *Failure to Comply with Act a Misdemeanor.* Who-
2 ever makes an appointment to office, or selects a person for
3 employment, contrary to the provisions of this act, or wil-
4 fully refuses or neglects otherwise to comply with, or to con-
5 form to, any of the provisions of this act, or violate any of
6 such provisions, shall be deemed guilty of a misdemeanor.

Sec. 16. *Offenses Constituting Misdemeanors Under Act.*
2 Any commissioner or examiner, or any other person, who
3 shall wilfully, by himself or in cooperation with one or more
4 persons, defeat, deceive or obstruct any person in respect to
5 his right of examination or registration according to this act,
6 or to any rules or regulations prescribed pursuant thereto,

7 or who shall wilfully or corruptly, falsely mark, grade, esti-
8 mate, or report upon the examination or proper standing of
9 any person examined, registered, or certified, pursuant to the
10 provisions of this act, or aid in so doing, or who shall wil-
11 fully or corruptly furnish to any person any special or secret
12 information, for the purpose of either improving or injuring
13 the prospects or chances of appointment of any person so
14 examined, registered, or certified, or to be examined, regis-
15 tered, or certified; or who shall personate any other person,
16 or permit or aid in any manner any other person to imper-
17 sonate him in connection with any examination or registra-
18 tion, or application or request to be examined or registered,
19 shall, for each offense, be deemed guilty of a misdemeanor.

Sec. 17. *Penalties.* Misdemeanors under the provisions of
2 this act shall be punishable by a fine of not less than fifty
3 dollars, nor more than one thousand dollars, or by imprison-
4 ment for a term not exceeding one year, or by both fine and
5 imprisonment, in the discretion of the court.

Sec. 18. *Policemen and Officers Now Employed to Con-*
2 *tinue; Exceptions.* All paid policemen, including officers, ex-
3 cept chiefs of police, who have had four years' service, in any

4 city or municipal police department, and who are employed by
5 any city or municipality on the date this act takes effect, shall
6 be construed to have been appointed under the provisions of
7 this act and shall hold their positions in accordance therewith.
8 Policemen, including officers, who have not had four years'
9 service in a paid city or municipal police department, shall
10 be subject to the examination provided for in this act: *Pro-*
11 *vided*, That the requirement for examination of men who have
12 not had four years' service prior to the passage of this act,
13 shall not apply to men who have been injured in line of duty
14 while in service, which injuries would disqualify them under
15 the examination herein required, nor shall it apply to mem-
16 bers of paid police departments, including officers of such de-
17 partments, in cities or municipalities which now operate un-
18 der a city system of civil service.

Sec. 19. *Provisions Severable.* If any clause, sentence, sec-
2 tion, provisions or part of this act shall be adjudged to be
3 unconstitutional or invalid for any reason by any court of
4 competent jurisdiction, such judgment shall not impair, af-
5 fect or invalidate the remainder of this act, which shall re-
6 main in full force and effect thereafter.

Sec. 20. *Inconsistent Acts Repealed.* All acts and parts of
2 acts of the Legislature of the state of West Virginia, general,
3 special, local or municipal charters, or parts thereof, in re-
4 lation to any civil service measure affecting the paid police
5 departments of any city or municipality inconsistent with
6 this act shall be, and the same are hereby repealed insofar
7 as such inconsistencies shall exist. It is understood and in-
8 tended by this act to furnish a complete and exclusive system
9 for the appointment, promotion, reduction, removal and re-
10 instatement of all officers, policemen or other employees of
11 said police departments in all cities and municipalities of
12 five thousand population or more, wherein the members of the
13 police department are paid.

Sec. 21. *Political Activity of Police Officers Prohibited.*
2 No police officer shall serve as an election official, nor shall
3 he engage in any political activity, other than to vote, in
4 behalf of, or in opposition to, any candidate, political party
5 or public issue involved in any election. Any violation by a
6 police officer of the provisions of this section shall automatic-
7 ally vacate his appointment.

Sec. 22. *Election; Ballot; Cities Now Under Civil Service*

2 *Not Affected.* Any municipality of five thousand population
3 or less, may, by ordinance, provide for an election to de-
4 termine whether the provisions of this act shall apply to
5 such municipality. Such election shall be held at the first
6 general election held in such municipality after the adoption
7 of said ordinance and shall be conducted and the result there-
8 of ascertained as is provided by law for other elections. The
9 ballots shall have printed thereon :

10 ☐ For Police Civil Service.

11 ☐ Against Police Civil Service.

12 If a majority of all the votes cast on this question be against
13 police civil service, then none of the provisions of this act
14 shall apply within such municipality.

15 The provisions of this section shall not apply to any mu-
16 nicipality now operating under police civil service.

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

Carl M. Culbreth
Chairman Senate Committee

Zeck Butler
Chairman House Committee

Originated in the

House of Delegates

Takes effect

June 1, 1937

passage.

Charles E. Hodge
Clerk of the Senate

Wm. S. Hance
Clerk of the House of Delegates

Charles E. Hodge
President of the Senate

James Ray Thomas
Speaker House of Delegates

The within

Approved
this the *6th*

day of *March*, 1937.

Arman A. Tolson
Governor.

Filed in the office of the Secretary of State
of West Virginia **MAR 8 1937**

Wm. S. O'BRIEN,
Secretary of State