

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1949



## ENROLLED

*Com. Sub. for.*

HOUSE BILL No. 176

*Originating in the House*

(By Mr. \_\_\_\_\_)

*Com. on Counties, Districts and  
Municipalities.*



PASSED March 10 1949

In Effect from Passage



176

**ENROLLED**  
COMMITTEE SUBSTITUTE FOR  
**House Bill No. 176**

[Originating in the House Committee on Counties, Districts  
and Municipalities.]

---

[Passed March 10, 1949; in effect from passage.]

---

AN ACT to repeal chapter sixty, acts of the Legislature, regular session, one thousand nine hundred thirty-three; chapter seventy-nine, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three; chapter sixty-seven, acts of the Legislature, one thousand nine hundred thirty-five; chapter one hundred seventy-three, acts of the Legislature, one thousand nine hundred thirty-nine; chapter one hundred nineteen, acts of the Legislature, one thousand nine hundred forty-seven; and to amend chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article designated article six-a, relating to the appointment and promotion of members of paid fire departments in cities

and municipalities; and 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 fire 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 to provide penalties for the violations of the provisions of this act.

*Be it enacted by the Legislature of West Virginia:*

That chapter sixty, acts of the Legislature, regular session, one thousand nine hundred thirty-three; chapter seventy-nine, acts of the Legislature, second extraordinary session, one thousand nine hundred thirty-three; chapter sixty-seven, acts of the Legislature, one thousand nine hundred thirty-five; chapter one hundred seventy-three, acts of the Legislature, one thousand nine hundred thirty-nine; chapter one hundred nineteen, acts of the Legislature, one thousand nine hundred forty-seven, are all hereby repealed, and that chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended,

be further amended by adding thereto a new article designated article six-a, to read as follows:

**Article 6-a. Paid Fire Departments.**

Section 1. *Paid Fire Departments.*—Appointments to  
2 and promotions in all paid fire departments of cities of  
3 any population whatsoever, regardless of whether here-  
4 tofor operating under special charter or under the provi-  
5 sions of chapter eight, relating to municipal corporations,  
6 or chapter eight-a, relating to municipal home rule, of the  
7 code of West Virginia, one thousand nine hundred thirty-  
8 one, as amended, shall be made only according to qualifi-  
9 cations and fitness to be ascertained by examinations,  
10 which, so far as practicable, shall be competitive, as here-  
11 inafter provided. On and after the aforesaid date, no  
12 person shall be appointed, reinstated, promoted or dis-  
13 charged as a paid member of said fire department, re-  
14 gardless of rank or position, in any fire department, of  
15 any city in the state of West Virginia, in any manner  
16 or by any means others than those prescribed in this  
17 article.

Sec. 2. *Civil Service Commission Created.*—There shall

2 be a "civil service commission" in each city or incorporat-  
3 ed town having a fire department, any of the members of  
4 which are paid by said city or municipality. This civil  
5 service commission shall consist of three commissioners,  
6 one of whom shall be appointed by the mayor or princi-  
7 pal executive officer of said city; one of whom shall be  
8 appointed by the local trades board in event that said  
9 board shall exist in said city, or in case no such board  
10 exists in said city, then by the paid international asso-  
11 ciation of fire fighters; and the third shall be appointed  
12 by the local chamber of commerce. The persons appoint-  
13 ed commissioners shall be qualified voters of the city or  
14 municipality for which they are appointed; and at least  
15 two of said commissioners shall be persons in full sym-  
16 pathy with the purposes of this article. Not more than  
17 two of the said commissioners, at any one time, shall be  
18 adherents of the same political party. The commissioners  
19 in each city shall be appointed as follows: Within thirty  
20 days after this article takes effect, the person, organiza-  
21 tion or board having appointive power to this civil serv-  
22 ice commission shall appoint three commissioners, the

23 first of which to be appointed by the mayor or principal  
24 executive officer shall serve for six years from the date  
25 of his appointment; the second commissioner to be ap-  
26 pointed by the local trades board, or in the absence of  
27 such board, by the international association of fire fight-  
28 ers, shall serve for four years from the date of his ap-  
29 pointment; and the third commissioner to be appointed  
30 by the chamber of commerce of each city or municipality  
31 for a term of two years from the date of his appointment;  
32 in the absence of the existence of a board of commerce,  
33 at time any appointment is to be made—this third ap-  
34 pointment shall be made by the other two members by  
35 mutual agreement; thereafter all appointments shall be  
36 made for periods of four years each by the appointing  
37 power hereinbefore designated. In event that any com-  
38 missioner of said civil service commission shall cease to  
39 be a member thereof by virtue of death, removal, or other  
40 cause, a new commisioner shall be appointed to fill out  
41 the unexpired term of said commissioner within ten days  
42 after said excommisioner shall have ceased to be a mem-  
43 ber of said commission. Such appointment shall be made

44 by the officer or body who in the first instance appoint-  
45 ed the commissioner who is no longer a member of the  
46 commission. The three members of the commission shall,  
47 together, elect one of their number to act as president  
48 of the commission, who shall serve as president for one  
49 year. Each year thereafter the commissioners shall elect  
50 one of their number president, the member so elected to  
51 serve one year. The mayor or principal executive officer,  
52 may, at any time, remove a commissioner for good cause,  
53 which shall be stated in writing and made a part of the  
54 records of the commission: *Provided, however,* That once  
55 the mayor has to remove any commissioner, such removal  
56 shall be temporary only and shall be in effect for a period  
57 of ten days, if at the end of said period of ten days the  
58 circuit court of the county in which said city or munici-  
59 pality is located, is in term or session. Within said ten  
60 day period the mayor shall file in the office of the clerk  
61 of the circuit court of said county a petition setting forth  
62 in full the reason for said removal and praying for the  
63 confirmation by said circuit court of the action of the  
64 mayor in so removing the said commissioner. A copy of

65 said petition, in writing, shall be served upon the com-  
66 missioner so removed simultaneously with its filing in  
67 the office of the clerk of the circuit court and shall have  
68 precedence on the docket of said court and shall be heard  
69 by said court as soon as the removed commissioner shall  
70 demand. All rights hereby vested in said circuit court  
71 may be exercised by the judge thereof during vacation.  
72 In event that no term of circuit court is being held at  
73 the time of the filing of said petition, and the judge there-  
74 of can not be reached in the county wherein the petition  
75 was filed, said petition shall be heard at the next suc-  
76 ceeding term of said circuit court, whether regular or  
77 special, and the commissioner so suspended shall remain  
78 suspended until a hearing is had upon the petition of the  
79 mayor. The court, or the judge thereof, in vacation, shall  
80 hear and decide upon said petition. The contestant against  
81 whom the decision of the court, or judge thereof, in va-  
82 cation, shall be rendered, shall have the right to petition  
83 the supreme court of appeals for a review of the decision  
84 of the circuit court, or the judge thereof, in vacation, as  
85 in chancery cases. In event that the mayor shall fail to



86 file his petition in the office of the clerk of the circuit  
87 court, as hereinbefore provided, within ten days after  
88 the removal of said commissioner, such commissioner  
89 shall immediately resume his position as a member of  
90 the civil service commission.

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

106 No commissioner shall hold any other office under the

107 United States the state of West Virginia, or any city,  
108 county or other political subdivision thereof; nor shall  
109 any commissioner serve on any political committee or  
110 take any active part in the management of any political  
111 campaign.

Sec. 3. *Clerk of Commission; Clerical and Stenographic*  
2 *Services.*—The city clerk or city recorder of any mu-  
3 nicipality under the terms of this article shall ex officio  
4 be clerk of the civil service commission and shall supply  
5 to the commission without extra compensation all neces-  
6 sary clerical and stenographic services for the work of  
7 the civil service commission.

Sec. 4. *Rooms, Stationery, etc., to Be Furnished by*  
2 *Municipality.*—It shall be the duty of the mayor, or prin-  
3 cipal executive officer, and heads of departments of every  
4 city to cause suitable and convenient rooms and accomo-  
5 dations to be assigned and provided, and to be furnished,  
6 heated and lighted for carrying on the work and exam-  
7 inations of the civil service commission. The civil ser-  
8 vice commission may order from the proper authorities  
9 the necessary stationery, postage stamps, official seal

10 and other articles to be supplied, and the necessary print-  
11 ing to be done for its official use. It shall be the duty of  
12 the officers of every city to aid the civil service commis-  
13 sion in all proper ways in carrying out the provisions  
14 of this article, and to allow the reasonable use of public  
15 buildings, and to heat and light the same, for holding  
16 examinations and investigations, and in all proper ways  
17 to facilitate the same.

Sec. 5. *Powers and Duties of Commission.*—The civil  
2 service commission in each city or municipality, within  
3 the terms of this article, shall:

4 First: Prescribe, amend and enforce rules and regu-  
5 lations for carrying into effect the provisions of this article.  
6 All rules so prepared may, from time to time, be added to,  
7 amended or rescinded: *Provided*, That all rules shall be  
8 approved by the mayor or principal executive officer and  
9 the council and if no council, the principal governing body,  
10 before they go into effect, but when so approved shall not  
11 be annulled or changed except by the commission with  
12 the approval of the mayor or principal executive officer  
13 and the council, or principal governing body: *Providing*

14 *further, however,* That if said executive officer and said  
 15 governing body takes no action on a rule or amendment  
 16 submitted to them within a period of twenty days from  
 17 the date of its submission, then the rule or amendment  
 18 shall become effective as though approved by the princi-  
 19 pal executive officer and principal governing body;

20 Second: Keep minutes of its own proceedings, and  
 21 records of its examinations and other official actions. All  
 22 recommendations of applicants for office, received by the  
 23 said commission or by any officer having authority to  
 24 make appointments to office, shall be kept and preserved  
 25 for a period of ten years, and all such records, recommen-  
 26 dations of former employees excepted, and all written  
 27 causes of removal, filed with it, shall, subject to reason-  
 28 able regulation, be open to public inspection;

29 Third: Make investigations, either sitting as a body or  
 30 through a single commissioner, concerning all matters  
 31 touching the enforcement and effect of the provisions of  
 32 this article, and the rules and regulations prescribed  
 33 thereunder, concerning the action of any examiner or  
 34 subordinate of the commission, or any person in the pub-

35 lic service in respect to the execution of this article; and,  
36 in the course of such investigations, each commissioner  
37 shall have the power to administer oaths and affirmations,  
38 and to take testimony;

39 Fourth: Have power to subpoena and require the at-  
40 tendance of witnesses, and the production thereby of  
41 books and papers pertinent to the investigations and in-  
42 quiries hereby authorized, and to examine them and such  
43 public records as it shall require, in relation to any mat-  
44 ter which it has the authority to investigate. The fees of  
45 such witnesses for attendance and travel shall be the  
46 same as for witnesses before the circuit courts, and shall  
47 be paid from the appropriation for the incidental ex-  
48 penses of the commission. All officers in the public ser-  
49 vice, and their deputies, clerks, subordinates and employ-  
50 ees shall attend and testify when required to do so by  
51 said commission. Any disobedience to, or neglect of any  
52 subpoena issued by the said commissioners, or any one  
53 of them, to any person, shall be held a contempt of court,  
54 and shall be punished by any circuit court, within the  
55 county in which is the city from the civil service com-

56 mission of which the said subpoena had issued, as if such  
57 subpoena had been issued therefrom. Any judge of any  
58 of said courts shall, upon the application of any one  
59 of said commissioners, in such cases, cause the process  
60 of said court to issue to compel such person or persons,  
61 disobeying or neglecting any such subpoena, to appear  
62 and to give testimony before the said commissioners,  
63 or any one of them, and shall have power to punish any  
64 such contempt;

65 Fifth: Make an annual report to the mayor or prin-  
66 cipal executive officer, showing its own action, and rules  
67 and regulations, and all the exceptions thereto in force,  
68 and the practical effects thereof, and any suggestions  
69 it may approve for the more effectual accomplishment  
70 of the purposes of this article. Such report shall be avail-  
71 able for public inspection five days after the same shall  
72 have been delivered to the mayor or principal executive  
73 officer of any city or municipality.

Sec. 6. *Rules and Regulations for Examinations; Pro-*  
2 *bationary Appointments.*—The civil service commission,  
3 in each city, shall make rules and regulations providing

4 for examinations for positions in the paid fire depart-  
5 ment in each municipality under this article, and for  
6 appointments to and promotions therein, and for such  
7 other matters as are necessary to carry out the purposes  
8 of this article. Due notice of the contents of such rules  
9 and regulations and of any modifications thereof shall  
10 be given, by mail, in due season, to appointing officers  
11 affected thereby; and said rules and regulations and  
12 modifications thereof shall also be printed for public dis-  
13 tribution. All original appointments to any positions in  
14 fire departments within the terms of this article shall be  
15 for a probationary period of six months: *Provided, how-*  
16 *ever,* That at any time during the probationary period  
17 the appointee may be dismissed for just cause, in the  
18 manner provided in section thirteen. If, at the close  
19 of this probationary term, the conduct or capacity of  
20 the probationer has not been satisfactory to the appoint-  
21 ing officer, the probationer shall be notified, in writing,  
22 that he will not receive absolute appointment, where-  
23 upon his employment shall cease; otherwise, his reten-

24 tion in the service shall be equivalent to his final  
25 appointment.

Sec. 7. *Character and Notice of Examinations; Qualifi-*  
2 *cations of Applicants; Press Representatives; Posting*  
3 *Eligible Lists.*—All examinations for positions or promo-  
4 tions shall be practical in their character, and shall relate  
5 to such matters, and include such inquiries, as will fairly  
6 and fully test the comparative merit and fitness of the  
7 persons examined to discharge the duties of the employ-  
8 ment sought by them. All examinations shall be open to  
9 all applicants who have fulfilled the preliminary require-  
10 ments, stated in other sections of this article. All appli-  
11 cants for any position in the fire department shall, as  
12 hereinafter stated, subject to regulations adopted by the  
13 civil service commission, be required to submit to a  
14 physical examination before being admitted to the regu-  
15 lar examinations held by the commission. Said applicant  
16 shall have been a resident for three years next preceding  
17 date of his application, of the city or municipality in which  
18 he seeks to obtain employment on the fire department:  
19 *Provided*, That if the commission deems it necessary it



20 may consider applicants who are not residents of the city  
21 or municipality but who have been residents of the county  
22 in which the city or municipality is situated for a period  
23 of at least three years and who shall agree, if accepted  
24 for employment, to reside within the corporate limits of  
25 the municipality where employed: *Provided, further,* That  
26 employees who shall have been employed by the fire de-  
27 partment for a period exceeding twenty years shall have  
28 the right to reside outside the city limits in the county  
29 of said corporate limits. Adequate public notice of the  
30 time and place of every examination held under the pro-  
31 visions of this article together with information as to the  
32 kind of position or place to be filled, shall be given at least  
33 one week prior to such examinations. The said commis-  
34 sion shall adopt reasonable regulations for permitting the  
35 presence of representatives of the press at the examina-  
36 tions. The commission shall post, in a public place at its  
37 office, the eligible list, containing the names and grades  
38 of those who have passed examinations for positions in  
39 fire departments, under this article, and shall indicate  
40 thereon such appointments as may be made from said lists.

Sec. 8. *Form of Application for Examination; Refusal*

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

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

10 Second: His citizenship, age, and the place and date of  
11 his birth;

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

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

16 Fifth: Such other information as may reasonably be  
17 required, touching the applicant's qualifications and fit-  
18 ness for the public service.

19 Blank forms for such applications shall be furnished by  
20 the said commission, without charge, to all persons re-  
21 questing the same: The said commission may require, in

22 connection with such application, such certificate of citi-  
23 zens, physician or others, having knowledge of the ap-  
24 plicant, as the good of the service may require. The said  
25 commission may refuse to examine an applicant; or, after  
26 examination, to certify as eligible, one who is found to  
27 lack any of the established preliminary requirements for  
28 the examination or position or employment for which he  
29 applies; or who is physically so disabled as to be rendered  
30 unfit for the performance of the duties of the position  
31 to which he seeks appointment; or who is addicted to the  
32 habitual use of intoxicating liquors or drugs; or who has  
33 been guilty of any crime, or of infamous or notoriously  
34 disgraceful conduct; or who has been dismissed from the  
35 public service for delinquency or misconduct; or who has  
36 made a false statement of any material fact, or practiced  
37 or attempted to practice any deception or fraud in his  
38 application, in his examination, or in securing his eligi-  
39 bility; or who refuse to comply with the rules and regu-  
40 lations of the commission.

41 If any applicant feels himself aggrieved by the action  
42 of the commission in refusing to examine him, or after

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

Sec. 9. *Appointments from List of Eligibles; Appointing*  
2 *Officer; Special Examinations for Electricians or Mechan-*  
3 *ics.*—Every position or employment, unless filled by pro-  
4 motion, reinstatement, or reduction, shall be filled only  
5 in the following manner: The appointing officer shall  
6 notify the civil service commission of any vacancy in the  
7 service which he desires to fill, and shall request the cer-  
8 tification of eligibles. The commission shall forthwith  
9 certify, from the eligible list, the names of the three per-  
10 sons thereon who received the highest averages at pre-

11 ceding examinations held under the provisions of this  
12 article within a period of three years next preceding the  
13 date of such appointment. The appointing officer shall,  
14 thereupon, with sole reference to the relative merit and  
15 fitness of the candidates, make an appointment from the  
16 three names so certified: *Provided, however,* That should  
17 he make objection, to the commission, to one or more of  
18 these persons for any of the reasons stated in section  
19 eight, and should such objections be sustained by the  
20 commission, as provided in section eight, the commission  
21 shall thereupon strike the name of such person from the  
22 eligible list, and certify the next highest name for each  
23 person so stricken off. As each subsequent vacancy occurs,  
24 in the same or another position, precisely the same pro-  
25 cedure shall be followed: *Provided, however,* That after  
26 any name has been three times rejected, for the same or  
27 another position, in favor of a name or names below it  
28 on the same list, the said name shall be stricken from the  
29 list. When there are a number of positions of the same  
30 kind to be filled at the same time, each appointment shall,  
31 nevertheless, be made separately and in accordance with

32 the foregoing provisions. When an appointment is made  
33 under the provisions of this section it shall be, in the first  
34 instance, for the probationary period of six months, as  
35 provided in section six: *Provided, however,* That in event  
36 any position as an electrician or mechanic is to be filled  
37 upon any paid fire department, then the examinations to  
38 be given to applicants for either the positions of elec-  
39 trician or mechanic shall be so drawn as to test only the  
40 qualifications of such applicants in regard to their ability  
41 as electricians or mechanics, such examinations to be spe-  
42 cial examinations.

43 The term "appointing officer" as used in this article shall  
44 be construed to mean the municipal officer in whom the  
45 power of appointment of members to a paid fire depart-  
46 ment is vested by the charter of a city or municipality in  
47 which an appointment shall be made.

Sec. 10. *Noncompetitive Examination for Filling Va-*  
2 *cancy and Provisional Appointment.*—Whenever there are  
3 urgent reasons for filling a vacancy in any position in the  
4 fire department and there is no list of persons eligible  
5 for appointment after a competitive examination, the ap-

6 pointing officer may nominate a person to the civil service  
7 commission for noncompetitive examination; and if such  
8 nominee shall be certified by the said commission as  
9 qualified, after such noncompetitive examination, he may  
10 be appointed provisionally, to fill such vacancy until a  
11 selection and appointment can be made after competitive  
12 examination, in the manner prescribed in section nine; but  
13 such provisional appointment shall not continue for a  
14 longer period than three months, nor shall successive pro-  
15 visional appointments be made to the same position, under  
16 this provision.

Sec. 11. *Vacancies Filled, as Far as Practicable, by Pro-*  
2 *motions; Eligibility for Promotion.*—Vacancies in posi-  
3 tions in the fire department shall be filled, so far as prac-  
4 ticable, by promotions from among persons holding posi-  
5 tions in the next lower grade in the department. Promo-  
6 tions shall be based upon merit to be ascertained by tests  
7 to be provided by the civil service commission and upon  
8 the superior qualifications of the persons promoted, as  
9 shown by his previous service and experience: *Provided,*  
10 *however,* That no person shall be eligible for promotion

11 from the lower grade to the next higher grade until such  
12 person shall have completed at least two years' service  
13 in the next lower grade in the department. The com-  
14 mission shall have the power to determine in each in-  
15 stance whether an increase in salary constitutes a pro-  
16 motion: *Provided, however,* That in all cities in which  
17 the office of chief was not covered by the provisions of  
18 this article on the first day of January, one thousand nine  
19 hundred forty-nine, such office in such city shall be ex-  
20 cepted from the provisions of this article until such time  
21 as the governing body in said city shall, by appropriate  
22 resolution or ordinance adopted by a majority of its mem-  
23 bers, elect to place the office of chief under the provisions  
24 of this article: *And provided further,* That those chiefs  
25 now in office, or hereinafter appointed to such office, shall  
26 in all cases of removal, except for removals for malfeas-  
27 ance or misfeasance of office, revert to that status they  
28 held at the time of their appointment to the office of chief.

*Sec. 12. Physical Examination and Age of Applicant;*

2 *Exceptions.*—All applicants for any position in the fire  
3 department shall undergo a physical examination which



4 shall be conducted under the supervision of a commission  
5 composed of two doctors of medicine appointed for that  
6 mission by the mayor or principal executive officer of the  
7 city or municipality. Said commission shall certify that  
8 an applicant is free from any bodily or mental defects,  
9 deformity or diseases that might incapacitate him from  
10 the performance of the duties of the position desired be-  
11 fore said applicant shall be permitted to take further ex-  
12 aminations. No application will be received if the person  
13 applying is less than twenty-one years of age or more  
14 than thirty-five years of age at the date of his applica-  
15 tion: *Provided, however,* That in event any applicant has  
16 formerly served upon the fire department of the city to  
17 which he makes application, for a period of more than six  
18 months, and has resigned from the department at a time  
19 when there were no charges of misconduct or other mis-  
20 feasance pending against such applicant, within a period  
21 of two years next preceding the date of his application,  
22 and is a resident of the city or municipality, and is still  
23 a resident of the city or municipality of the fire depart-  
24 ment on which he seeks reinstatement, then such person

25 shall be eligible for reinstatement in the discretion of the  
26 civil service commission, even though such applicant shall  
27 be over the age of thirty-five years. Such applicant, pro-  
28 viding the former term of service so justifies, may be  
29 reappointed to the fire department without examination  
30 other than a physical examination; if such person shall  
31 be so reinstated to the fire department he shall be the  
32 lowest in rank in the department next above the proba-  
33 tioners of the department.

Sec. 13. *Removal, Discharge or Reduction in Rank or*  
2 *Pay.*—No member of any fire department within the terms  
3 of this article shall be removed, discharged or reduced  
4 in rank or pay except for just cause, which shall not be  
5 religious or political; further, no such employee shall be  
6 removed, discharged or reduced except as provided in  
7 this article, and in no event until he shall have been fur-  
8 nished with a written statement of the reasons for such  
9 action. In every case of such removal or reduction, a  
10 copy of the statement of reasons therefor and of the  
11 written answer thereto, if the person sought to be re-  
12 moved desires to file such written answer, shall be fur-

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

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

45 The removing officer and the person sought to be re-  
46 moved shall at all times, both before the civil service  
47 commission and upon appeal, be given the right to em-  
48 ploy counsel to represent either of them before said civil  
49 service commission and upon appeal; should the person  
50 removed elect to appeal to the circuit court as herein-  
51 before provided: *Provided, however,* That if for reasons  
52 of economy or other reasons it shall be deemed necessary  
53 by any city or municipality to reduce the number of  
54 paid members of any fire department then said munici-

55 pality shall follow the following procedure:

56 First: If there be any paid firemen eligible for retire-  
57 ment under the terms of a pension fund act, if such fund  
58 exists in said city or municipality, then such reduction  
59 in numbers shall be made by retirement on pension of  
60 all such eligible paid members of the fire department;

61 Second: If the number of paid firemen eligible for re-  
62 tirement under the pension fund of said city or munici-  
63 pality, if such pension fund exists, is insufficient to effect  
64 the reduction in numbers of said paid fire department  
65 desired by said city or municipality, or if there is no eli-  
66 gible person for retirement under the pension fund of said  
67 city or municipality, or if no pension fund exists in said  
68 city or municipality, then reduction in members of the  
69 paid fire department of said city or municipality shall  
70 be effected by suspending the last man or men, includ-  
71 ing probationers, that have been appointed to said fire  
72 department. Such removal shall be accomplished by  
73 suspending in numerical order commencing with the last  
74 man appointed to the fire department, all recent ap-  
75 pointees to said fire department until such reduction shall

76 have been accomplished: *Provided, further,* That in event  
77 the said fire department shall again be increased in num-  
78 bers to the strength existing prior to such reduction of  
79 members the said firemen suspended under the terms of  
80 this article shall be reinstated before any new appoint-  
81 ments to said fire department shall be made.

Sec. 14. *Political or Religious Opinions or Affiliations*  
2 *or Applicants.*—No question in any form of application  
3 or in any examination shall be so framed as to elicit  
4 information concerning the political or religious opinions  
5 or affiliations of any applicant; nor shall inquiry be made  
6 concerning such opinions or affiliations; and all disclo-  
7 sures thereof shall be discountenanced. No discrimina-  
8 tion shall be exercised, threatened, or promised by any  
9 person in the fire department against, or in favor of, an  
10 applicant, eligible, or employee in fire departments un-  
11 der this article because of his political or religious opin-  
12 ions or affiliations.

Sec. 15. *Misdemeanors.*—Whoever makes an appoint-  
2 ment to office, or selects a person for employment, con-  
3 trary to the provisions of this article, or wilfully refuses

4 or neglects otherwise to comply with, or to conform to,  
5 any of the provisions of this article, or violates any of  
6 such provisions, shall be deemed guilty of a misdemeanor.

7 Any commissioner or examiner, or any other person,  
8 who shall wilfully, by himself or in cooperation with  
9 one or more persons, defeat, deceive or obstruct any per-  
10 son in respect to his right of examination or registration  
11 according to this article, or to any rules or regulations  
12 prescribed pursuant thereto, or who shall wilfully or cor-  
13 ruptly, falsely mark, grade, estimate, or report upon the  
14 examination or proper standing of any person examined,  
15 registered, or certified, pursuant to the provisions of this  
16 article, or aid in so doing, or who shall wilfully or cor-  
17 ruptly furnish to any person any special or secret  
18 information, for the purpose of either improving or in-  
19 juring the prospects or chances of appointment of any  
20 person so examined, registered, or certified, or to be  
21 examined, registered, or certified; or who shall personate  
22 any other person, or permit or aid in any manner any  
23 other person to impersonate him in connection with any  
24 examination or registration, or application, or request

25 to be examined or registered, shall, for each offense, be  
26 deemed guilty of a misdemeanor.

Sec. 16. *Penalties.*—Misdemeanors under the provisions  
2 of this article shall be punishable by a fine of not less  
3 than fifty dollars, nor more than one thousand dollars,  
4 or by imprisonment for a term not exceeding one year,  
5 or by both fine and imprisonment, in the discretion of  
6 the court.

Sec. 17. *Political Activity of Members of Fire Depart-*  
2 *ments under Civil Service.*—No member of any fire de-  
3 partment within the terms of this article shall engage in  
4 any political activity of any kind, character or nature  
5 whatsoever, except to cast his vote at any election, and  
6 shall not act as an officer of election in any election, mu-  
7 nicipal or general. Any member of any fire department  
8 engaging in any political activity herein prohibited shall  
9 be subject to dismissal, as provided by the provisions of  
10 this article.

Sec. 18. *Repeal of Conflicting Laws; Intent of Article.*—  
2 All acts and parts of acts of the Legislature of the state  
3 of West Virginia, general, special, local or municipal



4 charters, or parts thereof, in relation to any civil service  
5 measure affecting the paid fire departments of any city  
6 or municipality inconsistent with this article shall be,  
7 and the same are hereby repealed insofar as such incon-  
8 sistencies shall exist. It is understood and intended by  
9 this article to furnish a complete and exclusive system  
10 for the appointment, promotion, reduction, removal and  
11 reinstatement of all officers, firemen or other employees  
12 of said fire departments in all cities and municipalities  
13 wherein the members of the fire department are paid.  
14 And it is further intended that this act shall not in any  
15 way affect the status or tenure in office of those employees  
16 and personnel now employed by the paid fire departments  
17 or the present commissioners.

18 Chapter sixty, acts of the Legislature, regular session,  
19 one thousand nine hundred thirty-three; chapter seventy-  
20 nine, acts of the Legislature, second extraordinary session,  
21 one thousand nine hundred thirty-three; chapter sixty-  
22 seven, acts of the Legislature, one thousand nine hundred  
23 thirty-five; chapter one hundred seventy-three, acts of  
24 the Legislature, one thousand nine hundred thirty-nine;


25 and chapter one hundred nineteen, acts of the Legislature,  
 26 one thousand nine hundred forty-seven, are all hereby  
 27 repealed.

Sec. 19. *Severability*.—If any provision of this act or  
 2 the application thereof to any person, city, office, or cir-  
 3 cumstances, shall be held invalid, such invalidity shall not  
 4 affect the provisions or applications of this act which can  
 5 be given effect without the invalid provision or applica-  
 6 tion and to this end the provisions of this act are declared  
 7 to be severable.

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



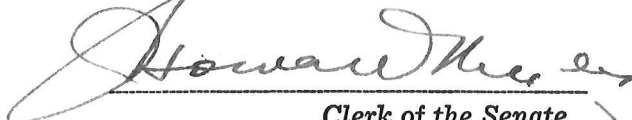
Chairman Senate Committee



Chairman House Committee

Originated in the House of Delegates

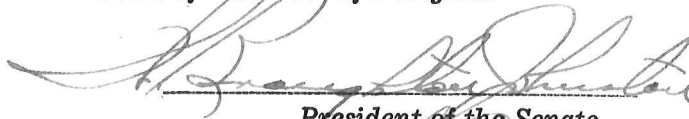
Takes effect from passage.



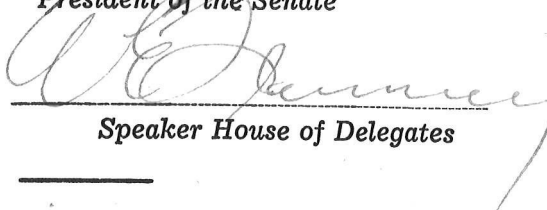
Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker House of Delegates

The within APPROVED this the 18th

day of MARCH, 1949.



Governor.



Filed in the Office of the Secretary of State  
of West Virginia MAR 18 1949

D. PITT O'BRIEN,  
SECRETARY OF STATE