

FIREMEN AND POLICEMEN CIVIL SERVICE SYSTEM
Act 78 of 1935

AN ACT to establish and provide a board of civil service commissioners in cities, villages, and municipalities having full-time paid members in the fire or police departments, or both; to provide a civil service system based upon examination and investigation as to merit, efficiency, and fitness for appointment, employment, and promotion of all full-time paid members appointed in the fire and police departments and respective cities, villages, and municipalities; to regulate the transfer, reinstatement, suspension, and discharge of officers, fire fighters, and police officers; to prescribe penalties and provide remedies; and to repeal acts and parts of acts.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—Am. 1951, Act 15, Eff. Sept. 28, 1951;—Am. 1986, Act 155, Imd. Eff. July 3, 1986;—Am. 1998, Act 199, Eff. Mar. 23, 1999.

Popular name: Police and Fire Civil Service Act

The People of the State of Michigan enact:

38.501 Fire and police department civil service commissions; creation.

Sec. 1. Within 30 days after this act shall take effect there may be created a civil service commission in each city, village or municipality of any population whatsoever having a fire and/or police department, any of the members of which are full paid by said city, village or municipality.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.501.

Popular name: Police and Fire Civil Service Act

38.502 Civil service commission; membership, appointment, terms; election of president.

Sec. 2. The civil service commission shall consist of 3 members, 1 of whom shall be appointed by the principal elected officer of the city, village or municipality with the approval of the legislative body; and he shall serve for a period of 6 years from the date of his appointment. The second member of the commission shall be selected by the paid members of the fire and/or police department and he shall serve for a period of 4 years from the date of his appointment; a majority vote of the members of the fire and/or police department shall be necessary to select such member. The third member of the commission shall be selected by the aforesaid members of the commission and he shall serve for a period of 2 years from the date of his appointment. Thereafter all appointments shall be made for a period of 6 years each; each commissioner to serve until his successor is appointed and qualified by the appointing power hereinbefore designated.

The 3 members of the commission shall together elect 1 of their number to act as president of the commission, who shall serve for 1 year. Each year thereafter the commissioners shall elect 1 of their number, president, the member so elected to serve 1 year.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.502;—Am. 1951, Act 15, Eff. Sept. 28, 1951;—Am. 1957, Act 43, Eff. Sept. 27, 1957.

Popular name: Police and Fire Civil Service Act

38.503 Civil service commission; members, qualifications.

Sec. 3. No person shall be appointed a member of said commission who is not a citizen of the United States and who has not been a resident of said city, village or municipality for a period of 1 year and an elector of said county for a period of at least 3 years immediately preceding such appointment. No commissioner shall hold any other elective office, place or position under the United States, state of Michigan, or any city, county or other political subdivision thereof; nor shall any commissioner serve on any political committee or take any active part in the management of any political campaign. Not more than 2 of the said commissioners, at any 1 time, shall be adherents of the same political party.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—CL 1948, 38.503;—Am. 1949, Act 271, Eff. Sept. 23, 1949.

Popular name: Police and Fire Civil Service Act

38.504 Civil service commission; vacancies, removal, petition, hearing.

Sec. 4. In event that any commissioner of said civil service commission shall cease to be a member thereof by virtue of death, removal or other cause, a new commissioner shall be appointed to fill out the unexpired term of said commissioner within 10 days after said commissioner shall have ceased to be a member of said commission. Such appointment shall be made by the officer or body who in the first instance appointed the commissioner who is no longer a member of the commission. The mayor or principal executive officer shall at any time remove any commissioner for incompetency, dereliction of duty, malfeasance in office or any

other good cause, which shall be stated in writing and made a part of the records of the commission, and a copy of the removal shall be served on said commissioner forthwith: Provided, however, That once the mayor or principal executive officer has to remove any commissioner, such removal shall be temporary only and shall be in effect for a period of 10 days. If at the end of said period of 10 days the said commissioner shall fail to make answer thereto, he shall be deemed removed, otherwise the mayor shall file in the office of the clerk of the circuit court of said county a petition setting forth in full the reason for said removal and praying for the confirmation by said circuit court of the action of the mayor in so removing the said commissioner. A copy of said petition, in writing, shall be served upon the commissioner so removed simultaneously with its filing in the office of the clerk of the circuit court and shall have precedence on the docket of the said court and shall be heard by said court as soon as the removed commissioner shall demand. All rights hereby vested in said circuit court may be exercised by the judge thereof during a vacation. In event that no term of court is being held at the time of filing of said petition, and the judge thereof cannot be reached in the county wherein the petition was filed, said petition shall be heard at the next succeeding term of said circuit court, whether regular or special, and the commissioner so suspended shall remain suspended until a hearing is had upon the petition of the mayor. The court, or the judge thereof, in vacation, shall hear and decide upon said petition. The contestant, against whom the decision of the court or judge thereof, in vacation, shall be rendered, shall have the right of appearing in person and by counsel and presenting his defense and to petition the supreme court for a review of the decision of the circuit court, or the judge thereof in vacation, as in chancery cases. In event that the mayor shall fail to file this petition in the office of the clerk of the circuit court, as hereinbefore provided, within 10 days after the removal of said commissioner, such commissioner shall immediately resume his position as a member of the civil service commission.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—CL 1948, 38.504;—Am. 1949, Act 271, Eff. Sept. 23, 1949.

Popular name: Police and Fire Civil Service Act

38.505 Civil service commission; clerk.

Sec. 5. The city clerk or city recorder of any city, village or municipality under the terms of this act shall “ex officio” be clerk of the civil service commission and shall supply to the commission without extra compensation all necessary clerical and stenographic services for the work of the civil service commission.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—CL 1948, 38.505.

Popular name: Police and Fire Civil Service Act

38.506 Fire and police civil service; eligibility for permanent appointment.

Sec. 6. For the benefit of the public service and to prevent delay, injury, or interruption therein by reason of the enactment of this act, all persons holding a position in the fire and/or police department, including the chief thereof, when this act takes effect, who shall have served in such position for a period of at least 6 months last past continuously, are hereby declared eligible for permanent appointment under civil service to the offices, places, positions or employments which they shall then hold, respectively, without examination or other act on their part, and not on probation; and every such person is hereby automatically adopted and inducted permanently into civil service, into such office, place, position or employment which such person then holds as completely and effectually to all intents and purposes as if such person had been permanently appointed thereto under civil service after examination and investigation: Provided, however, That any employee with less than 6 months' service shall be classed as probationer under this act.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1943, Act 173, Eff. July 30, 1943;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.506;—Am. 1951, Act 15, Eff. Sept. 28, 1951.

Popular name: Police and Fire Civil Service Act

38.507 Appointments and promotions; competitive examinations; provisions applicable to appointment, reinstatement, promotion, or discharge; applicability of section.

Sec. 7. Appointments to and promotions in all paid fire or police departments, or both of cities, villages, and municipalities shall be made only according to qualifications and fitness to be ascertained by competitive examinations, and no person shall be appointed, reinstated, promoted, or discharged as a full-time paid member of a department, regardless of rank or position, in any fire or police department of any city, village, or municipality in this state except as provided in this act. This section applies only to full-time paid members as defined in section 17.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.507;—Am. 1951, Act 15, Eff. Sept. 28, 1951;—Am. 1986, Act 155, Imd. Eff. July 3, 1986.

Popular name: Police and Fire Civil Service Act

38.508 Civil service commission; assistance by municipal executive officers; printing, supplies.

Sec. 8. It shall be the duty of the mayor, or principal executive officer, and heads of departments of every city, village or municipality to aid the civil service commission in all proper ways in carrying out the provisions of this act, and to allow the reasonable use of public buildings and to cause suitable and convenient rooms and accommodations to be assigned and provided, and to be furnished, heated and lighted for carrying on the work and examinations of the civil service commission and in all proper ways to facilitate the same. The civil service commission may order from the proper authorities the necessary stationery, postage stamps, official seal and other articles to be supplied, and the necessary printing to be done, for its official use.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—CL 1948, 38.508.

Popular name: Police and Fire Civil Service Act

38.509 Civil service commission; powers and duties.

Sec. 9. The civil service commission in each city, village or municipality, within the terms of this act, shall First, Prescribe, amend and enforce rules and regulations for carrying into effect the provisions of this act. All rules so prepared may, from time to time, be added to, amended or rescinded.

Second, Keep minutes of its own proceedings and records of its examinations and other official actions. All recommendations of applicants for office, received by the said commission or by any officer having authority to make appointments to office, shall be kept and preserved for a period of 10 years, and all such records, recommendations of former employers accepted, and all written causes of removal, filed with it, shall, subject to reasonable regulation, be open to public inspection. It shall keep a roster of the members of the fire and police department, together with a record of service, military or naval experience, file statements on all matters relating to the character and quality of the work done and the attitude of the individual to his work and such other matters as may have a bearing on promotion, transfer or discharge.

Third, Make investigations, either sitting in a body or through a single commissioner, concerning all matters touching the enforcement and effect of the provisions of this act, and the rules and regulations prescribed thereunder, concerning the action of any examiner or subordinate of the commission, or any person in the public service in respect to the execution of this act; and, in the course of such investigations, each commissioner shall have the power to administer oaths and affirmations, and to take testimony.

Fourth, Have power to subpoena and require the attendance of witnesses, and the production thereby of books and papers pertinent to the investigations and inquiries hereby authorized, and to examine them and such public records as it shall require, in relation to any matter which it has the authority to investigate. The fees of such witnesses for attendance and travel shall be the same as for witnesses before the circuit courts, and shall be paid from the appropriations for the incidental expenses of the commission. All officers in the public service, and their deputies, clerks, subordinates and employees shall attend and testify when required to do so by said commission. Any disobedience to, or neglect of, any subpoena issued by the said commissioners, or any 1 of them, to any person, shall be held a contempt of court, and shall be punished by the circuit court, within the county in which the said subpoena has been issued. Any judge of any of said courts shall, upon the application of any 1 of said commissioners, in such cases cause the process of said court to issue to compel such person or persons, disobeying or neglecting any such subpoena, to appear and to give testimony before the said commissioners; any 1 of them shall have power to punish any such contempt.

Fifth, Make an annual report to the mayor or principal executive officer showing its own action, and rules and regulations, and all exceptions thereto in force, and the practical effects thereof, and any suggestions it may approve for the more effectual accomplishments of the purpose of this act. Such reports shall be available for public inspection 5 days after the same shall have been delivered to the mayor or principal executive officer of any city, village or municipality.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1941, Act 151, Eff. Jan. 10, 1942;—Am. 1943, Act 173, Eff. July 30, 1943;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.509.

Popular name: Police and Fire Civil Service Act

38.510 Application for examination; filing; contents; forms; refusal to examine or certify applicant; public hearing for aggrieved applicant; review; testimony; decision; physical examination; certification; age requirement; reinstatement or reappointment; rank.

Sec. 10. (1) The civil service commission in each city, village, or municipality shall require an individual applying for admission to an examination provided for under this act or under the rules and regulations of the commission to file in its office, within a reasonable time before the proposed examination, a formal application in which the applicant shall state under oath or affirmation all of the following:

(a) Full name, residence, and post-office address.
(b) United States citizenship.
(c) Attainment of the age of majority.
(d) Health and physical capacity for the position for which the applicant is applying.
(e) Each residence and business or place of employment for not less than the 3 previous years. The commission shall establish educational requirements, but the requirements shall not call for less than an eighth grade education. After acceptance by the civil service commission, the applicant shall be governed as to residence by the city or village charter.

(f) Other information as may reasonably and legally be requested regarding the applicant's qualifications and fitness for the position for which the applicant is applying.

(2) Blank forms for applications shall be furnished by the commission, without charge, to all individuals requesting applications. The commission may require, in connection with an application, certificates of citizens, physicians, or others having knowledge of the applicant as the good of the service requires. The commission may refuse to examine an applicant or, after examination, to certify as eligible, an applicant who falls under any of the following disqualifications:

(a) Lacks any of the established preliminary requirements for the examination or position of employment for which the applicant applied.

(b) Is so disabled as to be rendered unfit for the performance of the duties of the position to which the applicant seeks appointment.

(c) Is a habitual user of intoxicating liquors or an illegal user of 1 or more controlled substances.

(d) Has been found guilty of any felony.

(e) Has been dismissed from the public service for delinquency or misconduct.

(f) Has made a false statement of a material fact or practiced or attempted to practice a deception or fraud in the application, in the examination, or in securing eligibility.

(g) Refuses to comply with the rules and regulations of the commission.

(3) If an applicant feels aggrieved by the action of the commission in refusing to examine the applicant or, after an examination, to certify the applicant as eligible, the commission, at the request of the applicant, shall appoint a time and a place for a public hearing at which time the applicant may appear, personally or with counsel, and the commission shall then review its refusal of examination or certification, and testimony shall be taken. The commission shall subpoena, at the expense of the applicant, any competent witnesses requested by the applicant. After review, the commission shall file the testimony taken in its records and shall again make a decision, which decision shall be final.

(4) Before appointment, all applicants for a position in the fire or police department shall undergo a physical examination, which may be performed by a licensed physician, a licensed physician's assistant, or a certified nurse practitioner, to determine that an applicant is free from defects, deformity, or diseases that might incapacitate the applicant from the performance of the duties of the position desired. Applications will not be accepted if the person applying has not attained the age of majority under state law. If an applicant has formerly served upon the fire or police department of the city, village, or municipality to which application is made and has resigned from the department at a time when there were no charges of misconduct or other misfeasance pending against the applicant, within a period of 2 years next preceding the date of the application, and is a resident of the city, village, or municipality or the area authorized by city charter, then the applicant shall be eligible for reinstatement at the discretion of a civil service commission. The applicant, providing the former term of service justifies, may be reappointed to the fire or police department without examination other than a physical examination. If an applicant is reinstated to the fire or police department, the applicant shall be the lowest in rank in the department next above the probationers of the department. This subsection does not require new or additional third party reimbursement or worker's compensation benefits for services rendered.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1943, Act 173, Eff. July 30, 1943;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.510;—Am. 1949, Act 271, Eff. Sept. 23, 1949;—Am. 1956, Act 162, Eff. Aug. 11, 1956;—Am. 1957, Act 94, Eff. Sept. 27, 1957;—Am. 1966, Act 96, Eff. Mar. 10, 1967;—Am. 1977, Act 12, Imd. Eff. May 11, 1977;—Am. 1982, Act 419, Imd. Eff. Dec. 28, 1982;—Am. 1985, Act 6, Imd. Eff. Mar. 27, 1985;—Am. 1986, Act 155, Imd. Eff. July 3, 1986;—Am. 2004, Act 133, Imd. Eff. June 3, 2004.

Popular name: Police and Fire Civil Service Act

38.510a Repealed. 1986, Act 155, Imd. Eff. July 3, 1986.

Compiler's note: The repealed section pertained to applications for employment in certain municipalities.

Popular name: Police and Fire Civil Service Act

38.511 Rules for examinations; minimum passing grade; notice and distribution of rules; probationary period; final appointment; hearing; procedure for filling position or vacancy; temporary appointments; special examinations; “appointing officer” defined.

Sec. 11. (1) The civil service commission in each city, village, or municipality shall make rules providing for examinations of applicants for positions in the paid fire or police departments in each city, village, or municipality under this act, for appointments, and for such other matters as are necessary to carry out the purposes of this act. The minimum passing grade for numerically scored entry level examinations shall be at least 70. Seventy shall designate the applicant's demonstration of the minimum acceptable level of performance on the individual or cumulative selection procedures, or both. After initial appointment, the minimum passing grade for any examination shall be at least 70%. Due notice of the contents of the rules and of any modifications to the rules shall be given, by mail, in due season, to appointing officers affected thereby, and the rules and rule modifications shall be printed also for public distribution. All original appointments to any positions in a fire department, within the terms of this act, shall be for a probationary period of 6 months. All original appointments to any positions in a police department, within the terms of this act, shall be for a probationary period of 1 year after the completion of legally required courses of basic training. At any time during the probationary period, an appointee may be dismissed for cause, in the manner provided in this act. If at the close of this probationary term the conduct or capacity of the probationer has not been satisfactory to the appointing officer, the probationer shall be notified within 10 days, in writing, that he or she will not receive permanent appointment, whereupon his or her employment shall cease. Otherwise, his or her retention in the service shall be equivalent to final appointment. The probationer shall be entitled to a hearing before the commission as provided in section 14.

(2) Every entry position, unless filled by reinstatement, shall be filled only in the following manner: The appointing officer shall notify the civil service commission of any vacancy in the service which he or she desires to be filled, and shall request the certification of eligibles. The commission immediately shall certify from the eligible list the names of the persons who received the highest 5 average composite scores on examinations held under the provisions of this act within a period of 2 years next preceding the date of the appointment. The appointing officer, thereupon, with sole reference to the merit and fitness of the candidates, shall make the appointment from the names certified. As each subsequent vacancy occurs, precisely the same procedure shall be followed. When an appointment is made under this section, it shall be in the first instance for the probationary period, as provided in this act.

(3) All positions, other than entry, shall be filled only in the following manner: The appointing officer shall notify the civil service commission of any vacancy in the service which he or she desires to be filled and shall request the certification of eligibles. The commission immediately shall certify from the eligible list the name of the person who received the highest average at preceding examinations held under the provisions of this act within a period of 2 years next preceding the date of the appointment. The appointing officer, thereupon, with sole reference to the merit and fitness of the candidates, shall make the appointment certified. As each subsequent vacancy occurs, precisely the same procedure shall be followed. When an appointment is made under this section, it shall be in the first instance for the probationary period, as provided in this act.

(4) Whenever there are urgent reasons for filling a vacancy in any position in the fire or police department and there is no list of persons eligible for appointment, the appointing officer may nominate a person to the civil service commission for a noncompetitive examination. If the nominee is certified by the commission as qualified, after a noncompetitive examination, he or she may be appointed temporarily to fill the vacancy until a selection and appointment can be made after a competitive examination, and in the manner prescribed in this act. However, the temporary appointment shall not continue for more than 3 months, nor shall successive temporary appointments be made to the same position. In the event of an emergency due to a war in which this country is involved, the civil service commission may make temporary appointments to fill vacancies when appointments cannot be made under the provisions of this act. These appointments shall be temporary, and only during hostilities, and for 6 months thereafter.

(5) In event any position as an electrician, mechanic, radio engineer, fire inspector, or fire alarm operator is to be filled in a paid fire or police department, then the examination to be given to applicants shall be so drawn as to test only the qualifications of the applicants in regard to their ability as an electrician, mechanic, radio engineer, fire inspector, or fire alarm operator. The examinations shall be special examinations.

(6) As used in this section, “appointing officer” means the mayor or principal administrative or executive officer in any city, village, or municipality.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1941, Act 151, Eff. Jan. 10, 1942;—Am. 1943, Act 173, Eff. July 30, 1943;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.511;—Am. 1949, Act 271, Eff. Sept. 23, 1949;—Am. 1956, Act 162, Eff. Aug. 11, 1956;—Am. 1971, Act 47, Imd. Eff. June 28, 1971;—Am. 1986, Act 155, Imd. Eff. July 3, 1986.

38.512 Examinations; nature; contents; notice; commencement of examination for promotion; eligible list; discrimination prohibited; competitive vacancies filled by promotions; probationary period; hearing.

Sec. 12. (1) All examinations for positions shall be practical in their character and shall relate to those matters and shall include those inquiries as will fairly and fully test the comparative merit and fitness of the persons examined to discharge the duties of the employment sought by them. All examinations shall be open to all applicants who have fulfilled the preliminary requirements prescribed by this act. Notice of the time and place for accepting applications shall be given by the commission by publication for 2 weeks in the official paper of the city, village, or municipality, and the notice shall be posted by the commission in a conspicuous place in the office and on the bulletin boards of the city, village, or municipality for 2 weeks. Further notice may be given as the commission shall prescribe. However, a newspaper advertisement shall not be required for an examination for a promotion. The examination process shall begin within 6 months after the closing date for the acceptance of applications. However, the commission may delay or cancel the examination process for good cause. The commission shall post, in a public place at its office, the eligible list containing the names and grades of those who have passed examinations for positions or promotions in fire or police departments under this act, and shall indicate any appointments that will be made from the list. No question in any form of application or in any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant; nor shall inquiries be made concerning those opinions or affiliations; and all disclosures thereof shall be discouraged. Discrimination shall not be exercised, threatened, or promised by any person in the fire or police department against or in favor of an eligible applicant or employee in fire or police departments under this act because of his or her political or religious opinions or affiliations.

(2) Vacancies in positions in the fire and police departments above the rank of fire fighter or police officer shall be competitive and shall be filled by promotions from among persons holding positions in the next lower rank in the departments who have completed 2 years in that rank and who have at least 5 years in the department. If there are more vacancies than there are persons with 5 years in the department, the commission may lower the requirements to 3 years in the department. If no person or persons have completed 2 years in the next lower rank, the commission may hold examinations among persons in such rank as to all intent and purposes as though 2 years of service had been completed by those persons. Promotions shall be based upon merit to be ascertained by tests to be provided by the civil service commission and upon the superior qualifications of the persons promoted as shown by his or her previous service and experience. In the event of only 1 person in the next lower rank, 1 or more persons in the second lower rank who have completed at least 5 years in the department may compete for the vacancy. Whenever a position becomes vacant for which examinations are held, the appointing power shall ask the commission for the name of the person eligible for appointment. The commission shall certify the name of the person highest on the eligible list at preceding examinations held under this act within a period of 2 years next preceding the date of the appointment for the class to which the vacant position has been allocated, who is willing to accept employment. If more than 1 vacancy is to be filled, an additional name shall be certified for each additional vacancy. The appointing power immediately shall appoint the person to the position. To enable the appointing power to exercise a choice in the filling of positions of promotion in the fire or police service, a promotion shall not be considered complete until after the expiration of a period of 6 months' probationary service, and if at the end of the probationary period the appointing authority finds that the conduct or capacity of the probationer has not been satisfactory, the appointing authority shall notify the probationer and the commission in writing. Otherwise, his or her retention in the higher position shall be equivalent to receiving full status and regular employment in the higher position. The probationer, upon receiving notice that his or her conduct or capacity has not been satisfactory in the higher position, may demand a written statement of particulars of reasons for that determination and may demand a hearing before the commission. The demands shall be in writing. In such a case, the probationer shall be entitled to a hearing before the commission and to a statement of particulars to be served not less than 7 days before the date of the hearing. The commission may affirm or reverse the decision of the appointing authority or may order an additional probation period not to exceed 6 months. The decision of the commission shall be final. If the probationer does not receive full status and regular employment in the higher position, he or she shall resume the duties of his or her former position, and the appointing power shall be entitled to another certification of eligibles in accordance with this act.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1941, Act 151, Eff. Jan. 10, 1942;—Am. 1943, Act 173, Eff. July 30, 1943;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.512;—Am. 1949, Act 271, Eff. Sept. 23, 1949;—Am. 1951, Act 15, Eff. Sept. 28, 1951;—Am. 1965, Act 298, Eff. Mar. 31, 1966;—Am. 1969, Act 198, Imd. Eff. Aug. 6, 1969;—Am. 1986, Act 155, Imd. Eff.

July 3, 1986.

Popular name: Police and Fire Civil Service Act

38.513 Reduction in pay, suspension or discharge; discrimination prohibited; hearing by civil service commission.

Sec. 13. No person shall be reduced in pay or position, laid off, suspended, discharged or otherwise discriminated against by any appointing officer for religious or political reasons or affiliations. In all cases of reductions, layoff, or suspension of an employee or subordinate, whether appointed for a definite term or otherwise the appointing authority shall furnish such employees or subordinate with a copy of reasons for layoff, reduction, or suspension and his reasons for the same, and give such employee or subordinate a reasonable time in which to make and file an explanation. Such order together with the explanation, if any, of the subordinate shall be filed with the commission: Provided, however, That the employee or subordinate shall be entitled to a hearing before the commission as provided in section 14. Nothing in this act contained shall limit the power of an appointing officer to suspend without pay, for purposes of discipline, an employee or subordinate for a reasonable period, not exceeding 30 days: Provided, however, That successive suspensions shall not be allowed, and after such suspension, employees shall be entitled to a hearing as provided for in this section and in section 14: And provided further, That the provisions of this act shall not apply to temporary and exceptional appointments made under the authority of this act.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—CL 1948, 38.513;—Am. 1949, Act 271, Eff. Sept. 23, 1949.

Popular name: Police and Fire Civil Service Act

38.514 Tenure; grounds for removal, discharge, suspension, or deprivation of privileges; cause; written statement of charges; answer; hearing; reinstatement; record of testimony; appeal; counsel; reduction of full-time paid members; new appointments.

Sec. 14. (1) The tenure of each person holding an office, place, position, or employment under this act shall be only during good behavior and efficient service, and any person may be removed or discharged, suspended without pay, and deprived of vacation privileges or other special privileges by the civil service commission for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment to the public, neglect of duty, a violation of this act or of the rules of the commission, or for any other failure of good behavior, or for any other acts of misfeasance, malfeasance, or nonfeasance in office. However, a member of any fire or police department encompassed by this act shall not be removed, discharged, reduced in rank or pay, suspended, or otherwise punished except for cause, and in no event until he or she has been furnished with a written statement of the charges and the reasons for the actions. In addition, all charges shall be void unless filed within 90 days after the date the violation occurred, except in the case of a probationer, whose violations may accumulate for the probationary period. In each case where charges have been made a copy of the statement of the reasons for the charges and the answers thereto, if the person sought to be removed desires to file a written answer, shall be furnished to the civil service commission and entered upon its records. The answer shall be filed by the member within 5 days after service of the charges upon him or her. If the person sought to be removed or reduced demands it, the civil service commission shall grant him or her a public hearing, which hearing shall be held within a period of 10 days after the filing of the charges in writing and a written answer thereto. Pending the period between the making of the charges as a basis for removal and the decision thereon by the commission, the member shall remain in office. At the hearing, the burden shall be upon the removing officer to justify his or her action. If the removing officer fails to make charges to the satisfaction of a member or members of a fire or police department in a city, village, or municipality, the member or members of the fire or police department may present the information to the civil service commission. If the civil service commission fails to justify the action of the removing officer, then the person sought to be removed shall be reinstated with full pay for the entire period during which time he or she may have been prevented from performing his or her usual employment, and no charges shall be officially recorded against his or her record. A written record of all testimony taken at the hearing shall be kept and preserved by the civil service commission, which record shall be sealed and not be made available for public inspection if an appeal is not taken from the action of the commission. If the civil service commission sustains the action of the removing officer, the person removed shall have an immediate right of appeal to the circuit court of the county in which the city, village, or municipality is situated. The appeal shall be taken within 90 days after the date the civil service commission enters its final order. If an appeal is made, the circuit court shall hear the appeal upon the original record, and additional proof shall not be offered into evidence. The circuit court's decision shall be final. However, the employee has the right to petition the supreme court for a review of the court's decision. The removing officer and the person sought to be removed at all times, both before the civil service commission and upon appeal,

may employ counsel to represent either of them before the civil service commission and, upon appeal, before the circuit court.

(2) If for reasons of economy it shall be deemed necessary by any city, village, or municipality to reduce the number of full-time paid members of any fire or police department, the municipality shall follow the following procedure: Removals shall be accomplished by suspending in numerical order, commencing with the last employee appointed to the fire or police department, all recent appointees to the fire or police department until the reductions are made. However, if the fire or police department increases in numbers to the strength existing before the reductions were made, the fire fighters or police officers suspended last under this act shall be reinstated before any new appointments to the fire or police department are made.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1943, Act 173, Eff. July 30, 1943;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.514;—Am. 1949, Act 271, Eff. Sept. 23, 1949;—Am. 1986, Act 155, Imd. Eff. July 3, 1986.

Popular name: Police and Fire Civil Service Act

38.515 Violation of act; misdemeanor.

Sec. 15. Any commissioner or examiner, or, any other person, who shall wilfully, by himself or in cooperation with 1 or more persons, defeat, deceive or obstruct any person in respect to his right of examination or registration according to this act, or to any rules or regulations prescribed pursuant thereto, or who shall wilfully or corruptly, falsely, mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified, pursuant to the provisions of this act, or aid in doing so, or who shall wilfully or corruptly furnish to any person any special or secret information, for the purpose of either improving or injuring the prospects or chances of appointment of any person so examined, registered, or certified, or to be examined, registered or certified; or who shall impersonate any other person, or permit or aid in any manner any other person to impersonate him in connection with any examination or registration, or application or request to be examined or registered, shall, for each offense be deemed guilty of a misdemeanor.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—CL 1948, 38.515.

Popular name: Police and Fire Civil Service Act

38.516 Violation of act; penalty.

Sec. 16. Whoever makes an appointment to office, or selects a person for employment contrary to the provisions of this act, or wilfully refuses or neglects otherwise to comply with, or conform to, any of the provisions of this act, or violates any of such provisions, shall be deemed guilty of a misdemeanor. Misdemeanors under the provisions of this act shall be punishable by a fine of not less than \$100.00, nor more than \$1,000.00 or by imprisonment in state prison for a term not exceeding 2 years, or by both fine and imprisonment, in the discretion of the court.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1943, Act 173, Eff. July 30, 1943;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.516.

Popular name: Police and Fire Civil Service Act

38.517 Definitions.

Sec. 17. As used in this act:

(a) "Appointing power" means each person or group of persons who, acting singly or in conjunction, as a mayor, city manager, council, common council, commission, or otherwise, is or are vested by law with power and authority to select, appoint, or employ any person to hold any office, place, position, or employment subject to civil service.

(b) "Appointment" means selection, promotion, appointing, or employing any person to hold any office, place, or position of employment subject to civil service.

(c) "City" means a city, village, or other municipality that has a full-time paid fire or police department, or both.

(d) "Commission" means the civil service commission created by this act.

(e) "Commissioner" means any 1 of the 3 commissioners of the commission.

(f) "Examination" means any test, process, evaluation, or any other procedure used to determine a candidate's merit, suitability, or fitness for the position for which he or she is applying.

(g) "Full-time paid member" means an officer, fire fighter, or police officer who is paid regularly by the city and devotes his or her whole time to fire fighting, law enforcement, or related activities.

(h) "Municipality" means a township, charter township, city, or incorporated village.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—Am. 1945, Act 287, Imd. Eff. May 25, 1945;—CL 1948, 38.517;—Am. 1951, Act 15, Eff. Sept. 28, 1951;—Am. 1986, Act 155, Imd. Eff. July 3, 1986.

Popular name: Police and Fire Civil Service Act

38.517a Approval of act by majority of electors; submission of question by resolution; petition; form of ballot; canvass; certification of results; effect of adoption.

Sec. 17a. (1) This act does not affect any city, village, or municipality until approved by a majority of the electors voting thereon at an election at which the question of adoption of this act for that city, village, or municipality is properly submitted.

(2) The governing body of any city, village, or municipality, by resolution, may submit the question described in subsection (1) to the electors of the city, village, or municipality at any regular or special election. In addition, the governing body of any city, village, or municipality, by resolution, shall submit the question described in subsection (1) to the electors of the city, village, or municipality at any regular or special election on the filing of a petition requesting a submission with the governing body, which petition is signed in accordance with the provisions of the city, village, or municipal charter for referendums on ordinances. If there are no provisions in the city, village, or municipal charter governing the submission of ordinances by referendum petition, then the petition must be signed by 10% of the registered voters in the city, village, or municipality.

(3) The form of ballot shall be as follows:

“Shall Act No. 78 of the Public Acts of 1935, entitled as amended, 'An act to establish and provide a board of civil service commissioners in cities, villages, and municipalities having full-time paid members in the fire or police departments, or both; to provide a civil service system based upon examination and investigation as to merit, efficiency, and fitness for appointment, employment, and promotion of all full-time paid members appointed in the fire and police departments and respective cities, villages, and municipalities; to regulate the transfer, reinstatement, suspension, and discharge of officers, fire fighters, and police officers; and to repeal certain acts and parts of acts,' be adopted?

Yes ()

No ().”

(4) The ballots shall be cast and canvassed, and the results of the election certified in the same manner as ballots on any question submitted to the electors of the city, village, or municipality. If the majority of the qualified electors of the city, village, or municipality vote in favor of the adoption of this act, then this act shall be in full force and effect in that city, village, or municipality.

History: 1935, Act 78, Imd. Eff. May 24, 1935;—CL 1948, 38.517a;—Am. 1949, Act 271, Eff. Sept. 23, 1949;—Am. 1986, Act 155, Imd. Eff. July 3, 1986.

Popular name: Police and Fire Civil Service Act

38.517b Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.

Sec. 17b. A petition under section 17a, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

History: Add. 1998, Act 199, Eff. Mar. 23, 1999.

Popular name: Police and Fire Civil Service Act

38.518 Rescission of act by majority of electors; submission of question; form of ballot; canvass; certification of results; effect of vote in favor of rescission.

Sec. 18. (1) This act shall continue in full force and effect in any city, village, or municipality in which it has been properly adopted until rescinded by a majority of the electors voting thereon at an election at which the question of rescission of this act for that city, village, or municipality is properly submitted.

(2) The governing body of any city, village, or municipality, by resolution, may submit the question of rescission of this act, as it relates to the fire department or police department, or both, to the electors of that city, village, or municipality at any regular or special election.

(3) The form of ballot shall be as follows:

“Shall Act No. 78 of the Public Acts of 1935, entitled as amended, 'An act to establish and provide a board of civil service commissioners in cities, villages, and municipalities having full-time paid members in the fire or police departments, or both; to provide a civil service system based upon examination and investigation as to merit, efficiency, and fitness for appointment, employment, and promotion of all full-time paid members appointed in the fire and police departments and respective cities, villages, and municipalities; to regulate the transfer, reinstatement, suspension, and discharge of officers, fire fighters, and police officers; and to repeal

certain acts and parts of acts,' be rescinded?

Yes ()

No ().”

The ballots shall be cast and canvassed, and the results of the election certified in the same manner as ballots on any question submitted to the electors of the city, village, or municipality. If the majority of the qualified electors of the city, village, or municipality vote in favor of the rescission of this act, then this act is rescinded in that city, village, or municipality.

History: Add. 1951, Act 88, Eff. Sept. 28, 1951;—Am. 1986, Act 155, Imd. Eff. July 3, 1986.

Former law: See section 18 of Act 78 of 1935, which was repealed by Act 267 of 1945.

Popular name: Police and Fire Civil Service Act