

1977 Senate Bill 261

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## CHAPTER 151, Laws of 1977

AN ACT to amend various provisions of the statutes for the purpose of codifying the laws concerning police and fire departments in cities of the 1st class.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. Chapter 62 (title) of the statutes is amended to read:

### CHAPTER 62

#### CITIES, ~~GENERAL CHARTER LAW~~

SECTION 2. Subchapter I (title) of chapter 62 of the statutes is created to read:

### CHAPTER 62

#### SUBCHAPTER I

#### GENERAL CHARTER LAW

(to precede s. 62.01)

SECTION 3. 62.02 of the statutes is amended to read:

**62.02 Repeal of special charters.** All special charters for cities of the ~~second, third~~ 2nd, 3rd and ~~fourth~~ 4th classes are hereby repealed and such cities are hereby incorporated under ~~chapter 62 of the statutes~~ this subchapter. The city clerk shall forthwith certify the boundaries of such city to the secretary of state, who shall file the same and issue to such city a certificate of incorporation as of the date when ~~said chapter 62~~ this subchapter became effective, and record the same.

SECTION 4. 62.03 of the statutes is amended to read:

**62.03 First class cities excepted.** (1) ~~The provisions of chapter 62 of the statutes~~ This subchapter, except s. 62.071, shall not apply to cities of the ~~first~~ 1st class under special charter.

(2) Any such city may adopt by ordinance ~~the provisions of chapter 62 of the statutes~~ this subchapter or any section or sections thereof, which when so adopted shall apply to such city.

SECTION 5. 62.09 (7) (b) of the statutes is amended to read:

62.09 (7) (b) Officers shall have generally the powers and duties prescribed for like officers of towns and villages, except as otherwise provided, and such powers and duties as are prescribed by law and except as to the mayor shall perform such duties as shall be required of them by the council. Officers whose powers and duties are not enumerated in ~~chapter 62 this subchapter~~ shall have such powers and duties as are prescribed by law for like officers or as are directed by the council.

SECTION 6. 62.13 (10) (h) of the statutes is amended to read:

62.13 (10) (h) 1. Notwithstanding any provisions of law to the contrary, whenever a body corporate within a county having a population of 500,000 or more consolidates or has consolidated with a city of the ~~first~~ 1st class and such body corporate maintains or has maintained a pension system for firemen under ch. 60 or ~~62~~ this subchapter, the common council of such city of the ~~first~~ 1st class may by charter ordinance provide that the duties of the pension board or board of trustees formerly governing such pension system of the body corporate shall be assumed by a retirement board of the city of the ~~first~~ 1st class in the manner determined by the common council of such city when so directed by charter ordinance.

2. The common council of such city may by charter ordinance authorize the consolidation of such pension system for firemen organized under ch. 60 or ~~ch. 62~~ this subchapter with the firemen's annuity and benefit fund created by chapter 423, laws of 1923, ~~provided that if~~ the consolidation authorized will in no manner impair the rights of members of the pension systems to be consolidated, nor impair the actuarial soundness of any of such pension funds.

SECTION 7. 62.14 (1) and (4) of the statutes are amended to read:

62.14 (1) HOW CONSTITUTED; TERMS. There shall be a department known as the "Board of Public Works" to consist of 3 commissioners. In cities of the ~~second~~ 2nd class the commissioners shall be appointed by the mayor and confirmed by the council at their first regular meeting or as soon thereafter as may be. The members of the first board shall hold their offices, 1, 2 and 3 years, respectively, and thereafter for 3 years or until their successors are qualified. In all other cities the board shall consist of the city attorney, city comptroller and city engineer. The council, by a two-thirds vote, may determine that the board of public works shall consist of other public officers or persons and provide for the election or appointment of the members thereof, or it may, by a like vote, dispense with such board, in which case its duties and powers shall be exercised by the council or a committee thereof, or by such officer, officers or boards as the council ~~shall designate~~ designates. The words "board of public works" wherever used in this ~~chapter~~ subchapter shall include such officer, officers, or boards as shall be designated to discharge its duties.

(4) RULES FOR, BY COUNCIL. The council may make such rules ~~from time to time~~ as ~~they may deem~~ the council deems proper, not contravening ~~any of the provisions of~~ this ~~chapter~~ subchapter, for the government of the board of public works and the manner in which the business of said board shall be conducted.

SECTION 8. 62.26 (1) and (3) of the statutes are amended to read:

62.26 (1) LAWS IN FORCE. The general laws for the government of cities, villages and towns, the assessment and collection of taxes, the preservation of public and private property, highways, roads and bridges, the punishment of offenders, the collection of penalties and the manner of conducting elections shall be in force in all cities organized under ~~the provisions of chapter 62~~ this subchapter except as otherwise ~~herein~~ provided under this subchapter.

(3) FORMS. The use of any forms prescribed by the statutes of this state, as far as the same are applicable, shall be as legal and of the same force and effect as the use of the forms prescribed by ~~chapter 62~~ this subchapter.

SECTION 9. Subchapter II (title) of chapter 62 of the statutes is created to read:

CHAPTER 62

SUBCHAPTER II

POLICE AND FIRE DEPARTMENTS IN CITIES OF THE FIRST CLASS

(to precede s. 62.50)

SECTION 10. 959-46d. of the statutes is renumbered 62.50 and amended to read:

62.50 ~~+~~ (1) (title) ORGANIZATION. There shall be in every city of the ~~first~~ 1st class, whether acting under a general or special charter, a board of fire and police commissioners, consisting of ~~five~~ 5 citizens, not more than ~~two~~ 2 of whom shall at any time belong to the same political party. No salary or other compensation for service shall be paid to any member of ~~such~~ the board. Three members of the board shall constitute a quorum necessary for the transaction of business. It shall be the duty of the mayor of ~~such the~~ city on or before the ~~second~~ 2nd Monday in July, to appoint ~~five~~ 5 members of ~~said the~~ board, designating the term of office of each, one to hold one year, one to hold ~~two~~ 2 years, one to hold ~~three~~ 3 years, one to hold ~~four~~ 4 years and one to hold ~~five~~ 5 years, and until their respective successors shall be appointed and qualified. Thereafter the terms of office shall be ~~five~~ 5 years from the ~~second~~ 2nd Monday in July, and until ~~his~~ a successor is appointed and qualified. Every person appointed a member of ~~said the~~ board shall be subject to confirmation by the common

council and shall, before entering upon the duties of ~~his~~ the office take and subscribe the oath of office prescribed by the constitution ~~of the state~~, and file the same duly certified by the officer administering it, with the clerk of the city; ~~provided, however, that all appointments heretofore.~~ Appointments made prior to the time this subchapter first applies to a city of the 1st class shall not be subject to confirmation by the common council.

2. (2) (title) CONTROL OF APPOINTMENTS. No person ~~shall~~ may be appointed to any position either on the police force or in the fire department of ~~any such~~ the city, except with the approval of ~~said~~ the board.

3. (3) (title) RULES AND REGULATIONS. As soon as possible after the first members of ~~said~~ the board ~~shall enter upon~~ their offices, ~~said~~ the board shall prepare and adopt ~~such~~ rules and regulations to govern the selection and appointment of persons to be thereafter employed on either the police force or the fire department of ~~such~~ the city, as in the judgment of ~~said~~ the board shall be adapted to secure the best service for the public in each department. ~~Such~~ The rules and regulations shall provide for ascertaining, as far as possible, ~~the~~ physical qualifications, ~~the~~ habits ~~and~~ ~~the~~ reputation, ~~and~~ standing and experience of all applicants for positions, and ~~they~~ the rules and regulations may provide for the competitive examination of some or all in such subjects as ~~shall be~~ are deemed proper for the purpose of best determining ~~their~~ the applicants' qualifications for the position sought. ~~Such~~ The rules and regulations may provide for the classification of positions in the service and for a special course of inquiry and examination for candidates for each class. All rules and regulations adopted shall be subject to modification or repeal by the board at any time.

4. (4) (title) PRINTING AND DISTRIBUTION OF REGULATIONS. The board shall cause the rules and regulations ~~so~~ prepared and adopted under this section, and all changes therein, to be printed and distributed as ~~they shall deem~~ the board deems necessary, and the expense thereof shall be certified by the board to the city comptroller and shall be paid by the city. ~~Such~~ The rules and regulations shall specify the date when they ~~will~~ take effect, and thereafter all selections of persons for employment, ~~or~~ appointment, or promotion, either in the police force or the fire department of such cities except of the chief of police ~~and~~, the inspector of police ~~and~~, ~~the~~ chief engineer and ~~the~~ first assistant of the fire department, shall be made in accordance with such rules and regulations.

5. (5) (title) EXAMINATIONS. The examinations which the rules and regulations ~~shall~~ provide for shall be public and free to all U.S. citizens ~~of the United States~~ with proper limitations as to residence, age, health, habits, and moral character. The examinations shall be practical in their character and shall relate to those matters which ~~will~~ fairly test the relative capacity of the candidates to discharge the duties of the positions in which they seek employment or to which they seek to be appointed and may include tests of manual skill and physical strength. The board shall control all examinations and may designate suitable persons, either in the official service of the city or not, to conduct such examinations ~~for any of them~~ and may change such examiners at any time, as ~~shall seem~~ seems best.

6. (6) (title) APPOINTMENT OF CHIEFS. ~~Whenever~~ If a vacancy ~~shall exist~~ exists in the office of chief of police or in the office of chief engineer of the fire department, ~~it shall be the duty of said~~ the board shall by a majority vote ~~to~~ appoint proper persons to fill such offices respectively, subject to suspension and removal ~~as hereinafter provided under this section.~~

7. (7) (title) INSPECTORS AND CAPTAINS, VACANCIES. ~~Whenever~~ If a vacancy ~~shall exist~~ exists in the office of inspector of police or captain of police, the chief of police shall nominate and with the approval of ~~said~~ the board shall appoint a suitable person to ~~such~~ the office subject to suspension and removal ~~as hereinafter provided under this section.~~

8. (8) (title) FIRST ASSISTANT ENGINEER, VACANCY. ~~Whenever~~ If a vacancy ~~shall exist~~ exists in the office of the first assistant engineer of the fire department, the chief engineer shall nominate and with the approval of the board shall appoint a suitable

person to ~~that~~ the office, subject to suspension and removal ~~as hereinafter provided under this section.~~

9. (9) (title) MEMBERS OF FORCE, VACANCIES. All of the members of the force in either department named, at the time when the rules and regulations shall go into effect, shall continue to hold their respective positions ~~and employments~~ at the pleasure of their respective chiefs, subject to trial ~~hereinafter provided for under this section,~~ and all persons subsequently appointed shall so hold. All vacancies in either department shall be filled and all new appointments shall be made by the respective chiefs with the approval of the board. Where vacancies in old offices or newly created offices can, with safety to the department, be filled by the promotion of officers or ~~men~~ persons already in the service and who have proved their fitness for the promotion, the vacancies in ~~newly created~~ newly created offices shall be so filled by promotion by the respective chiefs with the approval of the board.

10. (10) (title) SALARIES; PENSIONS. Provision may be made by the common council of ~~such a~~ city by general ordinance that the salaries of ~~officers and men~~ the members of the force in the police and fire department of the city shall increase with the length of term of service. The salary and compensation of all ~~officers and men~~ members of the force in ~~said such~~ departments shall be at all times subject to change by the common council, ~~provided that but~~ the salary or compensation of ~~no officers or men~~ the members of the force in the service of either department shall ~~may not~~ be decreased, except upon the previous recommendations of such change made in writing by the board to the common council. The common council shall ~~have the power to~~ may provide for an annual pension for life for such members of either service as ~~shall be~~ are honorably discharged from same.

10m. (10m) (title) REST DAYS. The council of every city of the ~~first 1st~~ class, however organized, may provide for, and when such provision is made, the chief of the police department shall assign to each ~~policemen~~ police officer in the service of ~~such the~~ city one full rest day of ~~twenty-four~~ 24 consecutive hours during each ~~one hundred and ninety-two~~ 192 hours, except in cases of positive necessity by some sudden and serious emergency, which, in the judgment of the chief of police, demands that such day of rest ~~not be~~ not given at such time. Arrangements shall be made so that each full rest day may be had at such time ~~or times~~ as will not impair the efficiency of the department.

11. (11) (title) DISCHARGE OR SUSPENSION. No member of the police force or fire department shall ~~may~~ be discharged or suspended for a term exceeding ~~thirty~~ 30 days by the chief of either of ~~said the~~ departments except for cause and after trial ~~as herein provided under this section.~~

12. (12) (title) TRIAL TO BE ORDERED. Whenever complaint against any member of the force of either department is made to the chief thereof, ~~he~~ the chief shall immediately communicate the same to the board of fire and police commissioners and a trial shall be ordered by ~~said the~~ board of fire and police commissioners ~~as herein provided under this section.~~

13. (13) (title) TEMPORARY SUSPENSION; APPEAL. The chief discharging, or suspending for a period exceeding 5 days any member of ~~his~~ the force shall immediately report the same to the secretary of the board of fire and police commissioners together with a complaint setting forth the reasons for ~~such the~~ discharge or suspension and the name of the complainant if other than the chief. Within 10 days after ~~such~~ discharge or suspension the members so discharged or suspended may appeal from ~~such the~~ order of discharge or suspension or discipline to the ~~said~~ board of fire and police commissioners, by filing with ~~said the~~ board a notice of appeal in the following or similar form:

To the honorable board of fire and police commissioners:

Please take notice that I appeal from the order or decision of the chief of the .... department, discharging (or suspending) me from service, which ~~said~~ order of discharge (or suspension) was made on the .... day of ...., 19...

14. ~~(14)~~ (title) COMPLAINT. ~~Said~~ The board, after receiving ~~said~~ the notice of appeal shall, within ~~five~~ 5 days, serve the appellant with a copy of the complaint and a notice fixing the time and place of trial, which time of trial ~~shall~~ may not be less than ~~five~~ 5 days nor more than ~~fifteen~~ 15 days after service of the notice and a copy of the complaint.

15. ~~(15)~~ (title) NOTICE OF TRIAL. Notice of the time and place of ~~such~~ the trial, together with a copy of the charges preferred shall be served upon the accused in the same manner that a summons is served in this state.

16. ~~(16)~~ (title) TRIAL; ADJOURNMENT. The accused and the chief shall have the right to an adjournment of the trial or investigation of ~~such~~ the charges, not to exceed ~~a period of fifteen~~ 15 days. In the course of any trial or investigation under this section each member of the fire and police commission shall ~~have the power to~~ may administer oaths, secure by its subpoenas both the attendance of witnesses and the production of ~~books and papers~~ records relevant to ~~such~~ the trial and investigation, and ~~to~~ may compel witnesses to answer and ~~to~~ may punish for contempt in the same manner provided by law in trials before municipal justices of the peace for failure to answer or to produce ~~books~~ records necessary for the trial. The trial shall be public and all witnesses shall be under oath. The accused shall have full opportunity to be heard in his or her own defense and shall be entitled to secure the attendance of all witnesses necessary for his such defense at the expense of the city, and may appear in person and by attorney; and the city in which ~~said~~ the department is located may be represented by the city attorney thereof. All evidence shall be taken by a stenographic reporter who ~~first~~ shall be ~~first~~ sworn to perform the duties of a stenographic reporter in taking evidence in ~~said~~ the matter fully and fairly to the best of his or her ability.

17. ~~(17)~~ (title) DECISION. Within ~~three~~ 3 days after hearing the matter the board shall, by a majority vote of its members, determine whether by a preponderance of the evidence the charges are sustained. If the board ~~shall determine~~ determines that the charges are sustained, ~~they~~ the board shall at once determine whether the good of the service requires that the accused shall be permanently discharged or shall be suspended without pay for a period not exceeding ~~sixty~~ 60 days or reduced in rank. If the charges ~~shall~~ are not be sustained the accused shall be immediately reinstated in his or her former position, without prejudice. The decision and findings of the board shall be in writing and shall be filed, together with a transcript of the evidence, with the secretary of the board.

18. ~~(18)~~ (title) SALARY DURING SUSPENSION. No chief officer or member of either department shall ~~may~~ be deprived of any salary or wages for the period of time ~~he may~~ be suspended preceding an investigation or trial, unless ~~such~~ the charge is sustained.

19. ~~(19)~~ (title) CHARGES BY FREEHOLDER, TRIAL. In cases where duly verified charges ~~shall be~~ are filed by any reputable freeholder of any such city with ~~such~~ the board of fire and police commissioners, setting forth sufficient cause for the removal of any member of either of ~~said~~ the departments, including the chiefs or their assistants, ~~it shall be the duty of such~~ the board ~~to~~ shall immediately suspend such member or officer and cause notice of the filing of ~~such~~ the charges with a copy ~~thereof~~ to be served upon the accused ~~as herein provided~~ and set a date ~~as herein provided~~ for the trial and investigation of ~~such~~ the charges, ~~and following the same procedure shall be followed as herein provided under this section.~~ The board shall decide by a majority vote whether the charges are sustained. If sustained, the board shall immediately determine whether the good of the service requires that the accused shall be removed, suspended from office without pay for a period not exceeding ~~sixty~~ 60 days or reduced in rank. If ~~the charges are~~ not sustained, the accused shall be immediately reinstated without prejudice. The secretary of the board shall make the decision public.

20. ~~(20)~~ (title) CIRCUIT COURT REVIEW; NOTICE. Any officer or member of either department discharged, suspended, or reduced, may, within ~~ten~~ 10 days after the decision and findings ~~hereinbefore provided for~~ under this section are filed with the secretary of ~~said~~ the board, bring an action in the circuit court of the county in which ~~said~~ the city is located to review ~~said~~ the order; ~~said.~~ Such action shall be ~~begun~~ begin

by the serving of a notice on the secretary of ~~said the~~ board making such order and on the city attorney of such city, which notice may be in the following or similar form:

In Circuit Court, ..... County.

To ..... Board of Fire and Police Commissioners.

To ..... City Attorney:

Please take notice that I hereby demand that the circuit court of ..... County review the order made by the Board of Fire and Police Commissioners on the ..... day of ..... A.D. .... discharging, (or suspending) ..... from the ..... department.

(Signed) .....

~~21. (21)~~ (title) CERTIFICATION AND RETURN OF RECORD; HEARING. Upon the service of ~~said the~~ demand under sub. (20), the board upon ~~whom said which such~~ service ~~was is~~ made shall within ~~five 5~~ days thereafter certify to the clerk of the circuit court of ~~said the~~ county all charges, testimony, and everything relative to the trial and discharge, suspension or reduction in rank of ~~said the~~ member. Upon the filing of ~~said the~~ return with the clerk of ~~said court~~, ~~said~~ actions for review shall be deemed at issue and shall have precedence over any other cause of a different nature pending in ~~said such~~ court, and ~~said such~~ court shall be considered always open for the trial thereof, ~~and upon the.~~ Upon application of the discharged member or the board, the court shall fix a date for the trial thereof which shall ~~not be no~~ later than ~~fifteen 15~~ days ~~from and~~ after the date of such application except upon agreement between the board and ~~such the~~ discharged or suspended member. Such action shall be tried by the court without a jury and shall be tried upon the return made by ~~said the~~ board. In determining the question of fact presented, the court shall be limited in the review thereof to the question: "Under the evidence was the decision of the board reasonable?" The court ~~shall have the right to may~~ require ~~further and~~ additional return to be made by the board of ~~fire and police commissioners~~, and may also require ~~such the~~ board to take ~~further and~~ additional testimony and make return thereof.

~~22. (22)~~ (title) COSTS; REINSTATEMENT. No costs ~~shall may~~ be allowed in ~~said the~~ action to either party and the clerks' fees shall be paid by the city in which ~~said the~~ department is located. If the decision of ~~such the~~ board is reversed, the discharged or suspended member shall forthwith be reinstated in his or her former position in ~~said the~~ department and shall be entitled to ~~his~~ pay the same as if ~~he had not been~~ discharged or suspended. If the decision of the board is sustained, the order of discharge, suspension, or reduction shall be final and conclusive in all cases.

~~23. (23)~~ (title) DUTIES OF CHIEF. The chief engineer of the fire department and the chief of police of ~~said cities~~ a city shall be the head of their respective departments and shall have power to regulate ~~said the~~ departments and prescribe rules for the government of ~~its department~~ members. The chief of police shall cause preserve the public peace ~~to be preserved~~ and see that all laws and ordinances of the city are enforced. ~~He~~ The chief of police shall be responsible for the efficiency and general good conduct of the department under his or her control. Each of ~~said chiefs~~ chief shall have the custody and control of all public property pertaining to ~~said departments the department~~ and everything connected therewith ~~and belonging thereto.~~ A chief shall have the custody and control of all books, records, machines, tools, implements, and apparatus of every kind ~~whatsoever~~ necessary for use in ~~each of said departments the chief's department.~~

~~24. (24)~~ (title) SIGNAL SERVICE DEPARTMENT. ~~But all~~ All apparatus and all mechanical appliances requiring the use of telegraph or telephone wire or other wire for signaling purposes, with the consequent use of the public highways, together with such wire and all appurtenances to such apparatus and the constructional work therefor, may be placed under the management and control of a separate department. Such department shall be established and the compensation of the superintendent and all employes of such department shall be fixed by ordinance of the common council. The superintendent of the department shall be appointed by the board of ~~fire and police commissioners~~, and all other employes of the department shall be appointed in

the same manner, and shall be subject to removal upon the same conditions as the members of the fire and police departments, and wherever applicable this ~~act~~ section shall apply to ~~said~~ such department the same as to the fire and police departments.

~~25.~~ (25) (title) CHIEF EXAMINER. The board ~~shall have power to~~ may appoint ~~an officer to be called~~ a chief examiner. The board shall prescribe ~~his~~ the chief examiner's duties and ~~his~~ compensation, which shall be paid by the city on the certificate of the board. ~~He shall be~~ Such examiner is subject to removal at any time by a majority of the board, and ~~they shall have the power to~~ the board may change ~~his~~ such duties and ~~his~~ compensation at any time as ~~they may deem~~ it deems proper. The board ~~shall have power to~~ may fix and alter ~~at will~~ a compensation for any other examiners appointed by the board, and such compensation shall be paid by the city on certificate of the board.

~~26.~~ (26) (title) RESERVATION OF EXISTING TERMS. Nothing contained in this section ~~shall~~ may be construed ~~so as~~ to affect the term of office of any ~~existing person who is a~~ member of any police or fire commission in any city of the ~~first~~ 1st class nor ~~so as~~ to affect the term of office of any member appointed to fill out the unexpired term of any ~~present person who is a~~ member of such commission at the time this section first applies to such city.

~~27.~~ (27) (title) MAYOR TO APPOINT ADDITIONAL MEMBERS. ~~It shall be the duty of the mayors of all cities~~ A mayor of a city of the ~~first~~ 1st class, whether acting under a general or special charter, ~~to~~ shall appoint a sufficient number of members for the police and fire ~~commissions~~ commission of such ~~cities~~ city so that the ~~said commissions~~ commission shall conform with ~~the provisions of~~ this section, and such additional members and their successors shall be appointed for a term of ~~five~~ 5 years.

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