

tion, including the cost of the real estate, upon which the same shall be erected, and to report thereon to the next legislature, not later than February 1, 1913.

2. For the purpose of securing the options herein referred to, and to carry out the provisions of this section, there is appropriated to the said board out of any moneys in the general fund not otherwise appropriated, the sum of one thousand dollars.

SECTION 7. This act shall take effect and be in force from and after its passage and publication.

Approved July 6, 1911.

No. 30, S.]

[Published July 8, 1911.

CHAPTER 586.

AN ACT to create section 959—46d of the statutes, relating to the creation of a board of police and fire commissioners in cities of the first class, providing for the duties thereof and the duties of chiefs of the police and fire departments in such cities.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. There is added to the statutes a new section to read: Section 959—46d. 1. There shall be in every city of the first class, whether acting under a general or special charter, a board of fire and police commissioners, consisting of five citizens, not more than two 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 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 city on or before the second Monday in July, to appoint five members of said board, designating the term of office of each, one to hold one year, one to hold two years, one to hold three years, one to hold four years and one to hold five years, and until their respective successors shall be appointed and qualified. Thereafter the terms of office shall be five years from the second Monday in July, and until his successor is appointed and qualified. Every person appointed a member of said board shall, before entering upon the duties of his 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.

2. No person shall be appointed to any position either on the police force or in the fire department of any such city, except with the approval of said board.

3. As soon as possible after the first members of said board shall enter upon their offices, said 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 city, as in the judgment of said board shall be adapted to secure the best service for the public in each department. Such 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 may provide for the competitive examination of some or all in such subjects as shall be deemed proper for the purpose of best determining their qualifications for the position sought. Such 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. The board shall cause the rules and regulations so prepared and adopted, and all changes therein, to be printed and distributed as they shall deem necessary, and the expense thereof shall be certified by the board to the city comptroller and shall be paid by the city. Such 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 chief engineer and first assistant of the fire department, shall be made in accordance with such rules and regulations.

5. The examinations which the rules and regulations shall provide for shall be public and free to all 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 best.

6. Whenever a vacancy shall exist 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 board by a majority vote to appoint proper persons to fill such offices respectively, subject to suspension and removal as hereinafter provided.

7. Whenever a vacancy shall exist in the office of inspector of police or captain of police, the chief of police shall nominate and with the approval of said board shall appoint a suitable person to such office subject to suspension and removal as hereinafter provided.

8. Whenever a vacancy shall exist 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 office, subject to suspension and removal as hereinafter provided.

9. 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, 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 already in the service and who have proved their fitness for the promotion, the vacancies in newly created offices shall be so filled by promotion by the respective chiefs with the approval of the board.

10. Provision may be made by the common council of such city by general ordinance that the salaries of officers and men 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 in said departments shall be at all times subject to change by the common council, provided that the salary or compensation of no officers or men in the service of either department shall 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 provide for an annual pension for life for such members of either service as shall be honorably discharged from same.

11. No member of the police force or fire department shall be discharged or suspended for a term exceeding thirty days by the chief of either of said departments except for cause and after trial as herein provided.

12. Whenever complaint against any member of the force of either department is made to the chief thereof, he shall immediately communicate the same to the board of fire and police commissioners and a trial shall be ordered by said board of fire and police commissioners as herein provided.

13. The chief discharging, or suspending for a period exceeding thirty days any member of his 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 discharge or suspension and the name of the complainant if other than the chief. Within ten days after such discharge or suspension the members so discharged or suspended may appeal from such order of discharge or suspension to the said board of fire and police commissioners, by filing with said 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. Said board, after receiving said notice of appeal shall, within five 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 not be less than five days nor more than fifteen days after service of the notice and a copy of the complaint

15. Notice of the time and place of such 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. The accused and the chief shall have the right to an adjournment of the trial or investigation of such charges not to exceed a period of fifteen days. In the course of any trial or investigation under this act each member of the fire and police commission shall have the power to administer oaths, secure by its subpoenas both the attendance of witnesses and the production of books and papers relevant to such trial and investigation, and to compel witnesses to answer and to punish for contempt in the same manner provided by law in trials before justices of the peace for failure to answer or to produce books 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 own defense and shall be entitled to secure the attendance of all witnesses necessary for his defense at the ex-

pense of the city, and may appear in person and by attorney; and the city in which said department is located may be represented by the city attorney thereof. All evidence shall be taken by a stenographic reporter who shall be first sworn to perform the duties of a stenographic reporter in taking evidence in said matter fully and fairly to the best of his ability.

(Am. 1911, c. 664, s. 131.)

17. Within three 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 that the charges are sustained they 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 days or reduced in rank. If the charges shall not be sustained the accused shall be immediately reinstated in his 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. No chief officer or member of either department shall be deprived of any salary or wages for the period of time he may be suspended preceding an investigation or trial, unless such charge is sustained.

19. In cases where duly verified charges shall be filed by any reputable freeholder of any such city with such board of fire and police commissioners, setting forth sufficient cause for the removal of any member of either of said departments, including the chiefs or their assistants, it shall be the duty of such board to immediately suspend such member or officer and cause notice of the filing of such charges with a copy thereof to be served upon the accused as herein provided and to set a date as herein provided for the trial and investigation of such charges, and the same procedure shall be followed as herein provided. 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 days or reduced in rank. If not sustained the accused shall be immediately reinstated without prejudice. The secretary of the board shall make the decision public.

20. Any officer or member of either department discharged, suspended, or reduced, may within ten days after the decision and findings hereinbefore provided for are filed with the secretary of said board, bring an action in the circuit court of the

county in which said city is located to review said order; said action shall be begun by the serving of a notice on the secretary of said board making such order and 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. Upon the service of said demand the board upon whom said service was made shall within five days thereafter certify to the clerk of the circuit court of said county all charges, testimony, and everything relative to the trial and discharge, suspension, or reduction in rank of said member. Upon the filing of said 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 court, and said court shall be considered always open for the trial thereof, and upon the application of the discharged member or the board, the court shall fix a date for the trial thereof which shall not be later than fifteen days from and after the date of such application except upon agreement between the board and such 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 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 require further and additional return to be made by the board of fire and police commissioners, and may also require such board to take further and additional testimony and make return thereof.

22. No costs shall be allowed in said action to either party and the clerks' fees shall be paid by the city in which said department is located. If the decision of such board is reversed, the discharged or suspended member shall forthwith be reinstated in his former position in the said 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. The chief engineer of the fire department and the chief of police of said cities, shall be the head of their respective departments and shall have power to regulate said departments and prescribe rules for the government of its members. The chief of police shall cause the public peace to be preserved and see that all laws and ordinances of the city are enforced. He shall be responsible for the efficiency and general good conduct of the department under his control. Each of said chiefs shall have the custody and control of all public property pertaining to said departments and everything connected therewith and belonging thereto. They 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.

24. But 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 shall apply to said department the same as to the fire and police departments.

25. The board shall have power to appoint an officer to be called a chief examiner. The board shall prescribe his duties and his compensation, which shall be paid by the city on the certificate of the board. He shall be subject to removal at any time by a majority of the board and they shall have the power to change his duties and his compensation at any time as they may deem proper. The board shall have power to 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. Nothing contained in this act shall be construed so as to affect the term of office of any existing member of any police or fire commission in any city of the first class nor so as to affect

the term of office of any member appointed to fill out the unexpired term of any present member of such commission.

(Am. 1911, c. 664, s. 131.)

27. It shall be the duty of the mayors of all cities of the first class whether acting under a general or special charter to appoint a sufficient number of members for the police and fire commissions of such cities so that the said commissions shall conform with the provisions of this act, and such additional members and their successors shall be appointed for a term of five years.

(Am. 1911, c. 664, s. 131.)

SECTION 2. All acts and parts of acts conflicting with any of the provisions of this act are repealed in so far as they are inconsistent therewith.

SECTION 3. This act shall take effect and be in force from and after July 10, 1911.

Approved July 6, 1911.

No. 34, S.]

[Published July 8, 1911.

CHAPTER 587.

AN ACT to amend section 854 of the statutes, relating to the incorporation of villages.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section 854 of the statutes is amended to read: Section 854. *Any part of any town or towns not more than one-half mile in area, and not included in any village, and all lying in the same county, which shall contain a resident population of not less than one hundred and fifty persons therein, or any part of any town or towns * * * larger than one-half square mile in area and not included in any village, and all lying in the same county, which shall contain a resident population of not less than two hundred persons thereon, or any part of any town or towns, not less than one square mile in area, and not included in any village, and lying in two or more adjoining counties, and which shall contain a resident population of at least four hundred persons to every square mile thereof, may, upon compliance with the conditions of this chapter, become incorporated as a village by such name as may be designated in the order of the court for its incorporation with the ordinary powers of a municipal corporation, and such as are conferred by the statutes. All villages incorporated under the provisions of section 854 of the revised statutes of Wisconsin for 1878, before the 29th day*