

No. 464, S.]

[Published July 22, 1919.

CHAPTER 572.

AN ACT repeal chapter 313 laws of 1895, 218 laws of 1897, 95 laws of 1911, 547 laws of 1911, 135 laws of 1915, 137 laws of 1915, 320 laws of 1915, 326 laws of 1917, 410 laws of 1917, and sections 16.45 to 16.63, inclusive, of chapter 365 of the laws of 1919, and to create sections 16.45 to 16.76, inclusive, of the statutes, to regulate the city service in cities of the first class, and providing penalties.

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

SECTION 1. Chapters 313 laws of 1895, 218 laws of 1897, 95 laws of 1911, 547 laws of 1911, 135 laws of 1915, 137 laws of 1915, 320 laws of 1915, 326 laws of 1917, 410 laws of 1917, and sections 16.45 to 16.63, inclusive of chapter 365, laws of 1919 are repealed.

SECTION 2. Thirty-two new sections are added to the statutes to read: 16.45 The mayor of each city of the first class, in this state, whether such city be incorporated by special act of the legislature or under the general laws of the state, shall before the fifteenth day of June following the passage of this act, or the fifteenth day of June in the year next following the first state or national census, showing such city to belong to said first class, appoint five persons, citizens and residents of said city, who shall constitute and be known as the board of city service commissioners of such city, and shall designate one of the persons so appointed to serve for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year, from the first Monday of July in the year of their appointment and until their respective successors are appointed and qualified; provided, however, that in cities having a board of city service commissioners the members of such board shall hold office and continue to be a member of such commission until the expiration of the term or terms of such member or members, and in each and every year after such first appointment, the mayor shall, in like manner, in the month of June, appoint one person as the successor of the commissioner whose term shall expire in that year, to serve as such commissioner for five years from the first Monday of July then next ensuing, and until his successor is appointed and qualified. The commission shall, at a meeting in July of each year, elect one member to act as president and one member to act as vice president, each for a term of one year, and until a successor is duly elected. Three commissioners shall constitute a quorum necessary

for the transaction of business. Any vacancy in the office of commissioner occurring during the term shall be filled for the unexpired term by appointment by the mayor and all appointments, both original and to fill vacancies, shall be so made that not more than two commissioners shall at the time of the appointment be members of the same political party. Said commissioners shall hold no other lucrative office or employment under the United States, the state of Wisconsin, or any municipal corporation or political division thereof, and each commissioner shall before entering upon the discharge of the duties of his office and within ten days after receiving notice of his appointment, take and subscribe the oath of office prescribed by the constitution of this state, and file the same, duly certified by the officer administering it with the clerk of his city.

16.46 It shall be the duty of every board of city service commissioners appointed under and in pursuance of the provisions of this act to investigate the enforcement of said act and of its rules, adopted in accordance with its provisions to carry out the purposes of said act and the action of the examiners in said act provided for, and the conduct and action of the appointees in the official service in its city, and may inquire as to the nature, tenure and compensation of all offices and places in the public service thereof. In the course of such investigation each commissioner shall have the power to administer oaths, and said board shall have power to secure by its subpoena both the attendance and testimony of witnesses and the production of books and papers relevant to such investigation. Said commission shall have power to investigate the character and standing in the community of all applicants for examination and appointment in the city service under the provisions of this act.

16.47 Any person who shall be served with a subpoena to appear and testify or to produce books and papers, issued by the board of city service commissioners in the course of any investigation conducted under the provisions of this act, and who shall refuse or neglect to appear and testify or to produce books and papers relevant to such investigation, as commanded in such subpoena, shall be guilty of a misdemeanor, and shall on conviction be punished by a fine or imprisonment or both in the discretion of the court, as provided in and by this act. The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of this state, and shall be paid from the appropriation for the expenses of the board. Any circuit court of this state or any judge thereof,

whether in term time or vacation upon application of the board, may compel the attendance of witnesses, the production of books and papers and giving of testimony before the board by attachment for contempt or otherwise, in the same manner as the production of evidence may be compelled before said court. Every person, who having taken an oath or made affirmation before a commissioner in the course of such an investigation, shall swear or affirm wilfully, corruptly and falsely, shall be guilty of perjury, and upon conviction shall be punished accordingly.

16.48 Said board of commissioners shall, on or before the 15th day of March in each year, make to the mayor for transmission to the common council of such city, a report showing its own action, the rules in force, the practical effects thereof, and any suggestions it may approve for the more effectual accomplishment of the purposes of this act. The mayor may require a report from said board at any other time.

16.49 All officers of any such city shall aid said board in all proper ways in carrying out the provisions of this act, and at any place where examinations are to be held, shall allow the reasonable use of the public buildings for holding such examinations. The mayor of each city shall cause suitable rooms to be provided for said board at the expense of such city, and a sufficient sum of money shall be appropriated each year by each city to carry out the provisions of this act in such city.

16.50 The commission shall classify all offices and places of employment and all officers and employes, except those mentioned in section 16.54. Such classification shall be made with reference to the duties of such offices and places for the purpose of establishing grades and of fixing and maintaining standards of examination. Grades having duties of the same general nature and in the same line of promotion shall be placed in the same class. The commission shall ascertain and record the duties of each position in the service and whenever it appears that two or more positions have duties which are substantially similar in respect to authority, responsibility and character of work required in the performance thereof, they shall be placed in the same grade, and shall be designated by a title indicative of such duties. All change of title to any office or position in the city service subject to this act shall be certified to and approved by the common council within four months prior to December 1st of each year.

16.51 The said commissioners shall make rules adapted to carry out the purposes of the act and not inconsistent with its provisions, for the examination and selection of persons to fill

offices and positions in the service of their respective cities, which are required to be filled by appointment and for the selection of persons to be employed in the service of such city. All rules so made shall be subject to the approval of the mayor of the city, and they may with like approval be from time to time altered or rescinded by said commissioners; however, if the mayor takes no action on a rule or an amendment to the rules, submitted to him, within a period of ten days from the date of its submission, then the rule or amendment to the rules shall become effective as though approved by the mayor. The said commissioners shall supervise the administration of rules so established.

16.52 The rules mentioned in this act shall provide among other things for the following:

First. For open, competitive examinations and for other examinations by which to test applicants for office or for employment as to their practical fitness to discharge the duties of the positions which they desire to fill, which examinations shall be public and free to all persons with proper limitations as to citizenship, residence, age, health, sex, habits, and moral character.

Second. For the filling of vacancies in offices and places of employment in accordance with the results of such examinations, and for the selection of persons for public employment in accordance with such results, or otherwise, as may seem most desirable to carry out the provisions of this act.

Third. For the promotions in offices or positions on the basis of ascertained merit and seniority in service, or by examination, or by both, as may seem desirable.

Fourth. For a period of probation before an appointment or employment is made permanent.

All rules made as provided in this act and all changes therein shall forthwith be printed for distribution by said board.

16.53 From and after the adoption of such rules, all appointments to subordinate offices, positions and employments in the several departments of the service of such city, which are subject to such rules, shall be made by the respective heads of such departments under and in conformity with the provisions of such rules.

16.54 Officers who are elected by the people, or who by the statutes are required to be elected by the city council, inspectors and clerks of election, one deputy in each department whose office was created and exists by reason of statute, members of any board of education, the superintendent and teachers of schools, heads of any principal departments of the city, all

members of the law, fire and police departments, officers, clerks and employes in the office of the city treasurer, persons employed temporarily in the office of the city treasurer or other officer to assist in making out the tax roll, one private secretary of the mayor and any other officers, clerks or employes in the service of the city whose positions, in the judgment of the said city service commissioners, cannot, for the time being, be subjected, with advantage to the public service, to the general rules prepared under this act, shall not be affected as to their election, selection, or appointment by such rules made by said commissioners. When any position to be filled involves fiduciary responsibility or the handling of money, the appointing officer may require the appointee to furnish him a bond or other security for the faithful performance of his duty, the amount to be fixed by the appointing officer, with the approval of the mayor. Each bond shall be approved by the city attorney as to the form and execution thereof, and by the common council as to the sufficiency of the sureties therein; provided, however, that any surety company, the bonds of which are accepted by the judge of any court of record in this state, shall be sufficient security on any such bond, and that the premium on such bond, within the limits fixed by law, shall be paid out of the city treasury. The appointing officer shall immediately after the execution of such bond, file a certified copy of the same with the city clerk.

16.55 The said board shall appoint a chief examiner, subject to the provisions of this act, whose duty it shall be, under its direction, to superintend any examinations held in such city under this act, and who shall perform such other duties as the board shall prescribe. Such chief examiner shall be ex-officio secretary of the board, and under the direction of such board he, as such secretary, shall keep and record minutes of its proceedings, preserve all reports made to it, keep a record of all examinations held under its direction, and perform such other duties as the board may from time to time prescribe. The salary of such chief examiner shall be fixed by the board of city service commissioners, to be approved by the common council, and shall be paid by the city treasurer on the certificate of the president or vice president of said board, countersigned by the city comptroller, in the same manner as the salary of other city employes is paid. He shall be subject to removal at any time by said board. The said board may also incur such other expenses for personal services, printing, stationery, and other incidental matters as it shall deem necessary; provided, however, that the total amount of all expenditures by it incurred during any year, including the compensation of the commissioners, chief examiner,

clerks and other employes, shall not exceed the amount of the special fund herein provided and known as the "city civil service fund." All employes of the city service commission shall be subject to this act.

16.56 From and after the passage and publication of this act, the common council shall levy and collect annually upon all taxable property of the said city, at the same time and in the same manner as other city taxes are collected by law, a tax not exceeding seventeen one-thousandths of a mill upon each dollar of the assessed value of said taxable property, the amount of which shall be determined by said board of city service commissioners, and certified by it to the common council and to the city comptroller before the first day of October, in each year, and the entire amount of such tax shall constitute a separate and distinct fund to be known as the "city civil service fund," and shall not be used or appropriated, directly or indirectly, for any other purpose than paying the salaries of the commissioners, chief examiner, clerks and employes of said board, and the other necessary expenses of carrying out the purposes of this act. In addition to the aforesaid tax, the common council of any such city may annually, on request of the city service commission, levy a tax not to exceed an additional thirteen one-thousandths of a mill for the purposes aforesaid. For the year 1919 the common council may appropriate from its contingent fund such sum as may meet the needs of the city service commission for said year. All disbursements on account of such city civil service fund, except for the salary of the chief examiner, shall be paid by the city treasurer on orders of the president and vice president and secretary of the board, countersigned by the city comptroller.

16.57 All applications for officers, places or employments in the civil service of such city, except those mentioned in section 16.54, shall be subject to examination under and in accordance with the rules so made by said commissioners. Such examinations shall be practical in their character and shall relate to those matters which fairly test the relative capacity and fitness of the persons examined to discharge the duties of the particular service to which they seek to be appointed, and may include tests of physical qualifications, and, when appropriate, of manual skill. No question in any examination shall relate to political or religious opinions or affiliations, and no appointment or selection to an office or for employment within the scope of the rules established as aforesaid shall be in any manner affected or influenced by such opinions or affiliations. All such ap-

plicants may be examined by a competent physician as to the soundness of their health for the work to be performed.

16.58 The examinations held under this act shall consist of any reasonable and impartial method of ascertaining the fitness or relative merit of candidates.

16.59 Notice of the time, place and general scope of every examination shall be given by the board by publication at least four times on alternate days, beginning at least ten days before the date of such examination, in one or more daily newspapers of general circulation published in such city, and such notice shall also be posted by said board in a conspicuous place in its office at least ten days before such examination. Such further notice of examinations may be given as the board shall prescribe.

16.60 Every application, in order to entitle the applicant to appear for examination, or to be examined, must state the facts under oath on the following subjects: (1) full name, residence and post-office address; (2) citizenship; (3) age; (4) place of birth; (5) health and physical capacity for the public service; (6) previous employment in the public service; (7) business or employment and residence for the previous five years; (8) education. Such other information shall be furnished by the applicant as may reasonably be required by the board concerning the applicant's fitness for the public service.

16.61 The board shall control all examinations, and may, whenever an examination is to take place, designate a suitable number of persons, either in or not in the official service of the city, to be examiners, and it shall be the duty of such examiners, and, if in the service of the city, it shall be a part of their official duty without extra compensation, to conduct examinations as the board may direct, and make return or report thereof to such board; and the board may, at any time, substitute any other person, whether or not in such service, in the place of any one so selected; and the board may themselves, at any time, act as such examiners, and without appointing examiners. The examiners, at any examination, shall not all be members of the same political party, and no person shall serve in an examination of candidates for office under the provisions of this act in case of a relative or connection by marriage within the degree of first cousin.

16.62 From the returns or reports of the examiners, or from the examinations made by the board, the board shall prepare and keep a register for each grade or class of position in the service of such city, of the persons whose general average standing upon examination for such grade or class is not less

than the minimum fixed by the rules of such board, and who are otherwise eligible, and such persons shall take rank upon the register as candidates in the order of their relative excellence as determined by examination without reference to priority of time of examination.

16.63 No person or officer shall wilfully and corruptly, by himself or in cooperation with one or more other persons, defeat, deceive or obstruct any person in respect to his or her right of examination, or corruptly or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined hereunder, or aid in so doing or wilfully or corruptly make any false representations concerning the same or concerning the person examined, or wilfully or corruptly furnish to any person any special or secret information for the purpose either of improving or injuring the prospects or chances of any person so examined, or to be examined, of being appointed, employed or promoted.

16.64 Whenever a position classified and graded under the provisions of this act becomes vacant, the appointing officer, if he desires to fill it, shall make requisition upon the commission for persons eligible for appointment thereto. The commission shall thereupon certify to the appointing officer from the list of eligibles, provided the vacancy can not be filled by reinstatement, promotion or reduction, the names and addresses of the three persons standing highest thereon; provided, when there are less than three names upon an eligible list, certification shall be made and unless objection is made, by the appointing officer, to the person or persons so certified and said objection sustained by the commission, appointment shall be made under the rules. In case of more than one vacancy, an additional name shall be certified for each such vacancy. The appointing officer shall select solely with reference to merit and fitness, the number of persons for which he has made requisition. In case the commission cannot certify eligibles for appointment, it may grant to the appointing officer authority to make appointment for a period not to exceed two months or until regular appointment can be made.

16.65 1. There is hereby created a new division of the classified service to be known as the special expert class. The board of city service commissioners shall place in this class all positions of a technical, scientific, or professional character, together with all positions where the qualifications are peculiar to the service in any department of the city government, and may in addition thereto temporarily classify as of the special expert

class positions where the service is new and experimental in character.

2. The provisions of the city civil service act now governing selections, appointments, promotions, reinstatements, removals, transfers or other changes, shall apply to the special expert class, except as may be otherwise provided in this section.

3. For the filling of positions in the special expert class the appointing officer shall be free to suggest names of persons for consideration in examination together with all other applicants and all other persons whose names have been suggested to the board of city service commissioners, and the board shall inquire into the fitness of persons so nominated and may notify such persons and any other suitable person to participate in the examination.

4. Previous to an examination to fill a position in the special expert class, the board of city service commissioners may provide in its published announcement that the resulting eligible list shall expire as soon as an appointment has been made therefrom, providing the appointing officer so desires. When an appointing officer makes objection in writing to names of persons in the special expert class, certified from an eligible list not especially appropriate for the position or group of positions in question, such certification shall be invalid.

5. The appointing officer shall in all cases be consulted as to qualifications and requirements, examination standards, and procedure for filling positions in the special expert class.

6. In filling positions in the special expert class the board of city service commissioners shall select a board of one or more experts to conduct the examination when requested in writing to do so by an appointing officer.

7. Whenever the board of city service commissioners or the officer having the power of appointment shall deem it advisable in the interests of the service, no qualifications as to residence or citizenship shall be imposed in the examination for a position in the special expert class. Any restrictions contained in any law, or in any charter of any city of the first class inconsistent with this provision shall not be applicable in such case.

16.66 In case of a vacancy in a position, requiring peculiar and exceptional qualifications of a scientific, technical or professional character, upon satisfactory evidence that competition is impracticable and that the position can be best filled by the selection of some designated person of recognized attainments, the commission may, after public hearing, by the affirmative vote of at least four commissioners, suspend competition, but no such

suspension shall be general in its application to such position and all such cases of suspension shall be reported, together with the reason therefor, in the annual reports of the commission.

16.67 Immediate notice in writing shall be given by the appointing power to said board of city service commissioners of all appointments, permanent or temporary, made pursuant to this act and the rules made and established under the same, in those branches or departments of the civil service of such city which are subject to this act and the rules of said board, and of all transfers, promotions, resignations, other changes or vacancies from any cause in such branches or departments of the city service, and of the date thereof, and a record of the same shall be kept by said board. When any office or place of employment, subject to such rules, is created or abolished, or the compensation attached thereto is altered, the officer or board making such change shall immediately report the same in writing to said board of commissioners.

16.68 (1) No person or employe holding an office or position classified and graded under the provisions of this act shall be removed, discharged or reduced, except for just cause which shall not be political or religious. A person removed, discharged or reduced shall be furnished, by the officer making the removal, with the reasons in writing, for such action when demanded by said removed, discharged or reduced person. When reasons are given by the officer making the removal, a copy of the same shall be immediately forwarded to the commission. Within three days after such removal, discharge or reduction an appeal may be made to the commission in writing, by the employe so removed, discharged or reduced. The commission, on receiving such notice of appeal, shall set a date for a hearing on or investigation of the reasons for the removal, discharge or reduction, which date shall not be more than thirty days after the date of removal, discharge or reduction. Notice of the time and place of such hearing or investigation shall be served upon the employe appealing, in the same manner that a summons is served in this state. Notice shall also be given the officer making the removal. The city service commission, or board or committee of such board or boards appointed by said commission, shall conduct the hearing or investigation. The employe appealing shall have full opportunity to be heard and may, at the discretion of the commission, be represented by counsel. When the employe is represented by counsel, the officer making the removal, discharge or reduction may be represented by the city attorney. If, however, such officer chooses to be represented by counsel other than the city

attorney, he may so do, but any expense so incurred shall not be paid by the city. In the course of a hearing or investigation as herein provided for, any member of the commission and of any board or committee appointed by it, shall have the power to administer oaths and shall have power to secure by its subpoena both the attendance and testimony of witnesses and the production of books and papers relevant to such hearing or investigation. All evidence may, on the order of the board, be taken by a competent reporter.

(2) The decision and findings of the commission, or of the investigating board or committee, when approved by the commission, shall be final and shall be filed, in writing, with the secretary of the board and shall be forthwith certified to and enforced by the head of the department or appointing officer. Nothing in this act shall limit the power of an officer to suspend a subordinate for a reasonable period not exceeding fifteen days. In case an employe is again suspended within six months for any period whatever, the employe so suspended shall have the right of hearing or investigation by the commission on the second suspension or any subsequent suspension within said period, the same as herein provided.

16.69 The provisions of the above section shall not apply to removals of persons in any department of the city where such department is under the supervision and control of a board or commission of three or more members, but every such board or commission shall establish rules relating to the removal, discharge or reduction of employes in its department; provided, however, that no such employe shall be removed, discharged or reduced for religious or political reasons and any removed, discharged or reduced employe shall have the right to a trial and determination by such board or commission, or by a committee duly appointed by said board or commission as to whether there existed sufficient grounds for his removal, discharge or reduction and the determination of such board or commission, or of the committee when approved by the board or commission, shall be final in the matter. The right of suspension is granted boards and commissions included under this section the same as is elsewhere provided for in this act.

16.70 No treasurer, auditor, comptroller, or other officer or employe of the city in which this act is effective shall approve the payment of or be in any manner concerned in paying, auditing or approving any salary, wage or other compensation for services, to any person in the classified service unless a pay roll, estimate, or account for such salary, wage or other compen-

sation, containing the names of persons to be paid, a statement of the amount to be paid each such person, the services on account of which the same is paid, bears the certificate of the commission that the persons named in such pay roll, estimate, or account have been appointed or employed in pursuance of and have complied with the terms of this act and with the rules of the commission, and that the rate of salary or wage is in accordance with the rate established by the proper authorities. The commission shall refuse to certify the pay of any public officer or employe who shall wilfully or through culpable negligence violate or fail to comply with this act or the rules of the commission. The city service commission shall certify to the city comptroller all appointments to offices and places in the office of the city service commission and all changes or vacancies that may occur therein.

16.71 Any person who shall wilfully, or through culpable negligence, violate any provision of this act or any rule promulgated in accordance with the provisions thereof, shall be guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine of not less than fifty dollars and not exceeding one thousand dollars, or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment in the discretion of the court.

16.72 If any person shall be convicted under the next preceding section, any public office which such person may hold shall, by force of such conviction, be rendered vacant, and such person shall be incapable of holding office for a period of five years from the date of such conviction.

16.73 Prosecutions for violations of this act may be instituted either by the attorney-general, the state's attorney for the county in which the offense is alleged to have been committed, or by the board acting through special counsel. Such prosecution shall be conducted and controlled by the prosecuting officers who institute them, unless they request the aid of other prosecuting officers.

16.74 No officer or employe of such city shall discharge, or degrade, or promote, or in any manner change the official rank or compensation of any other officer or employe, or promise or threaten to do so for giving or withholding any contribution of money or other valuable thing for any party or political purpose, or for refusal or neglect to render any party or political service.

16.75 No applicant for appointment in such official service, either directly or indirectly, shall pay or promise to pay any money or other valuable thing to any person whomsoever, for

or on account of his appointment or proposed appointment, and no officer or employe shall pay or promise to pay, either directly or indirectly, to any person any money or other valuable thing whatsoever for or on account of his promotion.

16.76 No person while holding any office in the government of such city, or any nomination for, or while seeking a nomination for appointment to any such office, shall corruptly use, or promise to use, either directly or indirectly, any official authority or influence in the way of conferring upon any person, or in order to secure or aid any person in securing, any office or public employment or any nomination, confirmation, promotion or increase in salary, upon the consideration or condition that the vote or political influence or action of the last named person or any other shall be given or used in behalf of any candidate, officer or party, or upon any other corrupt condition or consideration.

SECTION 3. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

SECTION 4. This act shall take effect upon passage and publication.

Approved July 15, 1919.

No. 646, A.]

[Published July 23, 1919.

CHAPTER 573.

AN ACT to repeal subsection (8) of section 20.60; to amend the introductory paragraph of subsection (1) and subsections (3), (5) and (7) of section 20.60; and to create paragraphs (d), (e), (f), and (g) of subsection (1), and subsection (8) of section 20.60 of the statutes, relating to the department of agriculture, and making appropriations.

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

SECTION 1. Subsection (8) of section 20.60 of the statutes, is repealed.

SECTION 2. The introductory paragraph of subsection (1) and subsections (3), (5), and (7) of section 20.60 of the statutes, are amended to read: (20.60) (1) (Introductory paragraph) Annually, beginning July 1, * * * 1919, * * * *seventy-five* thousand dollars, for administration of said department, and all its bureaus, branches and divisions. Of this there is allotted:

(3) Annually, beginning July 1, * * * 1919, * * * *seven* thousand five hundred dollars, for seed inspection, as pro-