

FIREMEN AND POLICEMEN CIVIL SERVICE SYSTEM (EXCERPT)

Act 78 of 1935

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