

CIVIL SERVICE COMMISSION

Act 298 of 1966

AN ACT to establish and provide a board of civil service commissioners for sheriffs' departments in certain counties; to provide a civil service system based upon examination and investigation as to merit, efficiency and fitness for appointment, employment and promotion of all officers and men or women appointed in the departments; to regulate the transfer, reinstatement, suspension and discharge of said officers; to provide for referendums; and to prescribe penalties and provide remedies.

History: 1966, Act 298, Imd. Eff. July 14, 1966;—Am. 1998, Act 154, Eff. Mar. 23, 1999.

The People of the State of Michigan enact:

51.351 Civil service commission for sheriffs' departments in counties over 400,000; creation; applicability of act.

Sec. 1. Within 30 days after this act shall take effect there may be created a civil service commission in sheriffs' departments in all counties containing not less than 400,000 population, except that this act shall not apply in counties where the provisions of Act No. 370 of the Public Acts of 1941, as amended, being sections 38.401 to 38.428 of the Compiled Laws of 1948, are in force.

History: 1966, Act 298, Imd. Eff. July 14, 1966.

51.352 Civil service commission; membership, appointment, terms; president, term.

Sec. 2. The civil service commission shall consist of 3 members, 2 of whom shall be appointed by the board of supervisors, 1 to be appointed for 2 years and 1 to be appointed for 6 years. The third member of the commission shall be elected by the members of the sheriff's 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 sheriff's department shall be necessary to select such member. Thereafter, all appointments shall be made for a period of 6 years each; each commissioner shall serve until his successor is appointed and qualified by the appointing power hereinbefore designated.

The commission shall elect one of their number to act as president of the commission, who shall serve for 1 year.

History: 1966, Act 298, Imd. Eff. July 14, 1966.

51.352a Commissioners; compensation.

Sec. 2a. Each commissioner may receive compensation for each day's service and such necessary expenses and mileage as may be incurred in the actual performance of his duties, as fixed by the county board of commissioners. In no event shall compensation be paid or allowed for more than 30 days in any 1 year.

History: Add. 1972, Act 125, Imd. Eff. May 4, 1972.

51.353 Civil service commission; members, qualifications; holding other office prohibited; political affiliations.

Sec. 3. No person shall be appointed a member of the commission who is not a citizen of the United States and an elector of the county for a period of at least 3 years immediately preceding his 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 commissioners, at any one time, shall be adherents of the same political party.

History: 1966, Act 298, Imd. Eff. July 14, 1966.

51.354 Civil service commission; vacancies; removal.

Sec. 4. In event that any commissioner ceases 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 within 10 days after the vacancy occurs. The appointment shall be made by the body who in the first instance appointed the commissioner who is no longer a member of the commission. The board of supervisors may 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. A copy of the removal shall be served on the commissioner forthwith. Once the board has removed any commissioner, the removal shall be temporary only and shall be in effect for a period of 10 days. If at the end of 10 days the commissioner fails to make answer thereto, he shall be deemed removed; otherwise the board shall file in the circuit court a petition setting forth

in full the reason for the removal and praying for the confirmation by the circuit court of the action of the board in removing the commissioner. A copy of the petition, in writing, shall be served upon the commissioner so removed simultaneously with its filing in the circuit court and shall have precedence on the docket of the court and shall be heard as soon as the removed commissioner shall demand. All rights hereby vested in the circuit court may be exercised by the judge thereof during a vacation. If no term of court is being held at the time of filing of the petition, and the judge thereof cannot be reached in the county wherein the petition was filed, the petition shall be heard at the next succeeding term of the circuit court, whether regular or special, and the commissioner so suspended shall remain suspended until a hearing is had upon the petition of the board. The court, or the judge thereof, in vacation, shall hear and decide upon the 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. If the board fails to file this petition in the circuit court within 10 days after the removal of the commissioner, he shall immediately resume his position as a member of the civil service commission.

History: 1966, Act 298, Imd. Eff. July 14, 1966.

51.355 Civil service commission; clerk.

Sec. 5. The county clerk shall 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: 1966, Act 298, Imd. Eff. July 14, 1966.

51.356 Sheriff's department; incumbents, eligibility to permanent appointment under civil service.

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 sheriff's department, except the sheriff and undersheriff, 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 under 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. Any employee with less than 6 months' service shall be classed as a probationer under this act.

History: 1966, Act 298, Imd. Eff. July 14, 1966.

51.357 Sheriff's department; appointments, reinstatements, promotions and discharges subject to act; exceptions.

Sec. 7. After the date this act takes effect, appointments to and promotions in sheriffs' departments subject to this act shall be made only according to qualifications and fitness to be ascertained by examinations, which shall be competitive, and no person shall be appointed, reinstated, promoted or discharged as a member of the department regardless of rank or position, in any manner or by any means other than those prescribed in this act. The positions of undersheriff and departmental heads are exempt from the operation of this act, and the sheriff shall have the sole power and authority to fill such positions.

History: 1966, Act 298, Imd. Eff. July 14, 1966.

51.358 Civil service commission; aid from board of supervisors and department heads; offices, supplies.

Sec. 8. It shall be the duty of the board of supervisors and heads of departments to aid the civil service commission in all proper ways in carrying out the provisions of this act, to allow the reasonable use of public buildings, and to cause suitable and convenient rooms and accommodations to be assigned and provided and 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: 1966, Act 298, Imd. Eff. July 14, 1966.

51.359 Civil service commission; powers and duties.

Sec. 9. The civil service commission, within the terms of this act, shall:

(1) Adopt and enforce rules and regulations for carrying into effect the provisions of this act. All rules so prepared may be added to, amended or rescinded.

(2) Keep minutes of its own proceedings and records of its examinations and other official actions. All recommendations of applicants for office, received by the 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, subject to reasonable regulation, shall be open to public inspection. It shall keep a roster of the members of the 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.

(3) Make investigations concerning all matters touching the enforcement and effect of the provisions of this act and the rules and regulations prescribed thereunder, and 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 any commissioner may administer oaths and affirmations and take testimony.

(4) Make an annual report to the board of supervisors showing its own action, and rules and regulations with all exceptions thereto in force, the practical effects thereof, and any suggestions it may approve for the more effectual accomplishments of the purpose of this act. The reports shall be available for public inspection 5 days after the same shall have been delivered to the board of supervisors.

History: 1966, Act 298, Imd. Eff. July 14, 1966.

51.360 Civil service examination; application; filing; contents; forms; certificates; grounds for refusing to examine or certify applicant; hearing; review; physical examination; age; residence; reinstatement.

Sec. 10. (1) The civil service commission shall require an individual applying for admission to an examination provided for under this act or under the rules of the commission to file in its office, within a reasonable time prior to 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) Citizenship, age, and the place and date of birth.

(c) Health and physical capacity for the position for which the applicant is applying.

(d) Each residence and business or place of employment for not less than the previous 3 years. The commission shall establish educational requirements, but the requirements shall not call for less than an eighth grade education.

(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 persons requesting an application. The commission may require, in connection with the 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 physically 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 a crime.

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

(f) Has made a false statement of any 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 any 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 reviewable on writ of certiorari.

(4) Prior to taking the examination, all applicants for any position in the department shall undergo a physical examination, which may be performed by a licensed physician, a licensed physician's assistant, or a certified nurse practitioner but shall be conducted under the supervision of a commission composed of at least 2 physicians appointed to the commission by the board of supervisors. The commission shall certify that an applicant is free from any bodily or mental 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 is less than 18 years of age and has not been a resident of this state for at least 1 year prior to the application for any position in the department. If any applicant has formerly served in the department of the county to which the application is made for a period of more than 10 years, 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 his or her application, and is a resident of that county, then that applicant is eligible for reinstatement at the discretion of the civil service commission. The applicant, providing his or her former term of service so justifies, may be reappointed to the department without examination other than a physical examination. If an applicant is reinstated to the 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: 1966, Act 298, Imd. Eff. July 14, 1966;—Am. 1972, Act 81, Imd. Eff. Mar. 15, 1972;—Am. 1972, Act 125, Imd. Eff. May 4, 1972;—Am. 2004, Act 132, Imd. Eff. June 3, 2004.

Compiler's note: Following subdivision (d) of subsection (1), the subdivision labeled "(f)" evidently should be labeled "(e)".

51.361 Civil service commission; rules and regulations for examinations.

Sec. 11. The civil service commission shall make rules and regulations providing for examinations of positions in the departments under this act, for appointments and for such other matters as are necessary to carry out the purposes of this act.

History: 1966, Act 298, Imd. Eff. July 14, 1966.

51.362 Civil service employees; tenure; removal, discharge, reduction or suspension, procedures.

Sec. 12. The tenure of everyone holding an office, place, position or employment under the provisions of this act shall be only during good behavior and efficient service; and any such person may be removed or discharged, suspended without pay, or deprived of vacation privileges or other special privileges by the appointing officer for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment to the public, neglect of duty, violation of the provisions of this act or the rules of the commission, or any other failure of good behavior, or any acts of misfeasance, malfeasance or nonfeasance in office. No member of any department within the terms of this act shall be removed, discharged, reduced in rank or pay or suspended, or otherwise punished, except for cause, and in no event until he shall have been furnished with a written statement of the charges and the reasons for such actions. All charges shall be void unless filed within 90 days of the date of the violation. In every case of charges having been made, a copy of the statement of reasons therefor and the answer thereto, if the person sought to be removed desires to file such 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. If the person sought to be removed or reduced shall demand it, the civil service commission shall grant him a public hearing, which hearing shall be held within a period of 10 days from 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, but shall be suspended from duty without pay. At the hearing the burden shall be upon the person sought to be removed to prove that the removal is not justified. If the civil service commission shall determine that the action of the removing officer was not justified, then the person sought to be removed shall be reinstated with full pay for the entire period during which he may have been prevented from performing his usual employment, and no charges shall be officially recorded against his record. A written record of all testimony taken at such hearings shall be kept and preserved by the civil service commission, which record shall be sealed and not be available for public inspection, if no appeal is 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 on certiorari to the circuit court of the county. The appeal shall be taken within 90 days from the entry by the civil service commission of its final order. Upon such an appeal being taken and docketed with the clerk of the circuit court, the circuit court shall proceed to hear the appeal upon the original record taken therein and no

additional proof shall be permitted to be introduced. The circuit court's decision shall be final, saving to the employee, however, 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.

If for any reason of economy it shall be deemed necessary by any county to reduce the number of paid members of any department, then the county shall follow the following procedure:

The removals shall be accomplished by suspending in numerical order, commencing with the last man appointed to the department, all recent appointees to the department until such reductions shall have been accomplished. If the department again is increased in number to the strength existing prior to the reduction of members, the members suspended last under the terms of this act shall be first reinstated before any new appointments to the department shall be made.

History: 1966, Act 298, Imd. Eff. July 14, 1966.

51.363 Civil service examinations, obstructing right to examination or registration, unlawfully furnishing information or impersonating others; penalty.

Sec. 13. 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 rule or regulation prescribed pursuant thereto, 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 be deemed guilty of a misdemeanor.

History: 1966, Act 298, Imd. Eff. July 14, 1966.

51.364 Appointment or selection contrary to rules; refusal to comply to or violates act; penalty.

Sec. 14. Whoever makes an appointment to office, or selects a person for employment contrary to the provisions of the rules and regulations as adopted under the authority 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 \$100.00 nor more than \$1,000.00, or by imprisonment in a state prison for a term not exceeding 2 years, or by both fine and imprisonment in the discretion of the court.

History: 1966, Act 298, Imd. Eff. July 14, 1966.

51.365 Civil service commission; definitions.

Sec. 15. As used in this act:

- (1) "Commission" means the civil service commission herein created.
- (2) "Commissioner" means any one of the 3 commissioners of that commission.
- (3) "Appointment" means all means of selection, promotion, appointing or employing any person to hold any office, place or position of employment subject to civil service.

History: 1966, Act 298, Imd. Eff. July 14, 1966.

51.366 Act effective upon approval by electors; petition; ballot; form; referendum.

Sec. 16. (1) This act shall not take effect in any county until approved by a majority of the electors voting on the question at an election at which the question of adoption of this act for that county is properly submitted.

(2) The board of supervisors, by resolution, shall submit the question to the electors at any regular election upon the filing of a petition requesting the submission of the question with the board signed by registered electors of the county equal to not less than 10% of the total vote cast in the county for the office of secretary of state at the most recent general election. A petition under this subsection, 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 subsection is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

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

Shall 1966 PA 298, entitled "An act to establish and provide a board of civil service commissioners for sheriffs' departments in certain counties; to provide a civil service system based upon examination and

investigation as to merit, efficiency and fitness for appointment, employment and promotion of all officers and men or women appointed in the departments; to regulate the transfer, reinstatement, suspension and discharge of said officers; to provide for referendums; and to prescribe penalties and provide remedies," be adopted?

Yes()

No ()

(4) Ballots shall be cast and canvassed and the results of the election certified in the same manner as ballots on any questions submitted to the electors. If the majority of the qualified electors vote in favor of the adoption of this act, then the provisions of this act shall be in full force and effect in the county.

History: 1966, Act 298, Imd. Eff. July 14, 1966;—Am. 1998, Act 154, Eff. Mar. 23, 1999.

51.367 Rescission and repeal of act by electors; ballot, form; referendum.

Sec. 17. This act shall continue in full force and effect in any county in which it has been properly adopted until rescinded and repealed by a majority of the electors voting thereon at an election at which the question of rescission and repeal of this act for that county is properly submitted.

The board of supervisors, by resolution, may submit the question of rescission and repeal of this act to the electors at any regular or special election.

The form of the ballot shall be:

Shall Act No. of the Public Acts of 1966, entitled "An act to establish and provide a board of civil service commissioners for sheriffs' departments in certain counties; to provide a civil service system based upon examination and investigation as to merit, efficiency and fitness for appointment, employment and promotion of all officers and men appointed in the departments; to regulate the transfer, reinstatement, suspension and discharge of said officers; and to provide for referendums," be rescinded and repealed?

Yes ()

No ()

Such 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. If a majority of the qualified electors vote in favor of the rescission and repeal of this act, then the provisions thereof shall be rescinded and repealed in the county, and not otherwise.

History: 1966, Act 298, Imd. Eff. July 14, 1966.