

## CHAPTER 358—S. F. No. 190.

*An act defining the terms "Public Utilities" and "Public Improvements," providing for the election of civil service commissions, and the appointment by such commissions of public utilities boards for the management and control of all public utilities and public improvements, and generally prescribing the powers and duties of such commissions and boards, in cities of the fourth class adopting this act.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Definition of terms "Public Utilities" and "Public Improvements."—For the purposes of this act, the term "public utilities" shall include electric light, heat and power works, water works, gas works, ice plants, stone quarries and crushing works, telephone systems, public markets, public slaughtering establishments, creosoting and other paving works, and sewer systems; and the term "public improvements," shall include city halls, lock-ups, fire department buildings, streets, alleys, public ways, sidewalks, curbs, gutters, paving, parks, and all other public grounds and works thereon or therein, (not including library grounds and buildings), and all public buildings and structures other than libraries not hereinbefore specifically mentioned.

Sec. 2. To apply to all cities of the fourth class after adoption by electors.—This act shall apply to all cities of the fourth class; but it shall not be in force in any such city until its adoption by the electors as hereinafter provided.

Sec. 3. Provision for civil service commission.—In every city to which this act is made applicable there shall be a civil service commission, consisting of one member for every four hundred (400) of population according to the last preceding state or federal census, not, however, in any case to consist of less than nine nor more than fifteen members, all of whom shall be citizens of the state and residents of the city, and serve without compensation. No such commissioner shall at the time of his election, or while serving, hold any other office or employment under the city, the United States, the state of Minnesota, or any public corporation or political division thereof, other than the office of notary public, nor shall he be interested, directly or indirectly, in any contract, express or implied, with such city, or any board, officer or department thereof, as a contractor, subcontractor, employee, or otherwise.

The members of the first commission shall be elected (conditionally on the adoption of this act) at the same election at which the question of the adoption of this act is submitted to the electors in any such city, and shall hold their offices until noon on the Thursday next following the first regular city

election held more than one year after their election, and until their successors are elected and qualified; and thereafter such commissioners shall be elected at regular city elections for the term of two years and until their successors are elected and qualified; and in case a vacancy occurs at any time in said commission, the same shall be filled for the unexpired term by a majority vote of the remainder of the commissioners. Each commissioner before entering upon his duties shall subscribe and file with the city clerk or recorder an oath for the faithful discharge of his duties.

**Sec. 4. Meetings of civil service commission and election of officers, and fixing of rules.**—The first commission shall hold its first meeting within ten days after its election, at a time and place to be fixed by the mayor of the city, written notice of which shall be given to each member by said mayor, either personally or by mail, at least three days before the date of such meeting. At said meeting, or as soon thereafter as practicable, at an adjourned regular or special meeting, the commission shall elect from its own members a president, a vice-president and a secretary. It shall be the duty of the president to preside at all meetings of the commission, and in his absence the vice-president shall preside. The secretary shall keep the records and files of the commission.

The commission shall, from time to time, fix the times and places of its meetings and adopt, amend and alter rules for its procedure. Four members shall constitute a quorum at any legally provided or called meeting for the transaction of any business, except as otherwise herein provided.

**Sec. 5. What officers and employees are to come under jurisdiction of civil service commission.**—All officers and employees of such cities who are not elected by the people shall be under the jurisdiction of the civil service commission and subject to the provisions of this act. After the adoption of this act, the mayor, alderman, treasurer and recorder or clerk of such cities shall be elected by the people; but all other officers and employees, except as herein otherwise expressly provided, shall be elected, appointed or employed by the public utilities board, civil service commission or in other manner provided by this act and shall be included within the term "Employee" as used in this act.

**Sec. 6. Public utilities board, how designated and organization and duties.**—In every city to which this act is made applicable there shall be a public utilities board, which shall consist of three members to be elected by the civil service commission, for the term of one year, subject, however, to removal at any time by a majority vote of the commission. Two of the members of such board, one of whom shall be designated as chairman, and the

other as vice-chairman, may be elected from the members of the civil service commission, and shall serve without salary or compensation; but the third member of such board shall be selected without regard to his residence, and he shall receive such salary or compensation as shall be prescribed by the civil service commission, payable in monthly installments. He shall be designated as "City Manager," and shall have such authority and perform such duties in connection with all public utilities and public improvements of said city, subject to the general approval, control and direction of the public utilities board, as are hereinafter prescribed, and subject, also, to removal at the end of any month by written notice signed by the other two members of the board, whenever in their judgment the best interests of the city will be served thereby. He shall also be ex-officio city surveyor, city engineer and street commissioner, and may also at any time be made assistant secretary of the civil service commission, and, if elected thereto, may also hold the office of city recorder or clerk. If the office of city manager shall be vacant at any time for any reason and the board is unable to find a person to fill the same having the requisite qualifications, the other two members of the board may make a temporary appointment, at a reduced salary, of some person with less than the prescribed qualifications; provided, however, that such temporary appointment shall at no time continue for a longer period than four months. After the adoption of this act by the electors of any city the common council of such city shall have no authority to elect or appoint any city surveyor, engineer, or street commissioner and upon the appointment and qualifications of a city manager under the provisions of this act the terms of all persons holding any such offices in any such city, by election, or by appointment of the common council, shall at once terminate. Such city manager shall be selected upon the recommendation of the other members of such board and with special reference to his qualification and fitness to act as executive officer of such board and to take charge of and manage the public utilities and public improvements of said city and discharge the duties of his ex-officio offices. Before entering upon the discharge of the duties of his office the city manager shall be or become a citizen of the United States and a resident of the city, and he shall take, sign and file with the city clerk or reporter, an oath for the faithful performance of his duties, and he shall also give a surety bond in form and amount to be prescribed by order or rule of the public utilities board. The city treasurer shall be ex-officio treasurer of such board, and shall keep the funds under control of such board separate from the other funds of said city and pay the same out only on the order of the chairman or vice-chairman of such board and countersign by the city manager.

**Sec. 7. City manager to be superintendent of all public utilities.**—In addition to the duties prescribed by law for the city surveyor, city engineer and street commissioner, the city manager shall be superintendent of all public utilities of the city, have charge of the operation and repair thereof and of all buildings, appliances and improvements used in connection therewith, as well as of the installation and maintenance of all extensions and appliances connected therewith; and shall perform such other and further duties, not inconsistent with law, as the public utilities board may, from time to time, by order, rule or direction, prescribe. He shall, by and with the consent and approval of the public utilities board, appoint all assistants and deputies required by him in the discharge of his duties, and may remove them for cause, subject to appeal to the public utilities board, and shall hire and discharge, from time to time, such subordinate employes and laborers as may be provided for by the public utilities board; and all such subordinate employes of every character elected, appointed or employed in connection with the public utilities or public improvements of the city shall be under the direct supervision and control of the city manager.

**Sec. 8. Governing of police, health and other departments, the same as before taking effect of this act.**—In all cities to which this act is made applicable the police, health, library and fire department shall continue to be governed in the same manner as before the taking effect of this act and all taxes and assessments of every kind shall be levied and collected in the same manner as before the taking effect of this act. All money derived from the operation and management of all public utilities shall be under the exclusive control of the public utilities board and all other money appropriated by the common council of this city, or in any other lawful manner, for any purpose or purposes connected with the public utilities or public improvements of any such city, shall, after the same has been so appropriated or provided, be under the exclusive control of such public utilities board: but the same shall be expended only for the purpose for which the same was appropriated or provided. The common council of any such city shall not appropriate any money or levy any tax or assessment of any kind for the purpose of obtaining any money for the use of such public utilities board unless a recommendation therefor, setting out in detail the purposes for which such money is required, together with estimates of the cost of the various items thereof, shall first have been presented to the common council of such city by said public utilities board: but such board shall not be required to present any such recommendation or estimate for any such improvement in any case where the money for the same has already been

provided, either from the earnings of the public utilities and improvements of such city or otherwise.

**Sec. 9. Promulgation of rules after adoption.**—The commission shall, immediately after its election, and from time to time thereafter, make, amend and alter, rules to promote efficiency in the city service and to carry out the purposes of this act. All rules so adopted shall be published once in the official newspaper of the city and shall take effect three days after such publication. The public utilities board, city manager, or other appointing authority, shall be governed by such rules in the appointment and discharge of all subordinate officers and employes. Immediately after the adoption of any such rule, or any amendment or alteration thereof, the commission shall cause to be delivered to the mayor and the city clerk or recorder copies thereof.

**Sec. 10. Not to prevent mayor and council from removing or discharging employes.**—Nothing in this act contained shall in any manner prohibit the mayor, the city council, or any other board, or officer having the power to appoint or employ any city employee not under the control of the public utilities board or civil service commission, from removing or discharging such subordinate employee, but in case of any such removal or discharge the same shall be forthwith reported in writing, together with the cause thereof, to the civil service commission and the city clerk or recorder.

**Sec. 11. Civil service commission to make certain investigations.**—The civil service commission shall ascertain the duties of each office, position and employment under the management and control of the public utilities board, and shall designate by rule as well as may be practicable the grade of each office, employment or position; and shall prescribe standards of efficiency for each grade. The commission may by rule recommend the maximum and minimum to be paid for each office and employment, and for each grade and the title thereof, annually, or more frequently if deemed necessary. The commission shall make and keep a record of relative efficiency of each employee in the service under its jurisdiction other than unskilled laborers and shall provide by rule methods for ascertaining and verifying the facts from which such records of relative efficiency shall be made.

**Sec. 12. Commission to have certain powers in connection with the same.**—The commission shall from time to time investigate the enforcement of this act and of the rules made under it; the duties of all departments and of all employees of the city; the efficiency of the service, and such other matters as come within the scope of this act. In the course of such

investigations each commissioner shall have power to issue subpoenas, to administer oaths, and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. Any person who shall on any such hearing or investigation willfully testify falsely shall be guilty of perjury, and any person who shall refuse to obey the lawful subpoenas or directions of the commission in any such investigation shall be guilty of a misdemeanor. The commission may make complaint to the district court of disobedience of its subpoenas or orders under this section, and the court shall prescribe the notice to be given to the person accused and require him to obey the commission's subpoena or order, if found within the lawful powers of the commission, and punish disobedience as contempt of the court. Witnesses shall be entitled to the same fees and mileage as for attendance upon the district court, except that any officer, agent or employee of the city who receives compensation for his services shall not be entitled to fees or mileage.

**Sec. 13. To make written findings and deliver to certain officials.**—It shall be the duty of the commission, on the completion of any such investigation as provided for in the foregoing section, to make written findings of facts and recommendations or orders with reference to the matters so investigated; and copies thereof shall be forthwith delivered to the city manager, mayor, and city recorder or clerk, by each of whom the same shall be kept open to public inspection, and the same may also be published in the official newspaper of said city by the commission. All recommendations and orders so made by the commission shall be carried out by the proper officers and employees under the jurisdiction of the commission, and a failure so to do shall be cause for removal or discharge of the offending officer or employee by the commission; but no such removal or discharge shall be made without reasonable notice to and an opportunity to be heard by the accused official or employee.

**Sec. 14. To be adopted by electors.**—This act shall not be in force in any city until the question of its adoption in such city shall first have been submitted to the electors at a general election or at a special election called for that purpose, and it is approved by a majority of those voting on that question at such election. The common council of any such city on its own motion may, and on petition of a number of electors of said city equal to twenty per cent of those voting at the last preceding election shall, by ordinance or resolution, direct that the question of the adoption of this act by such city be submitted to a vote of the electors of such city at a general city election, or special city election called for that purpose to be held in such

city on a day specified, not less than ten days nor more than thirty days after the last publication of such ordinance or resolution. The signatures to such petition need not be all appended to one paper, but one of the signers on each such paper shall make oath, before any officer competent to administer oaths, that each signature to the paper appended is the signature of the person whose name purports to be thereto subscribed and that all the subscribers thereto are legal voters of said city. Such petition shall be filed with the city recorder or clerk, and it shall be his duty then to forthwith give written notice to the mayor and each alderman of said city, by mail, of the filing of such petition, and in such notice to fix a time and place, not less than three nor more than ten days thereafter, for the common council to meet and act on such petition. Such ordinance or resolution shall be published and posted, as soon after its adoption as conveniently may be, in manner now provided, or as may be hereafter provided, by law for such cities.

Sec. 15. This act shall take effect and be in force from and after its passage and approval.

Approved April 20, 1917.

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#### CHAPTER 359—S. F. No. 309.

*An act to amend Section 632, Chapter 7, General Statutes of Minnesota, 1913, entitled "Counties and County Officers," relating to the change of boundaries and the establishment of new counties.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Changing of boundaries and creation of new counties.**—That section 632, chapter 7, of General Statutes of Minnesota, 1913, be and the same is hereby amended to read as follows:

Section 2. The boundaries of counties may be changed by taking territory from a county and attaching the same to an adjoining county, and new counties may be established out of territory out of one or more existing counties, as hereinafter provided; that no such new county shall contain less than four hundred (400) square miles, nor less than two thousand (2,000) inhabitants, nor shall it have an assessed valuation of less than four million dollars (\$4,000,000.00) and no existing county shall be reduced in area below four hundred (400) square miles, nor so as to contain less than two thousand (2,000) inhabitants, nor so as to have an assessed valuation of less than four million dollars (\$4,000,000.00);