

time service and multiplying the result by the number of hours of the normal working day for the employment involved. Provided that in the case of persons performing services for municipal corporations in the case of emergency, then the normal working day shall be considered and computed as eight hours, and in cases where such services are performed gratis or without fixed *compensation* the daily wage of the person injured shall, for the purpose of calculating compensation payable under this act, be taken to be the usual going wage paid for similar services in municipalities where such services are performed by paid employees.

The weekly wage shall be arrived at by multiplying the daily wage by the number of days and fractional days normally worked in the business of the employer for the employment involved; provided that the weekly wage shall not be less than five times the daily wage. Occasional overtime shall not be considered in computing the weekly wage, but if such overtime is regular or frequent throughout the year for the employment involved, then it shall be taken into consideration.

Where board or other allowances of any character except gratuities are made to an employee in addition to wages as a part of the wage contract, they shall be deemed a part of his earnings and computed at the value thereof to the employee."

Approved April 28, 1941.

CHAPTER 513—H. F. No. 1119

An act creating and providing for a civil service commission in counties in the State of Minnesota having, or which may hereafter have, a population of not less than 250,000 nor more than 450,000 inhabitants, providing for the selection, appointment, confirmation and salaries of such civil service commission; its duties; providing for hearings of matters relating to charges against employees in the classified service of such counties and appeals from decisions relating to such charges; providing and defining what employees in the service of said counties shall be in the classified service and the unclassified service, including employees of certain county agencies supported in whole or in part by county taxation, except employees of county welfare boards, providing for the

retention and security in employment of all present employees of said counties and county agencies; providing that the administration of the detail work of said commission may be performed by the civil service bureau of any city of the first class situated in said counties; providing for the cost of such administration payable by said counties to any such city; providing for examinations to be held for applicants who shall hereafter seek employment in said counties; providing for the expenses of such commission to be paid out of the general fund of such counties; prohibiting employees of the classified service of such counties or county agencies from soliciting or being solicited for funds for political purposes and providing punishment for violation of the provisions of this act.

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

Section 1. Civil service commission for county employees established in certain counties.—There shall be created and maintained in any county in the state of Minnesota having, or which may hereafter have, a population of not less than 250,000 nor more than 450,000 inhabitants, a civil service commission for county employees and employees of certain county agencies and joint city and county agencies, supported in whole or in part by taxation upon the property within such counties which commission shall have the powers and duties hereinafter provided. Any such county desiring to avail itself of this act shall do so by the adoption of the board of county commissioners upon a record vote, of a resolution providing (1) for the creation of a civil service commission as in this act provided, and (2) for the submission of such resolution to the voters of any such county at the next general election for ratification, provided that until such resolution has been so ratified by a majority of the voters voting upon said question, it shall be of no force or effect.

Sec. 2. Appointment of civil service commission—terms.—Within 30 days after a majority of the voters of any such county voting upon said question elect to come within the provisions of this act, the board of county commissioners of any such county shall by majority vote, appoint three persons as a civil service commission to serve for terms of two, four and six years. As the terms of such commissioners expire, the vacancies shall be filled for terms of six years by appointment by the board of county commissioners. No person shall act as a member of such civil service commission while holding any public office, or while holding office in any political party, nor for two years after having held such public or political office. Each member of the commission must be a resident

of said county. Vacancies occurring within a term shall be filled for the unexpired portion of such term by the board of county commissioners.

Within 15 days after appointment, each commissioner shall qualify by subscribing to an oath for the faithful discharge of his duties and file said oath with the clerk of the district court in said county. If an appointee fails to so qualify, another shall be named in his place. Each commissioner shall hold office until his successor has been appointed and has qualified. Each member of the commission shall be paid \$10.00 per day for each day actually devoted to duties as a member of such commission, but no member shall be paid in excess of \$300.00 in any one year; provided that in addition thereto each member of the commission shall be paid actual expenses on itemized and verified statements. The commission shall organize by electing one of its members as chairman and one as secretary. Such commission shall hold regular meetings at least once a month and may hold such additional meetings as may be necessary to discharge the duties of the commission. Twenty-four hours' notice shall be given members for special meetings.

Sec. 3. May contract with city civil service commission.—In any county coming within the provisions of this act, in which there exists a city of the first class which city maintains a civil service bureau and personnel director or chief examiner, the board of county commissioners in such county and the city council of such city of the first class are hereby authorized and empowered to enter into a contract for the services of such city civil service bureau upon terms agreeable to both parties. In the event no such contract is made, the county civil service commission shall, subject to approval by the board of county commissioners appoint a civil service administrator who shall be the personnel director of the commission, and such other assistants as shall be necessary to carry out the provisions of this act. If so appointed, such administrator and his assistants shall be selected on the basis of merit and fitness after competitive examination and shall receive such salaries as the board of county commissioners shall determine. For the purpose of this act, the personnel director or chief examiner shall be referred to as the civil service administrator. In any case he shall be a member of the classified service and he shall be appointed not less than 90 days after the election of the civil service commission.

Sec. 4. Duties of commission.—It shall be the duty of the county civil service commission as a body:

(a) to frame, with the assistance of the civil service administrator, and to submit to the board of county commissioners, rules and regulations for the classified service and such approval shall be given by resolution. When so approved such rules and regulations shall have the force and effect of law. Such rules may be amended and repealed with the consent of the board of county commissioners in the same manner as provided for original adoption. Such rules shall provide amongst other things:

1. For the giving of at least ten days' public notice of examinations to be held, such notice to be published in at least one daily newspaper of general circulation in such county, and be posted in the court house of said county.

2. For the rejection of otherwise eligible candidates who fail to comply with the reasonable requirements of the commission with regard to age, qualifications, residence, sex or physical condition, or who have attempted any deception or fraud in connection with an application or examination, or who have been dismissed from the public service for delinquency or misconduct, or who have directly or indirectly given or promised to give any money, service, or other valuable thing to any person for or on account of, their examination, appointment or proposed appointment.

3. For competitive examinations to test the relative fitness of all eligible candidates except those otherwise specifically provided for in this act for positions in the classified service.

4. For the creation of eligible lists upon which shall be entered the names of successful candidates in the order of their rating in the examination. Such lists shall, however, remain in force not less than one year and not more than three years.

5. For the appointment, to fill a vacancy, of one of three persons who are rated highest on the appropriate eligible list, if the vacancy is not filled by transfer or reinstatement.

6. For a period of probation of six months after any appointment or promotion, during which period such probationer may be discharged or reduced with the consent of the commission, and he shall have no right of further appeal.

7. For temporary employment without examination with the consent of the administrator in cases of emergency and pending appointment from an eligible list, provided no temporary employment shall continue longer than 60 days unless

there be no appropriate eligible list in effect from which appointment can be made.

8. For transfers from any position to a similar position in the same or similar class or grade and for reinstatement within one year of persons who without fault or delinquency on their part are separated from the service or reduced.

9. For promotion based upon competitive examination and upon a record of efficiency, character, conduct, and seniority. Whenever practicable, vacancies shall be filled by promotion.

10. For suspensions for not longer than 30 days for disciplinary purposes; for leaves of absence with or without pay; for lay-offs based upon seniority; for vacations and sick leaves; for hours of employment; and for a classification of all offices in the classified service on the basis of duties and responsibilities.

11. For discharge or reduction in rank after permanent appointment or promotion only when the person to be discharged or reduced has been presented with written charges specifically stated in writing and has been allowed either a hearing thereon before the commission, or if he waive such hearing, has been allowed a reasonable time to reply to such charges in writing. Records of such charges, reply or hearing shall be filed in the office of the civil service administrator.

12. For the appointment in accordance with Section 10 hereof, of unskilled laborers in the order or priority of application after such tests of physical and mental fitness as the commission shall prescribe. Such tests for laborers need not be competitive.

13. For the reinstatement, without competitive examination, to positions in the classified service, of persons holding exempt positions on the effective date of this act, when such persons terminate their exempt employment, provided that such persons shall have previously served such county or county agency for a period of ten years or more in a position placed in the classified service by the provisions of this act.

14. For the reinstatement to the classified service of any employee who has taken a leave of absence therefrom for the purpose of accepting an exempt position in the service of such county or county agency.

(b) Hear cases involving; the rejection of applicants for examinations; removal of eligibles from lists; complaints of citizens against employees in the classified service; charges

preferred against any officer or employee in the classified service for removal or reduction of such person.

(c) Make investigations on the request of the board of county commissioners, or on its own motion concerning the enforcement and effect of this act and to require observance of its provisions and the rules and regulations established thereunder, and to hear such other matters as may be referred to it by the board of county commissioners or the civil service administrator.

(d) Make a study of service ratings and of salaries paid by the county and its several agencies and to classify all positions in such service on the basis of equal pay for equal work for each class of position and report the results of such study, together with the recommendations of the commission to the board of county commissioners.

Sec. 5. Duties of civil service administrator.—The civil service administrator shall be the executive and administrative head of the county civil service commission and it shall be his duty to:

(a) Attend the regular and special meetings of the commission.

(b) Supervise and direct the work of the employees of the civil service department.

(c) Prepare and recommend rules and regulations for the administration of this act, which shall become effective after approval by the commission and the county board, as provided in this act; to administer such rules and regulations; to propose amendments thereto.

(d) Establish and maintain a roster of officers and employees in the service of the county and its agencies affected by this act.

(e) Ascertain and record the duties and responsibilities of all positions in the classified service and classify such positions.

(f) Make a study of service ratings with the commission, of rates of compensation paid the various classes of positions and prepare a report to the county commissioners setting out a recommended minimum and maximum rate of salary for each class of position.

(g) Provide for and hold competitive tests to determine the qualifications of persons seeking employment in any class

of position and establish employment lists of those passing such tests.

(h) When a vacancy is to be filled, to certify to the appointing officer on written request the name of the person highest on the reinstatement list for the class. If there be no reinstatement list, he shall certify the three highest on the eligible list for the class. If there are no such lists, he shall authorize temporary appointments pending establishment of such employment list for such class.

(i) Keep such records as may be necessary for the proper administration of this act.

(j) Provide a system for checking payrolls and accounts for the payment of salaries or wages to employees in the classified service so as to enable him upon evidence thereof, to certify or cause to be certified that the persons whose names appear thereon have been regularly appointed and employed or are on authorized leave before payment may be lawfully made to such employees.

(k) Make investigations concerning the administration and effect of this act and the rules made thereunder and report his findings and recommendations to the commission.

(l) Make an annual report to the county civil service commission.

Sec. 6. Classification of service.—The officers and employees of such county and of any county or joint county and city agency, board or commission, except the board of county welfare, supported in whole or in part by taxation upon the taxable property of such county, or appointed by the judges of the district court or probate court for such county, or by any board or agency composed of representatives of the county and any city in such county, are hereby divided into the unclassified and classified service.

The unclassified service shall comprise:

(a) All officers elected by popular vote or persons appointed to fill vacancies in such offices.

(b) Judges, receivers, referees, arbiters, jurors, judges and clerks of election, notaries public, and persons appointed by the district or probate courts to make or conduct any special inquiry of a judicial and temporary character.

(c) The superintendent or principal administrative officer of any separate department of county government or agency which is now or hereafter created by law.

(d) Members of the teaching staff and supervisors and principals in the employ of the county, providing they are actually engaged in teaching or the supervision of teaching.

(e) Members of non-paid boards or commissions appointed by the county board or county board and city or acting in an advisory capacity.

(f) One deputy and private secretary for each elected public official, who is elected after November 1, 1942.

(g) Doctors, interns, and student nurses employed by the county or any county agency.

(h) Special police officers or special deputy sheriffs serving without pay.

(i) District court reporters, and officers and employees of county probation offices, county boys' farms, and county girls' schools.

(j) Assistant county attorneys, or special investigators in the employ of the county attorney. The classified service shall include all other offices or employments now existing or hereafter created in said counties and county agencies and all officers and employees not expressly placed in the unclassified service by the terms of this act, notwithstanding any other provisions in any existing law to the contrary. It shall include officers and employees of such county agencies, if the funds for such agencies are provided in whole or in part by such county. For the purpose of clarity it shall include officers, except as excluded in subdivision (c) of Section 6 above, and employees of joint city hall and court house commissions and all other agencies supported and controlled in whole or in part by the said counties, or jointly by said counties and any city of the first class located therein; provided, however, that nothing herein shall apply to the officers and employees of boards of county welfare.

Sec. 7. **Certain employees to be protected.**—Any permanent employee who was in the employ of the county on February 1, 1941, and who is holding a position which is placed in the classified service under the provisions of this act when said act becomes effective, or part-time employees certified as such by department heads, although not in active service on the effective date of this act, but who have been so employed during the year 1940 shall be subject to and protected by the provisions of this act but shall first be subject to the following: (a) the general classification directed to be made by Section 5 (e) of this act; and (b) a probationary

period as provided in Section 4 (a) 6 of this act. The probationary period in the case of persons holding office or employment covered by this section shall begin to run from the date of the appointment of the civil service commission.

Sec. 8. May create new classifications.—In addition to the titles and classifications of positions in the classified service when this act takes effect, the civil service commission, with the consent of the board of county commissioners, may create new titles within the classified service where deemed necessary providing such action be not prohibited by the provisions of any existing law authorizing and establishing stated titles at stated salaries.

Sec. 9. Payrolls must be approved by commission.—No auditor, treasurer or other disbursing officer of the county or any county agency, shall pay any salary or compensation for service to any person holding a position in the classified service as established under this act unless the payroll or account for such salary or compensation shall bear the certificate of the civil service administrator that the persons named therein have been appointed in accordance with the provisions of this act. The administrator shall not certify any payroll item for payment unless such person, claimed to be entitled to such payment, shall have been appointed and employed in accordance with the provisions of this act, and the rules and regulations of the civil service commission.

In any litigation arising out of the provisions of this act, or in relation thereto, the civil service commission shall be a proper party plaintiff or defendant, and may sue or be sued as such. The commission shall be represented in any such action by the county attorney of the said county. Any taxpayer of the county may maintain an action in the district court, to enjoin any person or persons from authorizing or making payment in violation of this act or the rules enacted hereunder.

Sec. 10. Shall provide lists of eligibles.—The rules and regulations of the civil service commission shall provide eligible lists in the classified service for hourly or day laborers, in such classes as may be necessary and upon such tests of fitness as the commission may prescribe. Appointments to work for such hourly or day laborers shall be made upon certification from such eligible lists, under the rules of the commission, which shall take account of priority of application, location of work and the factor of convenience arising therefrom.

Sec. 11. May issue subpoenas.—In any investigation conducted by the county civil service commission or civil service

administrator, they shall have the power to subpoena and require the attendance of witnesses and the production of books and papers pertinent to the investigation and to administer oaths to such witnesses. Failure to obey such subpoena is hereby declared to be a misdemeanor. Commission hearings shall be conducted informally and impartially and in such manner as it deems best calculated to arrive at the correctness of the charges preferred, and without regard to any technical rules of procedure or evidence. The accused employee or officer shall have the right to be represented by counsel and may demand that a record of the hearing be made at the expense of the county or county agency.

Sec. 12. Not to influence applicants.—No person shall deceive nor obstruct any person in respect to his or her right of test under the provisions of this act, or falsely mark, grade, estimate or report upon the test or standing of any person tested hereunder, or aid in so doing, or furnish to any person, except in answer to inquiries of the civil service commission, any special information for the purpose of either improving or injuring the rating of any such person for appointment or employment. No applicant shall deceive the commission for the purpose of improving his prospects for appointment. No person shall solicit, orally or by letter, and no public officer or employee shall receive or be concerned in the receiving or soliciting of, any money or valuable thing from any officer or employee holding a position in the classified service for any political party or purpose whatsoever. No person shall by means of threats or coercion induce or attempt to induce any person holding a position in the classified service to resign his position or to take a leave of absence from duty or to waive any of his rights under this act. A resignation executed previous to appointment shall be of no effect.

Sec. 13. Not required to contribute to political campaigns.—No person holding any office, place or position of employment in the classified service shall be under any obligation to contribute to any political service or fund to any person or body whatever, and no person shall be removed, reduced or otherwise prejudiced for refusal so to do. Any person holding any office, place or position of employment in the classified service shall resign from the service upon being elected to any public office.

Sec. 14. Removals and demotions.—No person in the classified service who shall have been permanently appointed or inducted into such service under the provisions of this act, shall be removed, demoted or discharged

except for cause. Removal, reduction or suspension for religious or political reasons shall not be considered "cause" for such action under the provisions of this act. If any appointing officer desires to demote or discharge any such employee, he shall present such employees with the charges against such employee in writing, and file a copy of the said charges with the administrator. The accused employee may, within ten days from the date the charges are served upon him, file with the administrator a written demand for a hearing, whereupon the commission shall conduct such hearing without unnecessary delay. After such hearing the commission may, if it considers the evidence to so warrant, affirm the action of the appointing officer, or, if the commission determines said action of the appointing officer to be without just cause, order the reinstatement of such employee, or said commission may, in its judgment, reduce the punishment sought to be applied by the appointing officer to a reduction or suspension. If said commission determines that the action of the appointing officer was without cause, it may order that the accused employee be paid his salary during the period he was off duty because of said removal without cause. All hearings of such charges by the commission shall be public, and the accused shall be entitled to be present in person and present his defense. Any officer or employee may appeal from the decision of the commission to the district court of the said county, which court shall determine whether the record of the hearing contains evidence upon which the commission could have reached such decision and whether such commission abused the discretion granted it under the provisions of this act. There shall be no appeal from the determination of the district court in the matter.

Sec. 15. Annual reports.—The county civil service commission shall report annually to the county board concerning the administrative needs of the service, the personnel and the positions in the service and the compensation paid. The report shall detail the number of examinations held, number of applicants, appointments made, removals, etc. The commission shall recommend amendments in the rules, plans for promoting efficiency and progress, and the county board shall have the right to require reports from the commission at any time respecting any matter within the scope of the duties of the commission hereunder.

Sec. 16. County board to provide offices in the county seat.—Office accommodations for the county civil service commission shall be provided by the county board. All compensation,

salaries and other expenses of the commission and its employees shall be paid out of the county funds.

Sec. 17. Veterans to be given preferential rating.—Honorably discharged veterans of the United States Army, Navy or Marine Corps, who have served in past wars, shall be entitled to preferential rating or preference in appointment as follows: Any such veteran who shall have taken and passed the examination as provided for herein shall have added to his rating five points, if such rating be on the basis of one hundred points, or a proportionate number of points if such rating be on the basis of any different number of points than one hundred. If with such preferential rating he shall be among the first three on the eligible list for any position to which appointment is to be made, he shall be entitled to receive such appointment over any other person on such list other than another veteran. His rating shall not be decreased by reason of any physical disability resulting from such service unless such disability materially interferes with the performance of the duties of the position.

Sec. 18. Must be citizens of the United States.—No person shall be inducted into the classified service under the provisions of this act nor appointed to such service hereunder unless he be a citizen of the United States.

Sec. 19. Violation a misdemeanor.—Any person who shall wilfully or through culpable negligence violate any of the provisions of this act, or the rules of the commission promulgated hereunder, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not to exceed \$100.00 or by imprisonment not to exceed 90 days.

Sec. 20. Provisions severable.—In the event that any section or portion of this act shall be held invalid, for any reason, such invalidity shall not be held to impair and invalidate the remainder of this act or any other part of it, it being the legislative intent that every section and part hereof shall stand and be in force and effect notwithstanding the invalidity of any particular provision or provisions.

Sec. 21. Effective June 1, 1941.—This act shall take effect and be in force June 1, 1941.

Approved April 28, 1941.