

## CHAPTER 420

### FIREFIGHTERS' CIVIL SERVICE COMMISSIONS

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#### 420.01 CREATION.

There may be created in every city, except cities of the first class, and in statutory cities having a population of 2,000 or more, and having a fire department consisting of two or more regularly employed and paid firefighters, a firefighter's civil service commission with powers and duties as hereinafter provided.

**History:** (1933-23) 1929 c 57 s 1; Ex1936 c 13; 1973 c 123 art 5 s 7; 1977 c 429 s 63

#### 420.02 ADOPTION OF ACCEPTING ORDINANCE.

Any city or statutory city in the class mentioned in section 420.01 which may wish to avail itself of the provisions of this chapter, shall do so by an ordinance expressly accepting the provisions hereof. The ordinance shall be adopted in the same manner as other nonemergency ordinances, but at least 30 days shall elapse between its introduction and final passage by the governing body. This chapter does not apply to any city until the adoption of such ordinance.

**History:** (1933-25) 1929 c 57 s 3; 1959 c 695 s 1; 1973 c 123 art 5 s 7

#### 420.03 MEMBERSHIP; DUTIES; TERMS.

Except in a city having a combined police and firefighters' civil service commission, the commission shall consist of three members who are citizens of the state and resident of such city, and shall be appointed by the council of the city, and when first created one commissioner shall be appointed for the term of one year, who shall be president of the commission, one for the term of two years, and one for the term of three years, and all commissioners shall hold office until their successors are appointed and qualified. The council may remove any commissioner who in the judgment of the council has willfully violated any of the provisions of sections 420.01 to 420.16. No commissioner shall, at the time of appointment 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 or member of a civil service commission for police officers or other municipal personnel. Each commissioner, before entering upon duties, shall subscribe and file with the city clerk, an oath for the faithful discharge of the duties. Except in a city having a combined police and firefighters' civil service commission, there shall be appointed each year thereafter by the council one member of the commission whose term of office shall be for three years, and each member of the commission shall be president during the last year of the term. All vacancies in the commission shall be filled by appointment by the council within 30 days after the vacancy occurs.

**History:** (1933-26) 1929 c 57 s 4; 1945 c 183 s 1; 1959 c 695 s 2; 1973 c 123 art 5 s 7; 1977 c 429 s 63; 1986 c 444

**420.04 MEETINGS.**

The commission shall first meet immediately after its appointment and thereafter on the first Monday in February of each year at which meetings it shall select from its members a secretary who shall serve until a successor is elected. The commission shall, from time to time, fix the times of its meetings, and adopt, amend, and alter rules for its procedure. All meetings shall be held and all records kept at the city hall.

**History:** (1933-27) 1929 c 57 s 5; 1945 c 183 s 2; 1973 c 123 art 5 s 7; 1986 c 444

**420.05 MEMBERS TO SERVE WITHOUT PAY.**

Each commissioner shall serve without pay but the council may allow the secretary such compensation, not exceeding \$100 per year, as it shall deem commensurate with the additional services rendered. The council shall pay from the municipal treasury all expenses incurred by the commission in connection with the performance of its duties and shall furnish it with all supplies, stationery, and equipment it may require, but all bills and accounts shall be audited and approved by the president and secretary of the commission before being paid by the council.

**History:** (1933-28) 1929 c 57 s 6; 1986 c 444

**420.06 POWERS AND DUTIES.**

The commission shall have absolute control and supervision over the employment, promotion, discharge, and suspension of all officers and employees of the fire department of such city and these powers shall extend to and include the chief and assistant chief of such, and all inspectors, fire wardens, electricians, engineers, auto mechanics, clerks, and other persons engaged in the fire prevention and protection service in the city. The commission may not, however, prescribe any residency requirements for the positions under its control, unless approved by the city council.

The commission shall immediately after its appointment and organization grade and classify all of these employees of the fire department of the city and a service register shall be prepared for the purpose, in which shall be entered, in their classes, the names, ages, compensation, period of past employment, and such other facts and data with reference to each employee as the commission may deem useful.

The commission shall keep a second register to be known as the application register in which shall be entered the names and addresses in the order of the date of application of all applicants for examination and the offices or employments they seek. All applications shall be upon forms prescribed by the commission and contain such data and information as the commission shall deem necessary and useful.

**History:** (1933-29) 1929 c 57 s 7; 1941 c 434; 1973 c 123 art 5 s 7; 1978 c 585 s 3; 1979 c 50 s 54

**420.07 RULES FOR FIRE DEPARTMENT SERVICE.**

The commission shall adopt rules to promote efficiency in the fire department service and to carry out the purposes of this chapter. The rules must provide among other things for:

- (1) the classification of all offices and employments in the fire department;
- (2) public competitive examinations to test the relative fitness of applicants;

(3) public advertisement of all examinations at least ten days in advance in a newspaper of general circulation in said city and posting the advertisement for ten days in the city hall and at each station house;

(4) the creation and maintenance of lists of eligible candidates after successful examination in order of their standing in the examination and without reference to the time of examination, which must be included in an eligible register;

(5) the commission may by rule provide for striking any name from the eligible register after it has been on the register for two years;

(6) the rejection of candidates or eligibles who, after the entry of their names fail to comply with the reasonable rules and requirements of the commission in respect to age, resident, physical condition or otherwise, or who have been guilty of criminal, infamous, or disgraceful conduct, or of any willful misrepresentation, deception or fraud in connection with the examination or in connection with their applications for employment;

(7) the certification of the three names standing highest on the appropriate list to fill any vacancy;

(8) temporary employment without examination, with the consent in each case of the commission, in cases of emergency, but no such temporary employment must continue more than 30 days nor must successive temporary employments be permitted for the same position;

(9) promotion based on competitive examination and upon records of efficiency, character, conduct, and seniority;

(10) suspension with or without pay, for not longer than 60 days and for leave of absence, with or without pay; and

(11) other rules not inconsistent with the provisions of this chapter as may from time to time be found necessary to secure the purposes of this chapter.

When a disparity exists between the make-up of the fire department and its approved affirmative action goals, the commission may certify up to two eligible candidates from each protected group for which a disparity exists. This certification is in addition to the three candidates certified under clause (7). This expanded certification may not include a member of a protected group if a member of that group is one of the three candidates certified under clause (7). Certifications under this paragraph must be made from the list of eligible candidates who have successfully completed the examination, in order of their standing in the examination. These expanded certification procedures apply only to positions to be filled from the public and do not apply to promotional appointments.

Copies of such rules must be kept posted in a conspicuous place at each fire station house, and no rules of general application with reference to employment, promotion, discharge, or suspension are effective until posted.

**History:** (1933-30) 1929 c 57 s 8; 1959 c 695 s 3; 1973 c 123 art 5 s 7; 1991 c 140 s 2

#### **420.08 REMOVAL OR DISCHARGE.**

No officer or employee after six months' continuous employment shall be removed or discharged except for cause, upon written charges and after an opportunity to be heard in defense of the charges as in this chapter hereinafter provided. Such charges shall be investigated by or before such civil service commission. The findings and decision of such commission shall be forthwith certified to the chief or other appointing or superior officer, and will be forthwith enforced by such officer. Nothing in this chapter shall limit the

power of any officer to suspend a subordinate for a reasonable period not exceeding 60 days for the purpose of discipline, or pending investigation of charges when the officer deems such suspension advisable.

**History:** (1933-31) 1929 c 57 s 9; 1986 c 444

#### **420.09 EMPLOYEES GRADED.**

The commission shall ascertain the duties of each office, position, and employment in the fire protection service of such city and designate by rule as well as may be practicable the grade of each office, employment, or position. The commission shall prescribe standards of fitness and efficiency for each office, position, and employment and for each grade, and adapt its examinations thereto.

**History:** (1933-32) 1929 c 57 s 10; 1973 c 123 art 5 s 7

#### **420.10 EXAMINATIONS; EXAMINERS.**

All examinations shall be impartial, fair and practical and designed only to test the relative qualifications and fitness of applicants to discharge the duties of the particular employment which they seek to fill. No question in any examination shall relate to the political or religious convictions or affiliations of the applicant. All applicants for positions of trust and responsibility shall be specially examined as to moral character, sobriety and integrity, and all applicants for positions requiring special experience, skill or faithfulness shall be specially examined in respect to those qualities. It shall be the duty of the chief of the fire department and of every employee to act as an examiner or assistant examiner, at the request of the commission, without special compensation therefor. Examinations shall be conducted and examination papers scored by some experienced and competent person who is not a resident of the city where the examinations are being held, when by resolution or motion it is so ordered by the council of such city.

**History:** (1933-33) 1929 c 57 s 11; 1945 c 197 s 1; 1973 c 123 art 5 s 7

#### **420.11 NOTICE OF EXAMINATIONS.**

Notice of the time, place, and scope of each examination shall be given by publication and posting as specified in section 420.07 and by mailing such notice to each applicant upon the appropriate list of the application register ten days in advance. The names of those found eligible upon examinations after giving credit for character and previous successful experience, shall be entered with their addresses and percentages on the eligible register. No name shall remain upon the eligible register more than two years without a new application and, if the rules of the commission so require, a new examination. When a vacancy has been filled or new appointment made the names selected shall be stricken from the eligible register and transferred to the service register.

**History:** (1933-34) 1929 c 57 s 12

#### **420.12 CHARGES TO BE FILED; TRIAL.**

Charges of inefficiency or misconduct may be filed with the secretary of the commission by a superior officer or by the appointing authority, and thereupon the commission shall try the charges after not less than ten days' written notice to the accused. Such notice shall set forth the charges as filed. The trial of these charges shall be open to the public and each commissioner shall have the power to issue subpoenas and to administer oaths and to compel the attendance and testimony of witnesses and the production of books and papers relevant to the investigation. The commission shall require by subpoena the attendance of any witness requested by the accused who can be found in the county in which such city is located. The commission may make a complaint to the district court of disobedience of its subpoenas or orders under this section, and

the court shall prescribe notice to the person accused and require the accused person to obey the commission's subpoena and order, if found within the lawful powers of the commission, and punish disobedience as a contempt of 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 services, shall not be entitled to fees or mileage.

**History:** (1933-35) 1929 c 57 s 13; 1959 c 695 s 4; 1973 c 123 art 5 s 7; 1986 c 444

#### **420.13 SUSPENSION OR REMOVAL.**

An employee who, after investigation and trial by the civil service commission, is found guilty of inefficiency, breach of duty, or misconduct, may be removed, reduced, or suspended. The employee's name also may be stricken from the service register. If the board determines that the charges are not sustained, the accused, if suspended pending investigation, shall be immediately reinstated and paid all back pay due for the period of suspension.

Findings, determinations, and orders of the commission for suspension, reduction, or removal shall be in writing and filed within three days after the completion of the hearing with the secretary of the commission. The secretary shall notify the employee of the decision in writing. Any person suspended, reduced, or removed by the commission after investigation may appeal in accordance with chapter 14.

The question to be determined by the court shall be:

"Upon the evidence was the order of the commission reasonable?"

**History:** (1933-36) 1929 c 57 s 14; 1973 c 123 art 5 s 7; 1983 c 247 s 153; 1984 c 655 art 1 s 65; 1986 c 444

#### **420.14 COMMISSION, WHEN ABOLISHED.**

Any firefighter's civil service commission hereafter created pursuant to the provisions of this chapter, except where such civil service commission has been continuously in operation for eight years or more, may be discontinued and abolished as follows: A petition signed by 25 percent of the number of legal voters voting at the last general municipal election, shall be filed with the governing body of such city and request that the following question be submitted to the voters: "Shall the firefighter's civil service commission be abolished?"

**History:** (1933-40) 1929 c 57 s 18; 1931 c 152 s 1; 1939 c 379; 1973 c 123 art 5 s 7; 1977 c 429 s 63

#### **420.15 ELECTIONS.**

When such petition is filed the governing body of such city shall cause the question to be submitted to the voters at the first following general municipal election.

Such commission shall be deemed to be abolished if two-thirds of the votes cast in the election be in favor of such abolishment; and the status of the fire department and all of the employees thereof shall thereafter be deemed to be the same as if the commission had not been created.

**History:** (1933-41) 1929 c 57 s 19; 1931 c 152 s 2; 1973 c 123 art 5 s 7

#### **420.16 CERTAIN ACTS MISDEMEANORS.**

An applicant for examination, appointment, or promotion in the fire prevention service of the city who shall, either directly or indirectly, give, render, or pay or promote to give, render, or pay any money, service,

or other thing to any person for or on account of or in connection with the applicant's examination, appointment, or proposed appointment or promotion, shall be guilty of a misdemeanor and subject to suspension or removal.

Any officer or employee of the fire department, when operated under civil service in accordance with the provisions of this chapter, who shall in any manner directly or indirectly solicit, receive, or pay, or be in any manner concerned in soliciting, receiving, or paying any assessment, subscription, or contribution for any party or political purpose shall be guilty of a misdemeanor and subject to suspension or removal.

Any person who shall solicit or receive directly or indirectly, or be in any manner concerned in soliciting or receiving any assessment, contribution, or payment for any political purpose from any officer or employee in a fire department operated under civil service as in this chapter provided for, shall be guilty of a misdemeanor.

**History:** (1933-37, 1933-38, 1933-39) 1929 c 57 s 15-17; 1973 c 123 art 5 s 7; 1986 c 444

#### **420.20 PROHIBITION OF SERVICE BY MINORS AS VOLUNTEER FIREFIGHTERS.**

It is unlawful for any municipality or independent nonprofit firefighting corporation to employ a minor to serve as a firefighter or to permit a minor to serve in any capacity performing any firefighting duties with a fire department, except for members of a youth, civic, or educational organization or program who participate with uninterrupted adult supervision, as allowed by federal law and by section 181A.04. Such organizations or programs include, but are not limited to, Boy Scout Explorer programs or firefighting degree programs.

**History:** 2009 c 169 art 10 s 7