

CHAPTER 419

POLICE CIVIL SERVICE COMMISSIONS

419.01 IN VILLAGES AND CERTAIN CITIES.

HISTORY. 1929 c. 299 s. 1; 1933 c. 197 s. 1; 1935 c. 34 s. 1; M. Supp. s. 1933-48.

Statute is not unconstitutional as special legislation, as lacking uniformity of operation, or because it embraces a subject not expressed in its title. *Naeseth v Village of Hibbing*, 185 M 526, 242 NW 6.

A city may adopt civil service commission relating to police departments, notwithstanding home rule charter provisions. OAG Oct. 11, 1933.

This act applies to all cities within the class, including cities operating under home rule charters, notwithstanding inconsistent provisions in the home rule charters, and it is unnecessary to amend the home rule charters. OAG Nov. 16, 1934 (785e).

This act did not affect the general power of supervision of the mayor of Eveleth over the police department. OAG Nov. 25, 1930.

A city council wishing to create a police civil service commission may proceed either by ordinance or by resolution. OAG Jan. 21, 1931.

A commission created by resolution cannot be abolished by a vote of the electors. OAG Jan. 21, 1931.

The adoption of a resolution and the appointment of a police civil service commission on December 31, at a ballot meeting of the old village board, could not be rescinded at a meeting of the newly-elected board, but there must be an election to determine the question of abolishment. OAG March 19, 1935 (785e-1).

A resolution adopting this act is in the nature of a legislative act required to have three readings under the city charter of Hastings. OAG May 2, 1938 (62b).

An ordinance creating a police civil service commission cannot provide that it may be repealed and the commission abolished by a repealing ordinance or by a vote of the electors. OAG Jan. 21, 1931.

The city council of Eveleth has authority to place the juvenile officer within the police department under the jurisdiction of the police civil service commission. OAG Feb. 3, 1932.

There is no requirement for an approval or a disapproval by the city attorney. OAG April 14, 1939 (785e).

A petition for discontinuance of the commission must be signed by 25 per cent of the voters at the last election. There are no other directions or restrictions. 1942 OAG 101, July 24, 1942 (785E-1).

The power of classifying and grading police officers, cannot, in the instant case, be delegated to the mayor. 1942 OAG 240, Sept. 23, 1942.

419.02 MEMBERSHIP; APPOINTMENT; OATH.

HISTORY. 1929 c. 299 s. 2; M. Supp. s. 1933-49.

The same person cannot hold the offices of police civil service commissioner and firemen's civil service commissioner. OAG Jan. 22, 1934.

A police civil service commissioner may not hold the office of school trustee. OAG July 18, 1938 (785d).

Where the term of office of the commissioner has expired and the mayor attempted to reappoint the same person and his confirmation was unanimously voted down by the council and the mayor refuses to appoint any other, the mayor may be compelled to make an appointment by mandamus. OAG April 24, 1934 (785e-2).

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Terms of office cannot be lengthened or shortened by a municipal ordinance. OAG April 25, 1935 (785e-1).

The president of the city council of Marshall, in the absence of the mayor who is in a distant hospital and unable to act, may call a special meeting of the council and appoint a police civil service commissioner to fill a vacancy, and may also vote on the question of the confirmation of the appointment. OAG May 14, 1938 (61a).

As affecting residence of commissioner, a person's place of residence is that place in which his habitation is fixed and to which, whenever he is absent, he intends to return. OAG Aug. 10, 1938 (785e).

Where a police civil service commissioner is appointed by the mayor and the council refuses to confirm, the president of the council cannot make the appointment in case the mayor fails to submit a person satisfactory to the council, but the mayor may be compelled by mandamus to act in the matter. OAG March 13, 1939 (785e).

419.03 MEETING.

HISTORY. 1929 c. 299 s. 3; M. Supp. s. 1933-50.

419.04 COMMISSIONERS TO SERVE WITHOUT PAY.

HISTORY. 1929 c. 299 s. 4; M. Supp. s. 1933-51.

419.05 DUTIES OF COMMISSION.

HISTORY. 1929 c. 299 s. 5; M. Supp. s. 1933-52.

Law vests in the commission the exclusive power to discharge a chief of police, thereby depriving municipal councils of their power of removal. *Naeseth v Village of Hibbing*, 185 M 526, 242 NW 6.

Where city police civil service commission classified all police employees of the city, such classification being alleged to be erroneous and in violation of the soldiers' preference act, the proper remedy is certiorari to review the classification made and not mandamus to compel a reclassification. *State v Ernest*, 197 M 599, 268 NW 208.

A city welfare worker appointed by the mayor of Rochester under ordinance No. 283 did not come under the jurisdiction of the police civil service commission by reason of ordinance No. 467, and could be removed by the mayor. *Mestad v City of Rochester*, 198 M 558, 270 NW 577.

Where additional classes of officers or employees are added to the police department the commission has power to change its classification and add thereto. OAG Feb. 3, 1932.

Police and fire departments civil service commissions cannot act for both policemen and firemen. OAG Feb. 2, 1934.

The only powers of the police civil service commission are in connection with employment, promotion, discharge, and suspension of employees, while the general powers of control and supervision remain with the governing body of the municipality. OAG March 19, 1935 (785e-1); OAG Jan. 20, 1937 (785e-1); OAG June 3, 1939 (785e-2).

The commission has exclusive power to discharge the chief of police. OAG April 12, 1935 (785e-4).

The city council and not the civil service commission fixes the salary of the members of the department. OAG April 30, 1935 (688b).

The commission may not establish a rule requiring retirement from active duties upon reaching a certain age. OAG Nov. 10, 1936 (785i).

The mayor and the council of the city have power to determine the number of police officers who shall be employed. OAG Oct. 11, 1937 (785e-2).

Although the mayor and the city council have power to determine the number of police officers who shall be employed and to fix the amount of the appropriations for the police department and the salaries of officers and employees,

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the police civil service commission should determine which officer or employee should be discharged to reduce the number to that provided for.

The mayor and the city council have power to determine whether the position of night watchman should be established in the police department and determine his hours of employment and the nature of his duties, but the civil service commission has control over the appointment. OAG Oct. 11, 1937 (785e-2); OAG March 18, 1938 (785e-2).

The adoption of a police civil service commission did not affect the duty placed by the charter upon the mayor to appoint the head of the police department, except that such appointment must be made from the eligible list provided by the commission. OAG Oct. 26, 1937 (785e-2).

Respecting power of the commission to employ, promote, discharge and suspend police officers. 1942 OAG 201, Oct. 20, 1941 (785E-2); 1942 OAG 202, Oct. 8, 1941 (785E-2).

419.06 MAY MAKE RULES FOR POLICE DEPARTMENT.

HISTORY. 1895 c. 8 ss. 162, 163; 1929 c. 299 s. 6; M. Supp. 1933-53; 1943 c. 441 s. 1.

The mayor has no voice in the matter of rules and regulations by the commission. The civil service commission may at any time adopt a rule as to retirement aid though it affects a police officer who has been steadily employed since the establishment of the commission. OAG July 14, 1939 (785e-2).

A civil service rule requiring the chief of police to be a resident of the city is valid. OAG June 25, 1936 (785b-3).

419.07 OFFICERS DISCHARGED ONLY AFTER HEARING.

HISTORY. 1929 c. 299 s. 7; M. Supp. s. 1933-54.

Laws 1929, Chapter 299, gives police civil service commission power of summary removal of police officers during the first six months of its regime. *Saholt v City of Rochester*, 185 M 510, 242 NW 4.

Where the city police civil service commission classified all the police employees of the city and the classification made is alleged to be erroneous, the proper remedy is certiorari to review the classification made, and not mandamus to compel a reclassification. *State ex rel v Ernest*, 197 M 599, 268 NW 208.

Police civil service commission could, at any time within six months after it was created, discharge an employee without cause even though such employee may have been employed by the department for more than six months prior to the creation of the commission. OAG May 23, 1931.

By enactment of Section 1933-63(a) (419.15) the legislature intended to take from the commission the power to summarily remove employees of police department employed at the time of the establishment of the commission, and who have been so employed for six months or longer. OAG May 16, 1938 (785e-2).

A policeman passing examination and employed as an extra may be discharged by the commission at any time unless he has actually been employed for one continuous period of six months, though he has been an extra policeman for several years. OAG July 6, 1938 (785d).

The police commission may reconsider order removing police officer, even though the district court found the removal order reasonable. OAG Aug. 3, 1939 (785e-2).

When the number of policemen are reduced, discharge is determined in accordance with the rules of the commission. OAG March 16, 1944 (785e-21).

419.08 COMMISSION TO MAKE RULES AND PRESCRIBE STANDARDS.

HISTORY. 1895 c. 8 ss. 162, 163; 1929 c. 299 s. 8; M. Supp. s. 1933-55.

419.09 EXAMINATIONS.

HISTORY. 1929 c. 299 s. 9; M. Supp. s. 1933-56.

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419.10 NOTICE OF EXAMINATIONS.

HISTORY. 1929 c. 299 s. 10; M. Supp. s. 1933-57.

419.11 CHARGES FILED WITH SECRETARY OF COMMISSION.

HISTORY. 1929 c. 299 s. 11; M. Supp. s. 1933-58.

Charges of inefficiency and misconduct in office may not be filed by private citizens. OAG March 29, 1939 (785a).

419.12 SUSPENSION AND REMOVAL; REINSTATEMENT.

HISTORY. 1929 c. 299 s. 12; M. Supp. s. 1933-59.

419.13 CERTAIN ACTS MISDEMEANOR.

HISTORY. 1929 c. 299 ss. 13 to 15; M. Supp. ss. 1933-60 to 1933-62.

419.14 COMMISSION TO BE VESTED WITH POWERS IN CERTAIN CASES.

HISTORY. 1929 c. 299 s. 16; M. Supp. s. 1933-63.

419.15 OFFICERS TO COME UNDER COMMISSION.

HISTORY. 1929 c. 299; 1933 c. 197 s. 1; M. Supp. s. 1933-63a.

An employee of park board was not a police officer, though he had authority to arrest persons in park and carried a star. *McDougall v Baich*, 194 M 550, 261 NW 180.

Only men regularly employed come within the jurisdiction of the commission, and men only employed temporarily while the regular officers were on vacation or traffic was heavy were not "regularly employed". OAG June 3, 1939 (785e-2).

419.16 DISCONTINUANCE OF COMMISSION.

HISTORY. 1929 c. 299; 1933 c. 197 s. 1; M. Supp. s. 1933-63b.

A police civil service commission created prior to April 10, 1933, cannot be abolished either by the city council or the electors. OAG Dec. 31, 1934 (785e-1).

419.17 TO BE SUBMITTED TO VOTERS.

HISTORY. 1929 c. 299; 1933 c. 197 s. 1; M. Supp. s. 1933-63c.

Notice of abolition of police civil service commission may be incorporated in notice of the annual village election. OAG Nov. 13, 1935 (785e-1).

419.18 APPLICATION.

HISTORY. 1929 c. 299; 1933 c. 197 s. 1; M. Supp. s. 1933-63d.

419.19 APPLICATION OF 419.19 TO 419.36.

HISTORY. 1943 c. 381 s. 1.

419.20 CREATION OF POLICE CIVIL SERVICE COMMISSION.

HISTORY. 1943 c. 381 s. 2.

419.21 MEMBERSHIP OF COMMISSION.

HISTORY. 1943 c. 381 s. 3.

419.22 MEETINGS.

HISTORY. 1943 c. 381 s. 4.

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419.23 NO COMPENSATION.

HISTORY. 1943 c. 381 s. 5.

419.24 DUTIES.

HISTORY. 1943 c. 381 s. 6.

419.25 RULES.

HISTORY. 1943 c. 381 s. 7.

419.26 TENURE OF OFFICE.

HISTORY. 1943 c. 381 s. 8.

419.27 STANDARDS PRESCRIBED.

HISTORY. 1943 c. 381 s. 9.

419.28 EXAMINATIONS.

HISTORY. 1943 c. 381 s. 10.

419.29 NOTICES OF EXAMINATIONS.

HISTORY. 1943 c. 381 s. 11.

419.30 CHANGES FILED.

HISTORY. 1943 c. 381 s. 12.

419.31 PROCEEDINGS AFTER INVESTIGATIONS.

HISTORY. 1943 c. 381 s. 13.

419.32 MISDEMEANORS BY APPLICANTS.

HISTORY. 1943 c. 381 ss. 14, 15, 16.

419.33 WHEN EXAMINATION NOT REQUIRED.

HISTORY. 1943 c. 381 s. 17.

419.34 MANNER OF ABOLISHING COMMISSION.

HISTORY. 1943 c. 381 s. 18.