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Proposed Civil Service
Bill

Minnesota, Civil Service
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PROPOSED
CIVIL SERVICE
BILL

For the

STATE of MINNESOTA

With

ANNOTATIONS



Minnesota Civil service council

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This bill was drafted by and is recommended by the Minnesota Civil Service Council composed of the representatives from the following state-wide organizations here listed which are committed to the principle of the merit system in public service.

- Minnesota League of Women Voters, Mrs. Harington Beard.**
American Legion, Department of Minnesota, Allan Briggs.
Minnesota Education Association, Mrs. Myrtle Hooper Dahl.
Minnesota Federation of Business and Professional Womens Clubs, Mrs. Olivia Johnson.
Minnesota Farm Bureau Federation, J. S. Jones.
Minnesota Parent Teacher Association, Mrs. Elliot Macgraw.
Minnesota State Federation of Labor, Frank X. Novak.
American Legion Auxiliary, Department of Minnesota, Mrs. Elmer Parsons.
Minnesota State Federation of Teachers, A. R. Rathert.
Minnesota Junior Chamber of Commerce, Sam Turner.

Miss Ruth H. Mitchell, Chairman

CONSULTANTS

- L. M. Short, Professor, Political Science Dept., University of Minnesota.**
C. C. Ludwig, Chief, Municipal Reference Bureau, University of Minnesota.
Harold Henderson, Executive Secretary Minnesota Institute of Governmental Research.

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FOREWORD

The Civil Service Council of the State of Minnesota herewith presents its Civil Service Bill which has been prepared after a thorough study of civil service systems and conditions in other sections of the country. The statewide organizations which were represented on the Minnesota Council are listed on page 2 in this pamphlet.

Three broad groups of society play an important role in any attempts to establish civil service procedures. The general public is vitally concerned with the improvement of governmental procedures. The second group is made up of the administrative heads of government departments and agencies. Finally, there is the large group of public employees whose livelihood, opportunities for a career, and working conditions are inevitably linked up with the entire recruitment, selection, and appointment procedures as outlined in a civil service statute.

The interests of each of these three groups are motivated by definite objectives yet all have a common goal.

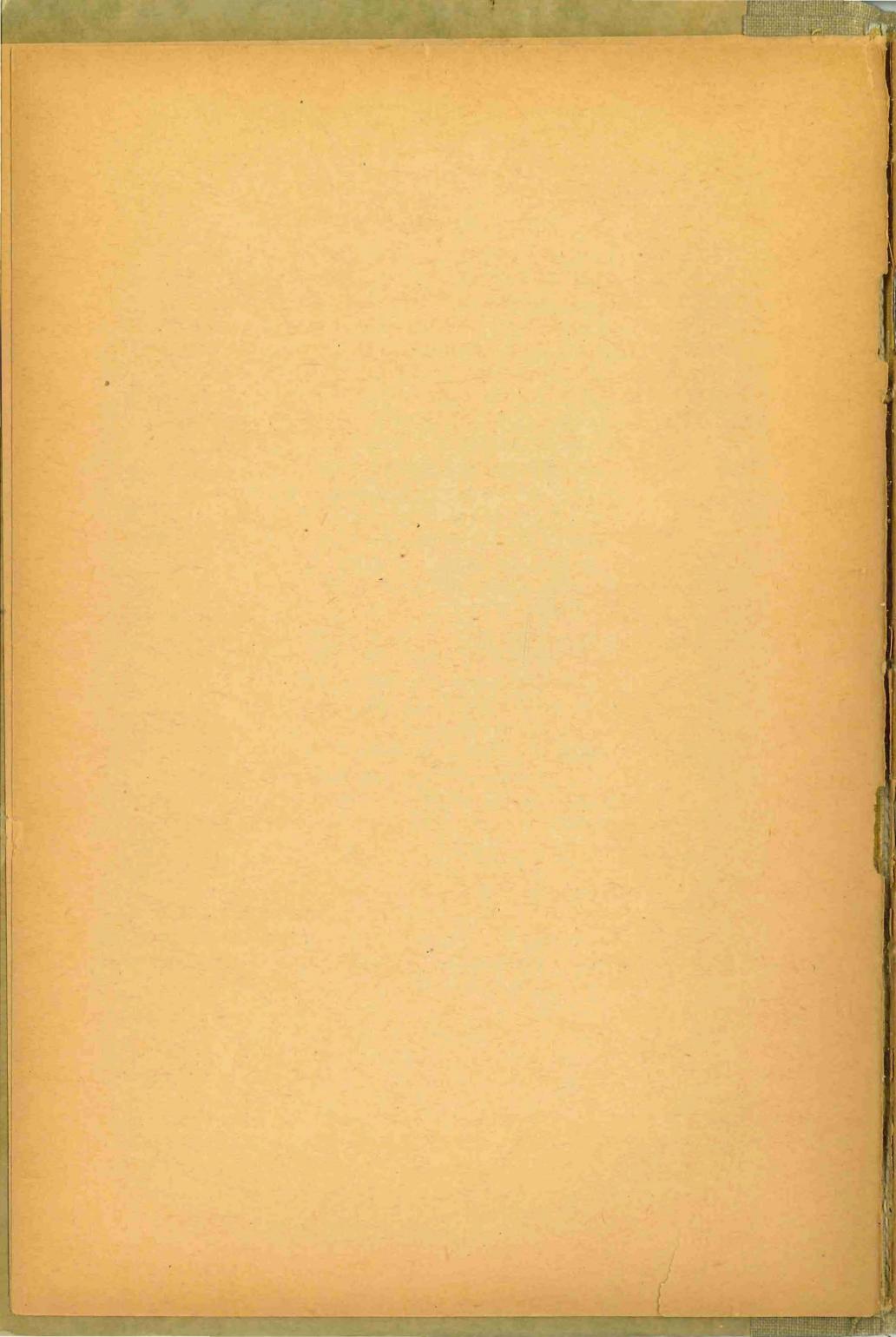
This bill incorporates the common objectives of the participating groups into a carefully developed merit system program. The various sections and subsections of the bill represent conclusions which were arrived at only after careful discussion of each point by the representatives of the various organizations on the Civil Service Council. The bill therefore represents a cross section of Minnesota opinion which cannot be overlooked by the members of the state legislature.

The most important sections are supplied with explanatory material. It was not possible to do this in connection with every point, but the major items of interest are provided with special annotations.

It will be noticed that the bill is so drawn that the Department of Civil Service will dovetail with existing state agencies such as the Department of Administration and Finance, the Office of the Governor, and other departments.

The bill is herewith presented to the citizens of the State of Minnesota with the recommendation of the representatives on the Civil Service Council.

June, 1938.



A BILL

FOR AN ACT CREATING A DEPARTMENT OF CIVIL SERVICE FOR THE STATE OF MINNESOTA; PRESCRIBING THE POWERS, DUTIES, AND PROCEDURE OF THE CIVIL SERVICE BOARD AND THE DIRECTOR OF THE STATE CIVIL SERVICE IN SAID DEPARTMENT; PROVIDING FOR AND REGULATING THE CIVIL SERVICE IN SAID STATE; PRESCRIBING PENALTIES FOR THE VIOLATION OF THE PROVISIONS OF THIS ACT; REPEALING CERTAIN ACTS AND PARTS OF ACTS INCONSISTENT WITH THE PROVISIONS OF THIS ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:—

SECTION I. *Purpose of this Act.*

The purpose of this act is to guarantee to all citizens a fair and equal opportunity to secure employment in the civil service of the state of Minnesota; to establish conditions of service which will attract and hold officers and employees of character and capacity; and to increase the efficiency of the governmental departments and agencies by the improvement of methods of personnel administration.

SECTION II. *Short Title.*

This act shall be known and may be cited as the State Civil Service Act.

SECTION III. *The Department of Civil Service.*

The Department of Civil Service of the State of Minnesota is hereby created and established. It shall consist of the Civil Service Board, and Director of the State Civil Service, and all officers and employees appointed by the director for the purpose of this act.

SECTION IV. *The Civil Service Board.*

The Civil Service Board of the State of Minnesota is hereby created and established pursuant to this act. It shall be composed of three members, who shall be appointed by the governor with the consent of the senate without regard to party affiliation, and who shall be known to be in sympathy with the principles of the merit system. The governor shall appoint the first members of the

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board within 30 days after the passage of this act. No member of the board shall hold any other public office or public employment whatsoever, the office of notary public or a military office excepted, and no person shall be appointed as a member of the board who has held an elective public office or a position in a political party within the two years immediately preceding his appointment. In nominating and appointing the first three members of the board the governor shall designate one member for a term expiring Jan. 15, 1941, a second member for a term expiring Jan. 15, 1943, and a third member for a term expiring Jan. 15, 1945. The terms of all subsequent members of the board shall be six years and until their successors are appointed and qualified. The governor may remove a member of the board only upon written charges and with the approval of the senate. Vacancies in the membership of the board shall be filled by the governor, with the consent of the senate. The term of a member appointed to fill a vacancy shall be for the remainder of the unexpired term of the member he is appointed to succeed, and until his successor is appointed and qualified. Each member shall take the oath of office before entering upon the duties of office, and such oath shall include a statement of belief in and desire to support the principles of the merit system. The chairman of the board shall be chosen by the members of the board from among their own number under such rules as they shall make. The chairman shall have the powers of a presiding officer.

The civil service board shall keep its office and records at the state capitol and shall hold its regular meetings there, but special meetings may be held in other cities in the state when in the discretion of the chairman it is necessary to meet in some other city than the capitol city of the state in the performance of the duties of the board. Meetings of the board shall be open to the public and no meetings or hearings of the board shall be held unless at least two members of the board are present. The director of the state civil service shall act as the secretary of the board. The board shall keep records and minutes of its business and official actions, and such records and minutes shall be public records open to public inspection, subject to such rules as to hours and conditions of inspection as the board may establish. It shall be the duty of the officer or officers charged by law with the custody of the state capitol building, upon written request of the civil service board, to assign suitable office space in that building for executing the duties charged to it and to the director of the state civil service.

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Each member of the board shall be paid \$15.00 per day for each day actually devoted to duties as a member of the board, but in no case shall any member be paid more than \$450.00 in any one year; **provided**, that this limitation shall not apply to payments on account of expenses; and **provided further**, that this limitation shall not apply during the first year of the board's service. Members of the board shall be paid for expenses in travel to and from meetings and for necessary expenses incurred during meetings of the board.

It has been mentioned in the foreword that the general public is one of three broad groups vitally concerned with public service. The Civil Service Council included in the above section a provision for a Civil Service Board of three members in order to guarantee that the lay public will have its interests reflected in any broad policies established in connection with civil service in the state of Minnesota.

A careful study of Sections IV, V and VI of this act will indicate that the respective functions of the Civil Service Board and the Director of Civil Service are so drawn as to make clear that the Director shall have administrative powers and that the Board have the power of general approval. The Board is responsible for broad policies but the Director of the Civil Service does the work, does the fact-finding, makes recommendations and initiates changes, subject to the approval of the Board.

Once any program is well under way, and once sufficient precedent has been established which would insure that the lay public's wishes were incorporated in the policies of the department of civil service, a lay policy-making board may become less essential. But in the initial stage, at least, it appears desirable to have a lay board of three members which can serve as a buffer between the Director of Civil Service and the public. The Board will be in a better position than the director to probe, interpret and incorporate in its policies such public opinion regarding civil service procedures as is brought to its attention.

Members of the Civil Service Board receive no salary except a per diem allowance plus expenses. A Civil Service Board as recommended in this section is not to be compared with a full time and salaried commission of two or more members.

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SECTION V. *The Director of the State Civil Service.*

The office of Director of the State Civil Service is hereby created and established pursuant to this act. The director of the state civil service shall be appointed by the civil service board on the basis of merit and fitness after an open competitive examination, open to qualified persons without regard to residence. Within 30 days after the first members of the civil service board have been appointed and qualified, and thereafter whenever a vacancy exists in the office of the director of the state civil service, the civil service board shall appoint an examining committee of three persons to examine the qualifications of all persons applying for appointments to the office of director of the state civil service. At least two members of the examining committee shall be public personnel administrators or public personnel specialists of recognized standing, at least one of whom shall be a nonresident of the state of Minnesota. As soon as practicable after its appointment, the examining committee shall examine applicants for the position of director of the civil service and shall certify to the civil service board the names of the three persons rated highest in the competitive tests and found by the committee to possess the necessary qualifications for the office of director of the state civil service, arranged in descending order with the name of the person considered best qualified listed first. The civil service board shall then appoint one of the persons so certified to the office of director of the state civil service. No person who has not been examined and certified by an examining committee as herein provided for shall ever be appointed to the office of director of the state civil service. The civil service board shall fix the compensation and shall authorize the payment of expenses of members of the examining committee provided for in this section.

The director of the state civil service shall be in the classified service and shall not be removed by the civil service board except under written charges and after a public hearing by the board.

No civil service program can hope to build up a satisfactory reputation and secure the confidence of the public unless there is guaranteed from the outset an administrative head of the civil service system who is selected strictly on the basis of efficiency, competency, capacity and judgment.

For this reason the selection procedure is extremely important. This section places the director in the classified service. The plan in the above section places the responsi-

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bility to certify three candidates for the position of director upon a well qualified examining committee of three. At least two of these examiners shall be public administrators or public personnel specialists of recognized standing. The objectivity and scope of the selection is further assured by the provision that at least one of the personnel specialists shall be a nonresident of the state of Minnesota.

SECTION VI. *Powers and Duties of the Director of the State Civil Service and of the Civil Service Board.*

(1) The director of the state civil service shall be the executive and administrative head of the state department of civil service and shall exercise supervision and control over all examinations and over the conduct of the department. He shall act as the board's adviser on all matters pertaining to the civil service of this state.

(2) It shall be the duty of the director and he shall have power:

- i. To attend all meetings of the board.
- ii. To prepare and recommend to the board rules and regulations for the purpose of carrying out the provisions of this act. Such rules shall provide, among other things, for current service records for all officers and employees subject to the provisions of this act; the manner of completing appointments and promotions; rejection of eligible candidates; competitive examinations; creation of eligible lists with successful candidates ranked according to their rating in the examinations; leaves of absence with and without pay; transfers, reinstatements, layoffs, vacations and hours of work; public notice of examinations; procedure for changes in rates of pay; compulsory retirement at fixed ages; and other conditions of employment.
- iii. To appoint temporary and permanent examiners, including a chief examiner, clerks, stenographers, and such other employees and officers as are necessary to carry out the provisions of this act. Such employees and officers shall be chosen in accordance with and shall be subject to the provisions of this act.
- iv. To keep in the office of the department of civil service an official roster of the state civil service which will show the employment history of each and every person who has been appointed to, employed, promoted, reduced or

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reinstated in any position in such service. This roster shall show in connection with each name the date of appointment, employment, promotion, reduction, reinstatement, increases or decreases in pay, the compensation and title of the position, changes in title, transfers, sick or annual leaves, and separations from the service. The director shall have access to all public records and papers, the examination of which will aid in the discharge of his duty in connection with said roster.

- v. To prepare, in accordance with the provisions of this act and the rules adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment.
- vii. To make certifications for appointment within the classified service, in accordance with the provisions of this act.
- viii. To make investigations concerning all matters touching the enforcement and effect of the provisions of this act and the rules and regulations prescribed thereunder.
- ix. To prepare a report and submit the same to the civil service board not later than October 1 of each even-numbered year, including therein any recommendations he may have for the most effective accomplishment of the purposes of this act. He may also prepare an annual report.
- x. To discharge such other duties as are imposed upon him by the provisions of this act and to do such other things as are lawful and necessary in accomplishing the purposes of this act.

(3) It shall be the duty of the civil service board and it shall have power:

- i. To approve or reject rules and regulations and amendments thereto prepared and recommended by the director for carrying out the purposes of this act. Such rules and regulations and any amendments thereto shall not be put into effect by the board until after a public hearing by the board, of which two weeks published notice shall have been given that a hearing at a specified place and time is to be held upon the proposed rules and regulations, and that any citizen, officer or employee of the state of Minnesota may attend and participate in such hearing. Copies of all rules and regulations shall be sent to all state appointing officers, and printed copies of such rules

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- and regulations and amendments thereto shall be prepared for public distribution.
- ii. After public hearing, to approve or reject plans for the classification of positions in the state civil service prepared and recommended by the director of the state civil service.
 - iii. After public hearing, to approve or reject compensation schedules for positions in the state civil service prepared and recommended by the director for submission to the commission of administration and finance.
 - iv. To make investigations either at the discretion of the governor or a citizen, or of its own motion, concerning the enforcement and effect of this act.
 - v. To approve, to order printed, and to transmit to the governor not later than November 15 of each even-numbered year the report of the department of civil service prepared by the director.
 - vi. To conduct hearings and pass upon charges preferred against any officer or employee in the classified service for the purpose of demotion, suspension, or removal of such officer or employee, in accordance with the provisions of this act.
 - vii. To hear and pass upon such other matters as the director of the state civil service may from time to time bring before the board for determination.
 - viii. To do such other things as are expressly required of the board by the provisions of this act.

As was indicated in the annotation following Section IV, it is extremely important that the duties of the Director be distinctly outlined and enumerated so that there may be no tendency to confuse the respective functions of the Director and the Civil Service Board. Experience has shown that difficulties ensue unless careful differentiation is made between the policy-making functions of a lay board and the executive functions of the administrative officer.

SECTION VII. *Powers of the Board and the Director in the Conduct of Investigations.*

(1) The civil service board or any member thereof, or the director of the civil service when authorized by a majority vote of the board, may issue subpoenas to compel the attendance in this

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state of witnesses and the production of books and papers pertinent to any inquiry or investigation authorized by this act; or may take depositions of witnesses as provided by Sections 9820 to 9838 inclusive of Mason's Minn. Statutes, 1927. The board or any member thereof, or the director when authorized by the board, may administer oaths and take testimony. The board or the director may examine such public records as they require in relation to any matter which they have authority to investigate. All officers and other persons shall attend and testify when required to do so by the board, or the director when authorized by the board.

(2) In case of the refusal of any person to comply with any subpoena issued hereunder or to testify to any matter regarding which he may be lawfully interrogated, the district court of any county or the judge thereof, on application of any one of the members of the board, or the director when authorized by the board, may issue an order requiring each person to comply with such subpoena and to testify; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(3) Each person not in the classified or unclassified services who appears before the board or the director by order shall receive for his attendance the fees and mileage provided for witnesses in civil actions in the district court, which fees and mileage shall be audited and paid upon presentation of proper vouchers. Witnesses subpoenaed at the instance of parties other than the board or the director shall be entitled to compensation from the state for attendance or travel only if the board certifies that the testimony of such witnesses was relevant and material to the matter investigated.

(4) The board and the director, in conducting hearings and investigations in accordance with the provisions of this act, shall not be bound by the technical rules of evidence.

SECTION VIII. *Salaries of Director and Employees in the Department of Civil Service.*

The salaries of the director and other members of the staff of the state department of civil service shall be fixed in accordance with salary schedules established as authorized by this act; **provided**, that, pending the establishment and adoption of such compensation schedules, their salaries shall be fixed by the civil service board. The salary of the director, however, shall not be less than that paid to heads of other major state departments.

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SECTION IX. *The Unclassified and Classified Services.*

The civil service of the state of Minnesota is hereby divided into the unclassified and the classified services.

(1) The unclassified service comprises positions held by state officers or employees who are:

- i. Chosen by election or appointed to fill an elective office.
- ii. Heads of departments required by law to be appointed by the governor, and members of boards and commissions appointed by the governor.
- iii. One private secretary to each of the elective officers of this state, other than the governor.
- iv. One executive secretary and three other confidential employees in the office of the governor.
- v. Officers and employees of the senate and house of representatives of the legislature.
- vi. Teachers, research assistants, student employees on less than half-time pay basis, presidents, deans, and administrative officers in the teachers' colleges and the state university; but this subdivision shall not be construed to include the custodial, clerical, or maintenance employees, or any administrative officers or clerical workers performing duties in connection with the business administration of such institutions.
- vii. Officers and enlisted men in the national guard and the naval militia.

(2) The classified service comprises all positions now existing or hereafter created and not included in the unclassified service. Appointments in the classified service shall be made according to merit and fitness from eligible lists prepared upon the basis of examination which so far as practicable shall be competitive. No person shall be appointed, transferred, promoted, or reduced as an officer, clerk, employee, or laborer in the classified service in any manner or by any means other than those prescribed in this act and the rules adopted in accordance therewith.

(3) Officers authorized by law to make appointments to positions in the unclassified service, and appointing officers of departments or institutions whose employees are exempt from the provisions of this act because of the constitutional status of such departments or institutions shall be permitted to make appointments from appropriate registers of eligibles maintained by the department of civil service.

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In this section the bill follows the generally accepted principle that policy-determining officials should be selected by the people, either directly by the ballot, or indirectly by appointment by those selected by the ballot. All other employees are employed primarily to carry out policies rather than to formulate or take responsibility for policies, the emphasis should be on their particular ability to carry out the assignments made. For this reason only the policy-determining officers of the state are exempted from the classified service. It will be noted that there is no attempt to include members of the faculty of the institutions of higher learning in the classified service. It is customary to permit the agencies responsible for the administration of teachers' colleges and universities to establish their own requirements.

In this connection it is significant to mention that no career service, that is, promotions within a department or promotions from one department to another, is possible unless all or nearly all of the positions are in the classified service.

SECTION X. *Status of Present Officers and Employees.*

Officers and employees holding positions in the classified service at the time when this act takes effect shall not be members of the classified service, unless they have been appointed to such positions in accordance with the provisions of this act. The director of the civil service, subject to rules and regulations of the board, shall within two years following the date upon which this act takes effect prepare and give once to all incumbents of positions in the classified service noncompetitive practical examinations involving only the duties of the positions they hold on the date of the taking effect of this act; **provided**, however, that employees who, previous to the adoption of this act, have taken and passed qualifying or competitive examinations under existing statutes shall be members of the classified service without taking the qualifying examinations herein provided for.

If the aforementioned incumbents pass such qualifying examinations they shall be given a classified status and shall be subject to and protected by the provisions of this act. If, however, any of the aforementioned incumbents fail to pass such qualifying examinations they shall be removed from their positions at the expiration of 15 days following the receipt of notice of failure to pass such examinations.

The aforementioned incumbents of positions in the classified service shall not be promoted, laidoff, suspended, discharged or reduced

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in pay or position, except in accordance with the provisions of this act applicable to members of the classified service, during the period between the adoption of this act and the receipt of notices of passing or failing to pass the qualifying examinations provided for in this section.

Appointments to offices or employments now existing or hereafter created by law in the classified service shall be made in accordance with the provisions of this act.

This section is of great interest both to incumbents and to the public. It will be noted that over a period of two years the director of the Civil Service is expected to give noncompetitive, practical examinations involving only the duties of the position held by an individual on the date the bill becomes law. Those who have passed examinations under existing statutes are exempt from taking the qualifying examinations.

This, in effect, requires incumbents who have not previously been examined to take qualifying examinations sometime within the first two years after the passage of the bill. The Civil Service Council recommends the qualifying examination because it provides a practical, economical and gradual application of the merit system and makes it possible for the state to profit by the experience of those incumbents who demonstrate their competence.

SECTION XI. *The Classification and Allocation of Positions in the Civil Service; the Preparation and Administration of Compensation Schedules.*

(1) The director of the state civil service shall, as soon as practicable, and after consultation with appointing authorities and principal supervisory officials, classify all offices, employments, and positions in the classified service according to the duties and responsibilities of each position in accordance with the appropriate line of promotion. Titles shall be established for each class of employment for use in examining and certifying names of persons for appointment under this act, and a description of the duties and responsibilities exercised by the persons appointed to each of them shall be drawn up, minimum qualifications required for satisfactory performance of the duties of each grade and class formulated, and, so far as practicable, the lines of promotion from grade to grade or class to class shall be indicated. The titles in this classification as defined by the specifications of duties and qualifications

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shall be used for (a) original appointments; (b) promotions; (c) pay-rolls; (d) and all other records affecting the status of personnel. The classifications, when approved by the civil service board after public hearing, shall take effect immediately, shall be sent to the commission of administration and finance and shall be used by it in the preparation of the next following and subsequent state budgets. The director of the civil service may make changes in the classification whenever he deems it necessary for the efficiency of the service, and such changes, when approved by the civil service board after public hearing, shall take effect immediately, shall be sent to the commission of administration and finance and shall be used by it in the preparation of the next following and subsequent state budgets.

(2) The director of the state civil service shall, as soon as practicable after the adoption of the classification plan, prepare a schedule of salary or wage rates and ranges for each class, grade or group of positions in the classification. Such salary and wage schedules when approved by the civil service board after public hearing shall be submitted to the commission of administration and finance. When approved by the commission of administration and finance, they shall be used by that commission in connection with all pay-rolls and accounting records and with all budget estimates for all departments or agencies of the state government. The salary schedules for each class, grade, and group shall be submitted to the governor by the commissioner of the budget, and by the governor, with his recommendations, to the legislature at the time of the transmission of the biennial budget. Unless changed by the legislature the salary and wage schedules so prepared by the director of the civil service and approved by the civil service board and the commission of administration and finance shall become the current official compensation rates applicable to the various classes and grades as enumerated. Nothing in this section shall prevent the legislature from increasing or reducing the salary or wage rates of all positions in an entire grade or group uniformly but it shall not increase the rate of pay of any grade or group beyond the rate in the next higher grade or group, nor reduce the pay of any grade or group below the rate of pay fixed for the next lower grade or group in the same service.

(3) The director of the civil service shall allocate each office, position, or employment in the classified civil service to one of the grades and classes within the classification, subject to an appeal to the board by an employee immediately affected, and thereafter all salary rates, schedules or compensation policies shall apply

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uniformly to all positions within each grade, in accordance with rules and regulations established by the civil service board.

(4) The classification, and salary or wage schedules applying thereto, existing at the time this act becomes effective shall continue in effect until changed in accordance with the provisions of this act.

Basic to the operation of an effective merit system is a sound classification system. This has been called "the most important tool of central personnel administration." No effective merit system can be devised without an adequate classification plan which, in turn, can only be set up after a thorough study of the duties and requirements of the various positions in public employment.

Under a classification plan employment in the public service is classified according to the duties performed, the lines of responsibility followed, and the minimum requirements in education, training, and experience demanded. It is only through such a plan that a salary schedule can be worked out which recognizes the fundamental principle of "like pay for like work under like conditions." The effect on the morale of employees is obvious. Unequal pay among those doing the same sort of work is always a chief source of discontent.

SECTION XII. *Nature of Examinations; Notice; Qualifications of Applicants.*

(1) All examinations for positions in the classified service shall relate to those matters which will fairly test the capacity and fitness of the persons examined to discharge the duties of the office or employment sought by them but due regard shall be shown for the capacity of the applicant for promotion to higher positions in the civil service.

(2) The competitive examinations shall, after published notice, be open to all applicants who are citizens of the United States, who have been residents of this state for one year prior to the date of examination, and meet with reasonable standards or requirements fixed by the director with regard to experience, character, age, education, physical condition, and such other factors as may be held to relate to the ability of the candidates to perform satisfactorily the duties of the position. The director may require candidates in filing their applications to submit certificates of general or special qualifications as the good of the service may require. Exam-

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inations shall be held at such times and places as in the judgment of the director most nearly meet the convenience of applicants and the needs of the service. For positions requiring professional, technical, or unusual qualifications, the director may, subject to the approval of the board, open competitive examinations to residents of other states who are citizens of the United States and who are otherwise qualified.

(3) The director may also require candidates to undergo an examination at designated places in the state, in cases where oral tests or tests for manual skill or the use of instruments in construction work may be necessary to determine the fitness of such candidates.

It has been stated following Section V that it is essential to have a qualified director. One of the functions of the director will be to provide reasonable and acceptable examination procedures. It is possible under sincere and capable leadership to establish examinations which will be fair, honest and objective. These may be oral, written or practical tests giving due weight to the experience of an applicant. New type short answer tests have been designed which eliminate the old bugaboo of long and tedious written examinations. For professional positions frequent use is made of the nonassembled type of examination.

It is not essential that an applicant be a high school or college graduate in order to qualify for a large number of positions now existing in the State of Minnesota. It has been estimated that at least 50 per cent of the positions in state agencies could be held by persons who are not high school graduates. It follows, therefore, that the argument that only a high school or college trained person can qualify under the merit system does not hold. At the same time, it must be pointed out that it is an accepted American ideal to emphasize the value of educational training. It is only logical that we call upon our schools and colleges to furnish a large number of our public servants.

SECTION XIII. *Refusal to Examine Applicants or to Certify Eligibles.*

(1) The director may refuse to examine an applicant, or after examination to certify an eligible, who is found to lack any of the preliminary requirements established for the examination for the position or employment for which he applies; or who is physically

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so disabled as to be rendered unfit for the proper performance of the duties of the position to which he seeks appointment; or who is addicted to drugs or is an habitual user of intoxicating liquors to excess; or who has been guilty of any crime involving moral turpitude or of infamous or notoriously disgraceful conduct; or who has been dismissed from the public service for delinquency or misconduct; or who has made a false statement of any material fact; or who directly or indirectly shall give, render or pay, or promise to give, render or pay any money, service or other valuable thing to any person for, or on account of, or in connection with, his test, appointment, or proposed appointment; or who practiced, or attempted to practice, any deception or fraud in his application, in his certificate, in his examination, or in securing his eligibility or appointment; or who refuses to furnish testimony as required in section VII.

(2) Whenever the director refuses to examine an applicant, or after an examination to certify an eligible, as provided in this section, then said director, if requested by the person so rejected, shall give to him the reasons for such refusal to examine or to certify, as the case may be. Appeal may be had from the decision of the director to the board, subject to the rules of the board.

(3) When any position requires the appointee to furnish a bond, such information shall be included in the announcement of the examination for said position.

SECTION XIV. *Political or Religious Affiliations of Applicants and Employees.*

No question in any form of application or any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant, nor shall any inquiry be made concerning such opinions or affiliations and all disclosures thereof shall be discountenanced. No discrimination shall be exercised, threatened or promised, by any person in the civil service against or in favor of any applicant, eligible, or employee in the civil service because of his political or religious opinions or affiliations.

This section reiterates the fundamental principle of personal freedom guaranteed in the Constitution of the United States of America.

SECTION XV. *Appointments, Promotions and Reinstatements.*

(1) Appointments, promotions and reinstatements to all positions in the classified service under the provisions of this act,

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and the rules made in pursuance thereof, shall be made from among those certified to the appointing officer.

(2) The term of eligibility of applicants on original entrance and reinstatement lists and on promotion lists shall be six months, but such term may be extended by the director. In no case, however, may eligibility be extended for a period of more than three years.

(3) Appointments shall be made from the appropriate eligible list, but if no such list exists then the director may certify from such other list as he deems the next most nearly appropriate. A new and separate list shall be created for a stated position only when there is no satisfactory list. The director shall have authority to establish separate eligible lists applicable to various localities. No person shall be appointed or employed under any title not appropriate to the duties performed, and no person shall be transferred to, nor assigned to perform the duties of, any position in the classified service, unless he has previously qualified therefor under the provisions of this act.

SECTION XVI. *Notice of Vacancies; Method of Appointment.*

(1) Appointing officers shall give written notice to the civil service director of their intention to establish new positions and of the existence of any vacancy to be filled in any office or employment in the classified service and, within a reasonable time after the receipt of such notice, the director shall certify from the register of eligibles, appropriate for the grade and class in which the position is classified, the three names at the head thereof, except as provided in Section XXI of this act.

(2) The appointing officer shall appoint on probation, with sole reference to merit and fitness, one of the said candidates, whose name is certified in the manner above set forth, to fill such vacancy, except as provided in Section XXI of this act. The provisions of this section shall not apply when the office or employment is among those listed in section XVIII for which competitive examinations are not required.

This section provides, that the appointing officer who, in most instances, will be the department head, shall be given a choice of the three highest candidates. In addition, the department head may make use of, as will be noticed in Section XIX of this act, the probation period of six months during which he has opportunity to observe the work of the employee before the employee is finally considered a perma-

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ment member of the employing agency. In this manner Sections XVI and XIX explode the myth that under the merit system a departmental head has no selection privileges.

SECTION XVII. *Promotions.*

(1) Vacancies in positions shall be filled, so far as practicable, by promotion from among persons holding positions in the classified service and, subject to such exceptions as the board may provide, from the lower class or group within the particular classification, and in accordance with section XVI of this act and the rules of the board. Promotions shall be based upon merit and fitness to be ascertained by competitive examinations in which the employee's record of service, character, conduct and seniority shall constitute a factor.

(2) For the purpose of this section an increase in the salary or other compensation of any person holding an office or position subject to the provisions of this act beyond the limit fixed for the grade in which such office or position is classified shall be deemed a promotion.

(3) Any promotional appointee, who is dismissed from the position to which he was promoted either during the probationary period, or at the conclusion thereof by reason of the failure of the appointing authority to file a request for his continuance in the position, shall be restored to the position from which he was promoted. Nothing contained in this section shall be construed to prevent any employee of the classified service from competing for places upon registers of persons eligible for original appointment.

One of the criticisms of the spoils system is that the able employe has little guarantee of promotion. This section provides for a definite promotion procedure.

SECTION XVIII. *Noncompetitive Appointments.*

Positions in the classified service may be filled without competition only as follows:

(1) Whenever there are urgent reasons for filling a vacancy in any position in the classified service and the director is unable to certify from any appropriate eligible list for the vacancy, the director may issue a provisional permit or certify a suitable person to fill such vacancy provisionally only until a selection and appointment can be made after competitive examination; but no person shall receive more than one provisional appointment nor serve

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more than three months in any calendar year as a provisional appointee.

(2) In case of an emergency, an appointment may be made without regard to the provisions of the act, but in no case shall continue longer than 10 days, and in no case shall successive emergency appointments be made. This provision shall apply to both persons and positions. No person shall receive more than three emergency appointments in any one or different positions within one year.

(3) In case of vacancy in a position where peculiar and exceptional qualifications of a scientific, professional or educational character are required, and upon satisfactory evidence that for specified reasons competition in such special case is impracticable and that the position can best be filled by the selection of some designated person of high and recognized attainments in such qualities, the board upon recommendation of the director may suspend the requirements of competition in such case, but no suspension shall be general in its application to such position, and all such cases of suspension shall be reported in the biennial report of the department with the reasons for the same.

(4) Where the services to be rendered by an appointee are for a temporary period not to exceed three months and a proper list of eligibles is not available, the director shall certify for such temporary service any person he deems qualified. The acceptance or refusal by an eligible of a temporary appointment shall not affect his standing on the register for permanent employment, nor shall the period of temporary service be counted as a part of the probationary service in case of subsequent appointment to a permanent position. Successive temporary appointments to the same position shall not be made under this provision. No person shall receive more than one temporary appointment within one year.

This section is significant in that it protects the integrity of the merit system procedure. Temporary appointments can become a major stumbling block in any civil service. All genuine temporary appointments are here taken care of but at the same time adequate precautions have been taken to prevent abuse of such emergencies.

SECTION XIX. *Probationary Appointments.*

All original appointments to and promotions within the classified service shall be for a probationary period of six months, but dismissals or demotions may be made at any time during such period, subject to provisions of Section XVII, subsection (3). At

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the end of the probationary period the appointing officer shall notify the director in writing whether the probationer is a satisfactory employee and should receive the status of a permanent appointee. Upon such notice the employee, if his service during the probationary period did not fall below such minimum standards as have been prescribed by the director of the civil service, shall be deemed to have a permanent classified civil service status; otherwise the employee is automatically separated from the service except as provided in Section XVII, subsection (3).

SECTION XX. *Transfers; Reinstatements.*

(1) Transfers in the classified service may be made from a position in one grade and class to a position in another grade and class when the duties and compensation are similar and when such action is specifically approved by the director of civil service.

(2) Any person who has held a position by permanent appointment in the classified service under the civil service law and rules and who has been separated from the service without any delinquency or misconduct on his part may be reinstated within one year from the date of such separation to a position in the same or similar grade or class in the classified service, but such action shall be subject to the approval of the director of civil service.

SECTION XXI. *Layoffs; Abolition of Positions.*

(1) Whenever one or more employees in the classified service are laid off because of a shortage of funds or curtailment of service or for any other reason beyond their control, the order of layoff shall be determined according to rules established by the board, which shall take into account records of service, character, conduct and seniority, and the names of such employees shall be placed at the head of the appropriate registers.

(2) In every case of layoff of a permanent officer or employee, the appointing authority shall 15 days before the effective date thereof give written notice to the employee and the director of civil service. In any case where an appointing authority refuses to certify, or fails to certify before the effective date thereof, that the layoff was for reasons not reflecting discredit on the employee, it shall be deemed a dismissal and shall be subject to the provisions concerning dismissals, as provided in this act.

(3) Whenever positions in the classified service are abolished by statute or by administrative action, the names of the incumbents of such positions, if they are members of the classified serv-

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ice, shall be placed at the head of the appropriate register, in accordance with rules established by the board which shall take into account records of service, character, conduct and seniority.

(4) Persons who have been separated from the classified service because of layoff or the abolition of positions shall be given preference over all other eligibles in filling vacancies in the same or similar positions within the department in which they were employed immediately prior to their separation from the service, and the director shall certify for each vacancy only the former officer or employee whose name stands first on the appropriate eligible register.

Employees who are laid off through no fault of their own are given preference by being placed at the head of the appropriate eligible register. In this way they become available and are in line for reappointment when any positions are opened up. This applies also to employees whose positions have been abolished. In this way there is eliminated the attempt sometimes made deliberately to abolish the position in order to bring about the dismissal of an employee for reasons other than inefficiency or incompetence.

SECTION XXII. *Suspensions; Demotions; Dismissals.*

(1) No permanent employee in the classified service who shall have been appointed under the provisions of this act or the rules made pursuant thereto shall be removed, discharged, suspended without pay for more than fifteen days in any one calendar year, or reduced in pay or position except for just cause, which shall not be religious or political.

In case of any such disciplinary action as enumerated above in this section, the employee shall, before such action is taken, be furnished with a statement in writing specifically setting forth the reasons for such disciplinary action. A copy of such statement shall be filed with the director of civil service prior to the effective date thereof.

Such employee, upon written request to the civil service board made within 30 days thereafter, may demand a hearing to determine the reasonableness of such action and the board shall grant the employee a hearing within 60 days after receipt of such request.

After hearing and considering the evidence for and against such disciplinary action, the board shall approve or disapprove the action. In case of approval the disciplinary action shall be

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deemed final as ordered; in case of disapproval the board shall reinstate the employee under such conditions as it deems proper.

If the board finds that the disciplinary action was for religious or political reasons, then the employee shall be forthwith reinstated in his position and be reimbursed for any loss of pay occasioned by such disciplinary action.

(2) Provisional employees as defined in subsection (1) and temporary employees as defined in subsection (4) of section XVIII may be dismissed at any time at the discretion of the appointing officer.

SECTION XXIII. *Personnel Reports to the Director.*

Each appointing officer shall report to the director forthwith in writing upon any appointment or employment in the service, the name of the appointee, or employee, the title and character of his office or employment, the date of commencement of service by virtue thereof, and the salary or compensation thereof, and shall report from time to time upon the date of the official action in, or knowledge of, any separation of a person from the service or any promotion, reduction, suspension, transfer, reinstatement or other change therein, the efficiency of his subordinates and employees, and other information, in such manner as may be prescribed by the director and the rules and regulations adopted by the board.

SECTION XXIV. *Salary Warrants and Payments.*

(1) Neither the state auditor nor other fiscal officer of this state shall draw, sign or issue, or authorize the drawing, signing or issuing of any warrant on the treasurer or other disbursing officer of the state, nor shall the treasurer or other disbursing officer of the state pay any salary or compensation to any person in the classified or unclassified services of the state, unless an estimate pay-roll or account for such salary or compensation containing the name of every person to be paid shall bear the certificate of the director of the civil service that the persons named in such estimate, pay-roll or account have been appointed, employed, reinstated or promoted and are performing service as required by law and the rules established hereunder and that the salary or compensation is within the salary or wage schedule fixed pursuant to law.

(2) Any sum wilfully paid contrary to the provisions of this section may be recovered from any officer or officers making such appointments in contravention of the provisions of law or of the

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rules made in pursuance of law, or from any officer signing or countersigning or authorizing the signing or countersigning of any warrant for the payment of same, or from the sureties on the official bond of any of said officers, in an action in the district court of any county within the state, maintained by the director of the civil service board or any member thereof, or by a resident taxpayer therein. All moneys recovered in any action brought under this section when collected shall be paid into the state treasury.

SECTION XXV. *Action to Restrain Payment of Salaries.*

Any citizen shall have the right to bring action to restrain the payment of salary or other compensation to any person appointed to or holding any office or place of employment in violation of the provisions of this act, and such right shall not be limited or denied by reason of the fact that said office or place of employment has been classified as, or been determined to be, not subject to competitive examination; **provided**, however, that any judgment or injunction in any such action shall be prospective only and shall not affect payments already made or due to such persons by the proper disbursing officer, in accordance with the rules of the civil service department in force at the time of such payments.

SECTION XXVI. *Required Observance of this Act; Penalty for Violation thereof.*

All officers and employees of this state shall conform to, comply with, and aid in all proper ways in carrying into effect the provisions of this act and the rules prescribed thereunder. Any wilful violation of this act by officers, officials or employees of the state shall be deemed a gross misdemeanor. Conviction of same shall render the public office or position held by such person vacant.

SECTION XXVII. *Specific Offenses Enumerated; Penalty for Violation.*

Any civil service board member, director, or examiner, or any other person,

(1) Who willfully or corruptly by himself or in cooperation with one or more persons, defeats, deceives or obstructs any person with respect to his or her rights of examination of registration according to this act or to any rules or regulations prescribed pursuant thereto, or

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(2) Who wilfully or corruptly falsely marks, grades, estimates or reports upon the examination or proper standing of any person examined, registered, certified, employed or promoted pursuant to the provisions of said sections, or aids in so doing, or

(3) Who wilfully or corruptly makes or files any false representations concerning the person examined, registered, certified, appointed, employed or promoted, or

(4) Who wilfully or corruptly furnishes any person with any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered or certified, being appointed, employed or promoted, or

(5) Who personates any other person, or permits or aids in any manner any other person to personate him or her in connection with any examination or registration, or application or request to be examined or registered, or

(6) Who wilfully or corruptly shall appoint to a position in the classified service or dismisses, suspends, reduces in rank or pay any officer or employee from any position in the classified service otherwise than in compliance with and in conformity to the provisions of this act and the rules and regulations of the civil service board adopted pursuant thereto, or

(7) Who wilfully or corruptly refuses or neglects otherwise to comply with or conform to the provisions of this act and the rules and regulations made pursuant thereto, or violates any of such provisions, shall be deemed guilty of a gross misdemeanor.

Any conviction under this section shall render the public office or position held by person or persons so convicted vacant and such person or persons shall be ineligible to hold public office for a period of five years from the date of such conviction.

SECTION XXVIII. *Restraint upon Political Activities; Penalty for Violation thereof.*

(1) No officer or employee holding a position in the classified service of this state shall, directly or indirectly, solicit or receive, or be in any manner concerned in soliciting or receiving, any assistance, assessment, subscription or contribution, whether voluntary or involuntary, for any political party from any officer, agent, clerk or employee of the state or from any outsider. Every officer, agent, clerk or employee who has charge or control in any building, office or room occupied for any purpose of said government, or who occupies space in any public building or public office, shall prohibit the entry of any person for the purpose of therein making,

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collecting, receiving or giving notice of any political assessment, subscription or contribution. No person shall enter, or remain in any said office, building or room, or send or direct any letter or other notice thereto, for the purpose of giving notice of, demanding, or collecting a political assessment, subscription or contribution, nor shall any person therein give notice of, demand, collect or receive any such assistance, assessment, subscription or contribution. Any person who violates any provision of this section shall be guilty of a gross misdemeanor, and if any officer or employee in the classified service is found guilty of violating any provision of this section, he is automatically separated from the service.

(2) The attorney general shall advise and assist the board. It shall be the duty of the county attorney of the county wherein a violation of this act shall have occurred, on his own motion or upon complaint being made to him, to prosecute any person or persons violating any of the provisions of this act.

(3) Any officer or employee in the state classified service shall resign from the service upon filing as candidate for state public office.

The merit system was devised as a way to free government service from some of the inherent evils of the patronage system. As early as 1883 the federal government in adopting the merit system recognized that, if employees are to be chosen on a nonpolitical basis, political neutrality must be safeguarded as far as their effectiveness in their specific position is concerned. This does not mean that employees, as citizens, must necessarily discontinue all interest in their own government. On the contrary, they should under the merit system be free to express their opinions and to vote as they wish. The above section prevents any act which would compromise the state employee or which would compel him to jeopardize efficiency on the job because of undue political pressure or partisan influence.

SECTION XXIX. *Use of Public Buildings.*

The officers having control of public buildings in municipal, county, and school governments shall, upon request of the director of the civil service, furnish convenient space for examinations and necessary furniture, heat, and light for accommodation of the local examiners and for the holding of examinations. The director may request state or local officers or employees to aid in carrying out the provisions of this act, and it shall be the duty of such officers

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and employees, insofar as it may be consistent with their other duties, to give such aid upon written request of the director.

SECTION XXX. *Veterans' Preference.*

Preference shall be given to honorably discharged veterans of past wars in examinations conducted by the director under the provisions of this act as follows:

A credit of 10% of the unit used in grading the examination to be added to a passing grade for disabled veterans, and a credit of 5% of the unit used in grading the examination to be added to a passing grade for all other veterans.

A disabled veteran is defined as one who is rated disabled and receiving compensation from the United States Veteran's Administration.

The person thus preferred shall not be disqualified from taking examinations for the classified service on account of his age or by reason of any physical disability, provided such age or disability does not render him incompetent to perform properly the duties of the position applied for.

Strictly speaking, the principle of the merit system allows no exceptions from the rule that the best possible person, objectively selected, shall be appointed to a given position. For this reason, veterans' preference, or preference for any other group, is inconsistent with the theory of the merit system in the absolute. The members of the Civil Service Council, however, recognize that the sacrifices made by the veterans of former wars, together with the fact that existing statutes already provide for veterans' preference, make a compromise desirable. For this reason three exceptions were made from the absolute merit system procedure in that (1) nondisabled veterans are given a credit of 5% added to the passing grade in grading the examinations, (2) a credit of 10% is added to the passing grade for disabled veterans, and (3) that the age and physical disability limitations placed on all other applicants are waived in the case of veterans who wish to qualify for taking examinations, providing such age or disability does not render the applicant incompetent properly to perform the duties assigned.

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SECTION XXXI. *Service to Local Governments; Cooperation with Other Civil Service Agencies.*

(1) The services and facilities of the state civil service department and its staff shall be available upon request, subject to rules prescribed therefor by the board, to local governmental subdivisions of the state. In making such service and facilities available, it shall be understood that requirements for the enforcement and administration of the provisions of this act shall be given precedence and that the local governmental subdivisions shall reimburse the state for the reasonable cost of such services and facilities.

(2) The board may enter into arrangements with personnel agencies in other jurisdictions for the purpose of exchanging services and effecting transfers of employees. The board may also join or subscribe to any association or service having as its purpose the interchange of information relating to the technique of personnel administration.

This section offers the assistance of the State Department of Civil Service and its staff to such local governmental agencies as request the assistance of the state department. This service is entirely optional and not compulsory to any local group. Nothing in this section is to be interpreted as placing any governmental subdivisions of the state under the merit system by the passage of this act.

SECTION XXXII. *Training of State Employees.*

The director of the civil service shall devise plans for and cooperate with appointing authorities and other supervisory officers in the conduct of employee training programs to the end that the quality of service rendered by persons in the state civil service may be continually improved. Provision shall be made in the rules adopted by the civil service board in pursuance of this act to permit employees in the classified service to secure leaves of absence for the purpose of enrolling in courses of training for government service; and provision also may be made in said rules to permit qualified students to serve as internes or apprentices for a period not greater than one year in the several departments and agencies concerned.

In-service training or post-entry training has been defined as "any type of training which is formally pursued by the public servant after entry into the service under official direction or sponsorship and conducted with relation

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to work assignments or for a better understanding of his career." More and more public agencies are carrying on this type of training not only to stimulate growth but also to provide the public with the guarantee that each employee is thoroughly familiar with the most recent developments in his own particular field of activity. Such in-service training is usually optional. Sometimes provisions are made for internships in public agencies which provide advanced practical training prior to official appointment involving actual work or close relationship with public service activity.

SECTION XXXIII. *Repeal of Inconsistent Acts.*

All acts or parts of acts which are inconsistent with the provisions of this act are hereby repealed, any provision of the act of April 25, 1931, chapter 347, to the contrary notwithstanding.

SECTION XXXIV. *Validity of this Act.*

The provisions of this act shall be severable and, if any of the provisions shall be held to be invalid, the decision of the court respecting such provision or provisions shall not affect the validity of any other provisions which can be given effect without such invalid provisions. It is hereby declared to be the legislative intent that this act would have been adopted by the legislature had such invalid provisions not been included herein.

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