

**CHAPTER 40-44
CIVIL SERVICE IN CITIES**

40-44-01. Cities of certain population may adopt civil service system.

The governing body of any city having a population of more than four thousand inhabitants according to the latest official federal or state census may adopt, by ordinance, a civil service system for the selection, employment, classification, advancement, suspension, retirement, or discharge of appointive officials or employees of the city.

40-44-02. Failure or refusal of city to adopt civil service - Petition - Election held.

If the governing body of any city which is subject to the provisions of this chapter shall fail or refuse to adopt the provisions of this chapter, twenty percent of the qualified electors of the city may file a written petition with the city auditor demanding that the provisions be adopted or that the question be submitted to the qualified electors of the city, and unless the civil service system is adopted by the governing body, the question shall be submitted to the qualified electors of the city at the next regular municipal election.

40-44-03. Form of ballot to be used in voting upon adoption of civil service system - Vote required to adopt.

At any election held to determine whether a city shall adopt a civil service system under the provisions of this chapter, the question shall be submitted to the electors in substantially the following form:

Shall the city adopt the civil service system?

Yes

No

If sixty percent of the votes cast upon the question favor the adoption of a civil service system, the governing body of the city, within sixty days after the election, shall pass the necessary ordinance and adopt a civil service system as is provided in this chapter.

40-44-04. Civil service commission or commissioner - Delegation of powers to - When rules and regulations effective.

The governing body may provide and create a civil service commission consisting of three members, or it may appoint a civil service commissioner. It may delegate to the commission or commissioner, as the case may be, such powers and duties relating to the making and enforcing of civil service rules and regulations as it may deem advisable. The rules and regulations, however, shall have no force nor effect until duly adopted by ordinance.

40-44-05. Terms of members of commission or of commissioner - Clerk - Vacancies.

If a commission is created, the terms of office of the three commissioners first appointed shall be one, three, and five years, respectively. Thereafter, original appointments shall be for a five-year term. If a commissioner is appointed, the first appointment and any subsequent original appointment shall be for a three-year term. In case of a vacancy in the office of a member of the commission or in the office of the commissioner, the governing body shall fill the vacancy by appointment for the balance of the term. The city auditor shall be ex officio clerk of the commission or commissioner.

40-44-06. Compensations and expenses of members of commission or of commissioner.

The compensation of the commissioner or of a member of the commission shall be determined by the governing body of the city for the time actually devoted to the performance of duties of the office, plus the person's actual expenses.

40-44-07. Purpose and intent of chapter - Types of systems that may be set up.

This chapter shall enable, authorize, and empower the governing body of any city having the requisite number of inhabitants to adopt a civil service system adapted to the size and

requirements of the city. Such system, if deemed advisable by such body, may consist merely in the setting up of minimum employment qualifications for full-time members of the city's paid fire and police departments and the heads thereof with provisions prohibiting their suspension, removal, or discharge, or the suspension, removal, or discharge of any other appointive employee or official except upon adequate reason and cause shown upon hearing and thereon after reasonable notice to the person or persons sought to be suspended, removed, or discharged. If deemed advisable by the governing body, the civil service system may consist of a comprehensive system covering all paid fire and police department full-time employees and the heads of these two departments and other appointive full-time employees and officials, other than common laborers and employees who have not been in the continuous employment of the city for a period of more than one year, as in the discretion of the governing body of the city may be for the best interests of the public, such employees, and the service to be rendered to the city.

40-44-08. Ordinance creating civil service system - What to be included - Departments automatically included.

In any ordinance creating a civil service system, the governing body shall designate the departments, classes of employees, and the appointive officials of the city who shall come under the system, and it subsequently may add thereto. All full-time paid employees of the fire and police departments, with the chiefs thereof, shall be placed under any civil service system adopted whether they are designated in the ordinance or not.

40-44-09. Ordinance providing for civil service shall prohibit political activities of persons under system.

Repealed by S.L. 1977, ch. 420, § 3.

40-44-10. Contracting with other municipalities and state departments for conduct of competitive examinations.

The governing body of any municipality, subject to the provisions of this chapter, may contract with the governing body of any other municipality in this state or with any state department for the holding of competitive examinations to ascertain the fitness of applicants for positions and employment in the city service and for the performance of any other service in connection with personnel selection and administration.

40-44-11. Change of form of government in city which has adopted a civil service system - Effect.

If any city in this state which has established a civil service system in compliance with the requirements of this chapter shall change its form of municipal government, such civil service provisions as previously have been established shall continue under the new form of municipal government except as to those provisions which the governing body of the city may see fit to change within the limitations described in this chapter. The governing body of the city, after the change in its form of government, shall designate, as described in section 40-44-08, the departments, classes of employees, and appointive officials of the city who shall come under the civil service, and it subsequently may add thereto except as restricted by the provisions of this chapter.

40-44-12. Abandonment of civil service system - Election - Form of ballot - Removal of department or employee from civil service.

After a civil service system has been adopted, the governing body shall not abolish it nor remove any department or employee thereof, or any employee or appointive official, from under the civil service and the provisions of this chapter unless and until civil service has been abandoned by the city after the question shall have been submitted to the qualified electors of the city at a regular or special municipal election. At any election held to determine whether the city shall abandon the civil service system, the question shall be submitted to the electors in substantially the following form:

Shall the city abandon the civil service system?

Yes

No

If two-thirds of the votes cast upon the question favor the abandonment of civil service, the governing body shall provide for the abandonment of the system. Any office or employment, however, may be abolished by the governing body of the city by resolution declaring there no longer is need therefor after a hearing has been given to the officials and employees to be affected and after a determination to such effect.

40-44-13. Penalty for violation of chapter.

Any willful violation of the provisions of this chapter, or any violation of such provisions through culpable negligence, shall be grounds for removal from office of a city official or for summary discharge of a city employee.