

moneys or funds collected by any such alderman, magistrate or justice of the peace.

APPROVED—The 27th day of August, A. D. 1963.

WILLIAM W. SCRANTON

No. 520

AN ACT

Amending the act of August 5, 1941 (P. L. 752), entitled "An act regulating and improving the civil service of certain departments and agencies of the Commonwealth; vesting in the State Civil Service Commission and a Personnel Director certain powers and duties; providing for classification of positions, adoption of compensation schedules and certification of payrolls; imposing duties upon certain officers and employes of the Commonwealth; authorizing service to other State departments or agencies and political subdivisions of the Commonwealth in matters relating to civil service; defining certain crimes and misdemeanors; imposing penalties; making certain appropriations, and repealing certain acts and parts thereof," changing the coverage provisions, making technical changes in the operation of the act, providing for certain suspensions of employes, prohibiting discrimination in recruitment, examinations and other personnel action, providing for hearings and appeal procedures, further regulating qualifications for certain positions, removing the provisions relating to the classification of positions and the compensation of employes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows: Civil Service Act.

Section 1. Section 3, act of August 5, 1941 (P. L. 752), known as the "Civil Service Act," amended June 1, 1945 (P. L. 1366) and June 21, 1947 (P. L. 835), is amended to read:

Section 3, act of August 5, 1941, P. L. 752, amended June 1, 1945, P. L. 1366 and June 21, 1947, P. L. 835, further amended.

Section 3. Definition of Terms.—In this act, unless the context otherwise clearly requires,—

(a) "Commission" means State Civil Service Commission as created by "The Administrative Code of 1929," and its amendments.

(b) "Director" means the Executive Director.

(c) ["Service of the Commonwealth" includes all offices and positions now existing or hereafter created in the department of Public Assistance, State Board of Public Assistance and county boards of assistance, all offices and positions now existing or hereafter created in the Department of Labor and Industry charged with the administration of the Unemployment Compensation Law, all offices and positions now existing or hereafter created under the Pennsylvania Liquor Control Board, all offices and positions under the State Civil Service Commission and the Personnel Director, and any other

offices and positions of any department or agency to which this act may hereafter be extended.

(d)] "Unclassified service" [means] *includes* all positions now existing or hereafter created [in the service of the Commonwealth] *in departments and agencies included in clause (d) of this section*, which are held by:

(1) Heads of departments of the Commonwealth *and* the [first] deputy heads thereof [the Executive Director of the State Civil Service Commission and the person appointed to administer the Federal-State employment service and the unemployment compensation work of the Department of Labor and Industry] *and bureau and division chiefs and all other supervisory personnel whose duties include participation in policy decisions.*

(2) Members of boards and commissions.

(3) One secretary or one confidential clerk *and not more than five (5) other personal assistants or aides* to each state appointing authority, or each member thereof, as the case may be, except the commission and the director.

(4) Any person temporarily appointed or designated to render special services or to make or conduct a special inquiry, investigation or examination where such appointment or designation is certified by the commission to be for employment for not more than six months in any twelve month period, and which, for reasons set forth in the minutes of the commission, should not be performed by persons in the classified service.

(5) [Any person employed by any other State agency or department which by law performs services directly or indirectly for the departments set forth in subsection (c) hereof.

(6)] Such attorney as the appointing authority shall appoint and the Attorney General shall approve.

(6) *Unskilled Labor.*

Notwithstanding any other provisions of this clause, any State program which is required to have its positions under a merit system because of the receipt of Federal grants-in-aid shall not have more positions in the unclassified service than are allowed by Federal merit system standards.

[(e)] (d) "Classified service" [means all positions now existing or hereafter created in the service of the Commonwealth not specifically included in the unclassified service] *includes:*

(1) *All positions now existing or hereafter created in the Department of Public Welfare, including the county boards of assistance but excluding positions in the general hospitals not otherwise included in the classified service;*

(2) *All positions now existing or hereafter created in the Department of Labor and Industry which are charged with the administration of the Unemployment Compensation Law;*

(3) *All positions now existing or hereafter created under the Pennsylvania Liquor Control Board;*

(4) *All positions now existing or hereafter created under the State Civil Service Commission;*

(5) *All positions now existing or hereafter created under the Pennsylvania Board of Parole;*

(6) *All positions now existing or hereafter created in the Department of Mental Health;*

(7) *All positions now existing or hereafter created in the Department of Public Instruction, excluding the presidents, faculty members and student employes of the State colleges, the heads and faculty members of the department's other educational institutions and excluding also county superintendents, assistant county superintendents and supervisors of special education;*

(8) *All positions now existing or hereafter created in the Department of Health, excluding patient employes at institutions operated by that department;*

(9) *All positions now existing or hereafter created in the Department of Banking;*

(10) *All positions now existing or hereafter created in the Department of Insurance;*

(11) *All positions now existing or hereafter created under the Public Utility Commission;*

(12) *All positions now existing or hereafter created under the professional licensing boards and the State Employes' Retirement Board in the Department of State;*

(13) *All positions now existing or hereafter created in any department or agency under the Governor's jurisdiction which (i) are required to be under a merit system in order to qualify the agency or department for the receipt of funds from the United States Government, or any agency or instrumentality thereof, (ii) were designated as professional or technical by the Executive Board of the Commonwealth on or before October 1, 1962, (iii) were covered by Civil Service under the terms of an agreement entered into between the department or agency and the commission on or before October 1, 1962, other than those agreements arising out of the Executive Board resolution of September 10, 1956, as amended and supplemented;*

(14) *The following positions in the Department of Highways: Engineers, geologists, chemists, planning specialists, statisticians, economists, geodesists, photo-*

grammetrists, architects, landscape architects, cartographers, draftsmen and surveyors; and

(15) *All positions in local civil defense organizations, which political subdivisions were authorized to bring under the provisions of this act by the act of April 28, 1961 (P. L. 129), upon the exercise of such authority.*

Notwithstanding the provisions of this clause, the classified service shall not include any position included in the unclassified service under clause (c) of this section.

[(f)] (e) "Appointing authority" means the officers, board, commission, person or group of persons having power by law to make appointments in the *classified* service. [of the Commonwealth

(g) (f) "Position" means [any office or place of employment in the service of the Commonwealth such that the duties and responsibilities thereof are exercised by one person] *a group of current duties and responsibilities assigned or delegated by competent authority requiring the full-time or part-time employment of one person.*

[(h)] (g) "Class" or "class of positions" means a group of positions in the *classified* service [of the Commonwealth established under this act] *which are* sufficiently similar in respect to the duties and responsibilities thereof that the same descriptive title may be used for each of such positions, the same requirements as to experience, knowledge and ability are demanded of incumbents, the same tests of fitness may be used to choose qualified appointees, and the same schedule of compensation may be made to apply with fairness under like working conditions.

[(i)] (h) "Permanent position" means a position in the *classified* service [of the Commonwealth] which is likely to be needed continuously for a period of six months or more.

[(j)] "Extra] (i) "Temporary position" means a position in the *classified* service which arises out of temporary pressure of extra work and [will] *is likely to* continue for a period of less than six months.

[(k)] (j) "Employee" means a person legally occupying a position in the *classified* service. [of the Commonwealth

(l) (k) "Regular employe" means an employe who has been appointed to a position in the *classified* service in accordance with this act after completing his probationary period.

[(m)] (l) "Entrance examination" means an examination for positions in a particular class, admission

to which is not limited to persons employed in the *classified* service. [of the Commonwealth

[(n)] (m) "Promotion examination" means an examination for positions in a particular class, admission to which is limited to employes in the classified service who have held a position in another class.

[(o)] (n) "Employment list" means a list of persons who have been found qualified by an entrance examination for appointment to a position in a particular class.

[(p)] (o) "Promotion list" means a list of persons who have been found qualified by a promotion examination for appointment to a position in a particular class.

[(q)] (p) "Eligible list" means an employment list, a promotion list or a reemployment list.

[(r)] (q) "Eligible" means a person whose name is on an eligible list.

[(s)] (r) "Demotion" means a change [in status] to a position in a class carrying a lower maximum salary.

[(t)] (s) "Furlough" means the termination of employment because of lack of funds or of work.

[(u)] (t) "Probationary period" means a preliminary period of employment prior to permanent appointment of an employe for the purpose of determining his fitness for permanent employment.

[(v)] (u) "Promotion" means a change [in status] to a position in a class carrying a higher maximum salary.

[(w)] (v) "Removal" means the permanent separation from the classified service of an employe who has been permanently appointed.

(w) "*Unskilled labor*" means any person occupying or assigned to a position for which the principal job requirement is good physical condition as related to the duties of the particular position.

Section 2. Section 203 of the act is amended to read:

Section 203, of
act, amended.

Section 203. Duties of Commission.—It shall be the duty of members of the commission as a body—

(1) After public hearing, as hereinafter set forth, to establish, adopt and amend rules, either on its own motion or upon recommendation of the director, for making effective the provisions of this act. Such rules shall have the effect of law one week after the adoption thereof.

(2) [After public hearing, as hereinafter set forth, to approve, modify or reject such classification plans for the classified service of the Commonwealth as the director may present.

(3) To approve, modify or reject for report to the Executive Board of the Commonwealth such compensation schedules for the classified service of the Commonwealth as the director may present.

(4)] Upon request or on its own motion, as herein provided, in cases of demotion, furlough, suspension and removal to conduct investigations, hold public hearings, render decisions on appeals and record its findings and conclusions.

[(5)] (3) To make investigations on its own motion and, in its discretion, on petition of a citizen concerning any matter touching the enforcement and effect of the provisions of this act and to require observance of the provisions of this act and the rules and regulations thereunder.

[(6)] (4) To make such investigations as may be requested by the Governor or the legislature and to report thereon.

Section 205 of act, amended June 21, 1947, P. L. 835, further amended.

Section 3. Section 205 of the act, amended June 21, 1947 (P. L. 835), is amended to read:

Section 205. Qualifications, Appointment and Compensation [and Removal] of Director.—

(a) The director shall be a person who shows he is familiar with the *principles and methods of personnel administration and one who is in sympathy with the application of merit principles and scientific methods to public employment. He shall [receive an annual salary fixed by the commission, with the approval of the Governor, and shall hold no other public position of profit.

(b) The director shall not be removed except for incompetence, inefficiency, neglect of duty, malfeasance or misfeasance in office] *be appointed by the commission from an employment list established under this act, his salary shall be fixed by the commission with the approval of the Governor, and he shall hold no other paid public position.*

Clauses 4) and (5), section 206 of act, amended June 1, 1945, P. L. 1366, further amended.

Section 4. Clauses (4) and (5) of section 206 of the act, amended June 1, 1945 (P. L. 1366), are amended to read:

Section 206. Powers and Duties of Director.—The director, except as otherwise provided in this act, shall direct and supervise all the administrative work. He shall have power and it shall be his duty under the direction and supervision of the commission—

* * * * *

(4) To establish and maintain a record of all employes in the *classified* service [of the Commonwealth], showing for each such person the date appointed or employed, the title of the position held, the rate of compensation and every change in his status, including increases and decreases in pay, changes in title transfers, [sick and annual leaves with or without pay,] and such other data as he may consider desirable and pertinent.

* "principals" in original.

The director shall, within sixty calendar days after the effective date of this amending act, transfer all position classification records to the budget secretary.

(5) To administer and make effective the provisions of this act and of the rules made thereunder, including those relating to [the preparation, after advice and counsel with appointing authorities, and administration of classification and compensation plans,] the preparation and conduct of examinations, the preparation of eligible lists, the certification of persons qualified for employment, the transfer, promotion, suspension, demotion, removal, furlough, leave of absence and resignation of employes, the rating of employes' services, the requiring of health examinations at the discretion of appointing authorities as a condition of initial or continued employment, the checking and certification of pay-rolls before payment [, the conduct of programs concerning working conditions affecting the health and safety of employes].

* * * * *

Section 5. Sections 208 and 211 of the act are amended to read:

Sections 208 and 211 of act, amended.

Section 208. Public Hearings.—Before adopting or amending its rules [or approving, modifying or rejecting classification plans], the commission shall hold a public hearing at which any citizen shall have the right to appear and be heard. Public notice of such public hearing shall be given at least seven days in advance of the hearing by posting on a bulletin board maintained in or near the commission's principal office, in a place accessible to the public during business hours, a statement of the time and place of the hearing and of the matter to be considered, also by furnishing at least twenty copies of such notice to the newspaper correspondents' office in the State Capitol and one copy of such notice to the Governor, each appointing authority and each member of the General Assembly. The commission may give further public notice of such hearings as it deems advisable.

Section 211. Receiving Funds and Allocating or Apportioning Costs.—The commission shall have power to receive funds from the United States of America or any agency thereof, or from any other source whatsoever, for the administration of this act and *the commission and the budget secretary shall have the power to allocate among the departments and agencies thereunder the cost of administering this act, or any part thereof.*

Section 6. Subsections (a) and (c) of section 212 of the act, amended May 21, 1943 (P. L. 516), are amended to read:

Subsections (a) and (c), section 212 of act, amended May 21, 1943, P. L. 516, further amended.

Section 212. Service to State Departments, Boards and Commissions or Agencies and Political Subdivisions; Cooperation with Other Civil Service Agencies.—(a) The services and facilities of the commission and its staff shall be available to the State departments, boards and commissions set forth in [paragraph (c)] *clause (d)* of section three of this act and to other State departments, boards, commissions or agencies and political subdivisions of this Commonwealth upon such terms and conditions as may be prescribed by the rules of the commission, which rules shall provide for the payment to and reimbursement of the Commonwealth for the reasonable cost of such services and facilities.

* * * * *

(c) Any money payable to the commission by way of reimbursement shall be paid into the General Fund through the Department of Revenue, shall be credited to the [biennial] *annual* appropriation made to the commission out of the General Fund for the proper conduct of its work under this act and shall be available for the same purposes for which any such appropriation is available. In case any State department, board, commission or agency which is supported out of the General Fund becomes liable to the commission, under the provisions of this section, such liability shall be defrayed out of the current appropriation to such State department, board, commission or agency for the proper conduct of its work, and any such appropriation is hereby appropriated for such purpose. In addition, as much money as may be necessary is hereby appropriated to the commission, from time to time, from the State Stores Fund, to meet the cost of the services and facilities of the commission, as may be attributable to the work of the commission, with respect to the Pennsylvania Liquor Control Board, and as much as may be necessary is hereby appropriated from the Administrative Fund to meet the cost of services and facilities of the commission, as may be attributable to the work of the commission, with respect to the work of the Department of Labor and Industry under the Unemployment Compensation Law. In the event any other State department, board, commission or agency which is supported out of a special fund becomes obligated to the commission, under the provisions of this section, as much money as may be necessary is hereby appropriated, from time to time, out of such special fund to meet the cost of services and facilities of the commission, as may be attributable to the work of such administrative department, board, commission or agency. Such amounts as are appropriated out of said special funds shall, from time to time, be

transferred from such funds to the General Fund, shall be credited to the current appropriation made to the commission out of the General Fund for the proper conduct of its work, and are hereby appropriated to the commission for the same purposes as the aforesaid appropriation out of the General Fund is appropriated.

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Section 7. The act is amended by adding, after section 212, a new section to read:

Act amended by adding a new section 213.

Section 213. Federal Standards.—Notwithstanding any other provisions of this act, the Commonwealth and its political subdivisions are authorized and directed to take such action with respect to matters involving personnel administration as may be necessary to assure the continued eligibility of the Commonwealth and its political subdivisions for Federal grants-in-aid.

Section 8. Sections 301, 302, 303, 304, 305, 401, 402 and 403 of the act are repealed.

Specific repeal of sections 301, 302, 303, 304, 305, 401, 402 and 403 of act. Section 501 of act, amended September 2, 1959, P. L. 797, further amended.

Section 9. Section 501 of the act, amended September 2, 1959 (P. L. 797), is amended to read:

Section 501. Examinations Requisite for Appointment and Promotion.—Except as otherwise provided in this act, appointments of persons entering the classified service or promoted therein shall be from eligible lists established as the result of examinations given by the director to determine the relative merit of candidates. Such examinations may be written and shall be competitive and open to all persons who may be lawfully appointed to positions within the classes for which the examinations are held. Persons applying for positions or promotions in the [offices designated as central administrative offices (which shall include all those having jurisdiction throughout the State) shall be citizens of the United States and shall have been legal residents of the Commonwealth for a period of not less than one year before making application and persons applying for positions or promotions in offices designated as district offices (which shall include all those whose jurisdiction is limited to a particular district) shall be citizens of the United States, and shall have been legal residents of the Commonwealth for a period of not less than one year, and in the district in which such office having jurisdiction thereof is located, for a period of not less than six months before making application.] *classified service shall be citizens of the United States and residents of the Commonwealth and where applicable to the administrative district. Notwithstanding any of the provisions of this act, whenever an appointing authority*

finds a lack of a sufficient number of qualified personnel available for appointment to any particular class or classes of positions, he may present evidence thereof to the director who may waive the residence and citizenship requirements for such class or classes of positions. A noncitizen appointed pursuant to the provisions of this section shall not be eligible for continued employment unless he files an application for citizenship as soon as he is eligible therefor, and thereafter diligently prosecutes the same. The director shall prepare the proper State and district employment and promotion eligible lists [when necessary]: Provided, That after an examination has been conducted for any class of positions, if there is no person with such legal residence in any administrative district, remaining on the register the director [may] shall certify and the appointing authority may make the appointment or promotion from the names of persons on an appropriate eligible list for the same class of positions of other administrative districts. Limitations as to age, sex, health, moral character, experience and other qualifications may be specified in the rules of the commission and in the announcements of the examinations. All applications for positions in the classified service shall be under oath. As far as is in the judgment of the commission consistent with the best interest of the Commonwealth, vacancies shall be filled by promotion. The commission may limit competition in promotion examinations to employes in the classified service who have completed their probationary period in a class or classes designated in the public notice of the examinations, and may permit promotions to be accomplished by any one of the [two] following plans: (1) by appointment from open competitive lists; or (2) by achieving a place on an eligible list after a promotional examination, such examination having been given at the request of the appointing authority; [The commission shall permit promotions] or (3) by promotion based upon meritorious service and seniority to be accomplished by appointment without examination, if (i) the person has completed his probationary period in the next lower position, [and if] (ii) he meets the minimum requirements for the higher position, and (iii) he receives the unqualified recommendation of both his immediate superior and the appointing authority of his department or agency.

Section 502 of
act, amended
June 21, 1947.
P. L. 835, further
amended.

Section 10. Section 502 of the act, amended June 21, 1947 (P. L. 835), is amended to read:

Section 502. Nature of Examinations.—The director shall give examinations to establish employment and promotion lists. The tests in such examination may be written [and may also include] or oral, [tests] or a

demonstration of skill, or an evaluation of experience and education, or a combination of these, which shall fairly appraise and determine the merit, qualifications, fitness and ability of competitors. Such tests shall be practical in character and shall relate to the duties and responsibilities of the position for which the applicant is being examined and shall fairly test the relative capacity and fitness of persons examined to perform the duties of the class of positions to which they seek to be appointed or promoted [, but no applicant shall be required to be possessed of any scholastic education in order to be permitted to take any competitive examination or to be appointed or promoted to any position]. *An applicant may be required to possess scholastic education qualifications only if the position for which he is being examined requires professional or technical knowledges, skills and abilities, or if such scholastic qualifications are required to assure the continued eligibility of the Commonwealth for Federal grants-in-aid.* No greater credit for experience gained during a provisional, emergency or temporary appointment under this act or acts repealed hereby shall be given to any person in any examination than is given in such examination for experience in the same type of work performed in a similar position not under the provisions of this act or acts repealed hereby. In evaluating experience in order to compute the final rating in any examination to establish employment and promotion lists, persons *discharged* other than dishonorably [discharged], after active service during any war or armed conflict in which the United States engaged, from any branch of the armed service of the United States, or from any women's uniformed service directly connected therewith, shall not be given less credit for experience than would be given for continued experience in the position held at the time of induction in the service. No question in any examination shall relate to the race, religion or political or labor union affiliation of the candidate.

Section 11. Sections 503 and 504 of the act are amended to read:

Sections 503 and 504 of act, amended.

Section 503. Holding Examinations and Rating Competitors.—The director shall have charge of the preparation and holding of examinations of the rating of the work of competitors and of the preparation of resulting [employment and promotion] *eligible* lists. He may call on other persons not on the regular staff of the commission, either within or without the *classified* service [of the Commonwealth], for assistance. [When such persons are in the service of the Commonwealth it shall be deemed a part of their official duty to act as examiners without extra compensation.]

Section 504. Public Notice of Examinations.—The director shall give public notice of all examinations for positions or promotions in the classified service [of the Commonwealth] at least two weeks in advance of the final date for filing applications for such examinations by posting an appropriate notice on the bulletin board maintained in or near the commission's principal office, by furnishing at least twenty copies of such notice to the newspaper correspondents' office in the State Capitol, and at least one copy of such notice to each office throughout the State of all the departments set forth in Article I, section 3, [subsection (c)] *clause (d)* of this act, directing that such notice shall immediately be posted on a public bulletin board maintained in each such office. The director may give such further public notice as he deems advisable. Such notice shall give the [time place] *schedule* and general scope of every examination, the weights to be given to each of the tests in the examination, the duties, pay, experience, education and other qualifications requisite for all positions in the class for which the examination is to be held and the manner and place in which application forms and detailed pertinent information may be obtained.

Sections 505 and 506 of act, amended June 1, 1945, P. L. 1366, further amended.

Section 12. Sections 505 and 506 of the act, amended June 1, 1945 (P. L. 1366), are amended to read:

Section 505. Ratings of Competitors.—The final earned rating of a person competing in any examination shall be attained by computing the ratings for each part or parts of the examination, the qualifying point for which is set by the director under the direction of the commission according to weights for each test established by the director [with the approval of the commission]. The director shall send notice by mail to all competitors informing them whether they have attained a place upon the list and informing those who have attained a place upon the list of the number who took the examination, the number on the list, and of their relative standing upon the list.

Section 506. Establishment of [Employment and Promotion] *Eligible Lists*.—The director shall establish and maintain such [employment and promotion] *eligible* lists for the various classes of positions in the classified service as are necessary or desirable to meet the needs of the service. These lists shall contain the names of persons arranged in the order of final earned ratings who have been given at least such minimum rating or ratings as may be fixed for the whole examination or for the whole examination and for any one or more of the tests.

Section 13. Section 507 of the act, amended June 21, 1947 (P. L. 835), is amended to read:

Section 507. Duration of [Employment and Promotion] *Eligible* Lists.—[All existing employment and promotion lists are hereby cancelled: Provided, however, That the right of return to employment by employes on leave of absence or furlough shall be preserved hereafter.] *The duration of an eligible list shall be fixed at not less than one nor more than four years. An eligible list that has been in existence for one year or more shall terminate upon the establishment of an appropriate new list unless otherwise prescribed by the director.* Appointing authorities shall utilize [employment and promotion] *eligible* lists from the date of their establishment until exhausted, cancelled by the commission, or replaced by more recently prepared lists. [When an appointing authority deems it to be in the best interests of the Commonwealth, the commission shall cancel such lists if two years or more have elapsed since a competitive examination was held.] The director, with the approval of the commission, may at any time correct clerical errors occurring in connection with the preparation of any [employment or promotion] *eligible* list and revise the list accordingly, but no person who has been appointed as the result of certification from such list shall be displaced by such action. [Any persons whose announced rating or position on the list is changed by correcting any clerical errors shall be notified.] The commission shall have the power at any time after giving notice as required in this act, and after a public hearing, to cancel the whole or any part of any [employment or promotion] *eligible* list on account of illegality or fraud in connection therewith.

Section 507 of act, amended June 21, 1947, P. L. 835, further amended.

Section 14. Subsection (a) of section 603 and section 604 of the act, amended June 21, 1947 (P. L. 835), are amended to read:

Section 603. Probationary Period.—(a) No appointment to a position in the classified service shall be deemed complete until after the expiration of a probationary period. The probationary period for each class of position shall be prescribed in the rules of the commission and shall in no case be less than [three] *six* months or more than [nine] *eighteen* months. At such times during the probationary period, and in such manner as the director may require, the appointing authority shall report to the director his observation of the work of the employe and his judgment as to the willingness and ability of the employe to perform his duties satisfactorily and as to his dependability. At any time during his probationary period, the appointing authority may remove an

Subsection (a), section 603 and section 604 of act, amended June 21, 1947, P. L. 835, further amended.

employe if in the opinion of the appointing authority the probation indicates that such employe is unable or unwilling to perform his duties satisfactorily or that his dependability does not merit his continuance in the service. Upon such removal the appointing authority shall forthwith report his action to the director and to the employe so removed. No more than three employes shall be removed successively from the same position during their probationary periods without the approval of the director. The director, with the approval of the commission, shall remove an employe during his probationary period if it is found after the employe has been given notice and an opportunity to be heard that he was appointed as a result of fraud.

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Section 604. Provisional Appointments.—Whenever there is great and urgent public need for filling a vacancy in any position in the classified service and the director is unable to certify an eligible for the vacancy, he may authorize the filling of the vacancy by provisional appointment. If he does authorize such appointment he shall certify not more than three qualified persons with or without examination and the appointing authority shall appoint one of the persons so certified. A provisional appointment shall continue only until an appropriate eligible list can be established and certification made therefrom, but in no event for more than [ninety days] *six months* in any twelve-month period [, except that during the first year after the repeal of the act, approved the fourth day of June, one thousand, nine hundred forty-three (Pamphlet Laws 870), provisional appointments may continue until appropriate eligible lists can be established, and a person may serve in the classified service under provisional appointment until appropriate eligible lists can be established and certification made therefrom]. Successive provisional appointments of the same or different persons shall not be made to the same position. The acceptance of a provisional appointment shall not confer upon the appointee any rights of permanent tenure, transfer, promotion or reinstatement.

Section 703 of act, repealed.

Section 15. Section 703 of the act is repealed.

Sections 705 and 706, of act, amended.

Section 16. Sections 705 and 706 of the act are amended to read:

Section 705. Transfers and Assignments.—An appointing authority may at any time assign a classified employe under his jurisdiction from one position to another in the same class. In every case the appointing authority shall give written notice of his action to the director, according to the rules of the commission.

Transfer of a classified employe from a position under the jurisdiction of one appointing authority to a position under the jurisdiction of another appointing authority may be made subject to such rules and with the approval of the director and of both appointing authorities concerned. Any transfer of an employe from a position in one class to a position in a class for which a higher maximum rate of compensation is prescribed shall be deemed a promotion and may be accomplished only in the manner hereinbefore provided for the making of promotions. No person shall ever be transferred from a position in the unclassified service to a position in [a] *the* classified service unless he is appointed to such latter position after certification of his name from an eligible list in accordance with the provisions of this act.

Section 706. Demotions.—An appointing authority may demote to a vacant [lower rated] position in [the same] a *lower* class any employe in the classified service who does not satisfactorily perform the duties of the position to which he was appointed or promoted and who is able to perform the duties of the lower [position] *class*. In case of such demotion the employe shall have all rights of appeal as provided in this act. No employe shall be demoted because of his race, religion or political, partisan or labor union affiliation. A demotion may also be made by an appointing authority with the approval of the director upon the written petition of the employe stating the reasons therefor and supported by such evidence as the director may require to show that the employe is able to perform the duties of the class of position to which he petitions that he be demoted. [The compensation of an employe demoted shall in no case exceed the maximum rate for the class to which he is demoted.]

Section 17. The act is amended by adding, after section 706, two new sections to read:

Act amended by adding two new sections 707 and 708.

Section 707. Classification and Compensation.—The classification of positions and the compensation of employes in the classified service shall conform to standards and rules adopted by the Executive Board. In the development of such classification standards for adoption by the Executive Board, the Budget Secretary shall consult with the Executive Board and with the staff of the commission in so far as such standards relate to the examination functions of the commission.

Section 708. Other Personnel Standards and Rules.—With respect to such other personnel management matters as hours of work, paid holidays, vacations and sick leave and employe training, employes in the classified service shall conform to standards and rules es-

tablished by the Governor and the Executive Board for Commonwealth employes generally.

Section 802 of act, amended September 29, 1951, P. L. 1636, further amended.

Section 18. Section 802 of the act, amended September 29, 1951 (P. L. 1636), is amended to read:

Section 802. Furlough.—In case a reduction in force is necessary in the classified service, no employe shall be furloughed while any probationary or provisional employe is employed in the same [classification] *class in the same department or agency*, and no probationary employe shall be furloughed while a provisional employe is employed in the same [classification] *class in the same department or agency*. An employe shall be furloughed only if at the time he is furloughed, he is within the lowest quarter among all employes of the employer in the same [classification] *class* on the basis of their last regular service ratings, and within this quarter he shall be furloughed in the order of seniority: Provided, That the appointing authority may limit the application of this provision in any particular instance to employes in the same [classification] *class in the same department or agency* with headquarters at a particular municipality, county or administrative district of the Commonwealth.

A furloughed employe shall have the right of return to any [classification] *class* and civil service status which he previously held, provided such [classification] *class* is contained in the current classification plan of the agency; or to any [classification] *class* and civil service status in the same or lower grade, provided that he meets the minimum qualifications given in the classification plan of the agency. The appointing authority shall promptly report to the director the names of employes furloughed, together with the date the furlough of each is effective and the character of his services. Under the rules a [permanent] *regular* employe furloughed shall for a period of one year be given preference for re-employment in the same class of position in the department from which he was furloughed and shall be eligible for appointment to a position of a similar class in other agencies under this act, provided that in case of a promotion of another employe such preference shall not be effective if it necessitates furloughing such other employe.

Section 804 of act, amended June 21, 1947, P. L. 835, further amended.

Section 19. Section 804 of the act, amended June 21, 1947 (P. L. 835), is amended to read:

Section 804. Removal during Probationary Period.—The appointing authority may remove an employe from the classified service at any time before the expiration of the probationary period. [The appointing authority shall furnish the director with a statement in writing

of the cause of the removal.] The person so removed shall be considered permanently separated from his position, but the director may, if he considers such action appropriate, place the name of the person thus removed on the employment list of the appropriate class for future certification to other appointing authorities.

Section 20. Section 804.1 of the act, added September 29, 1951 (P. L. 1636), is amended to read:

Section 804.1 of act, added September 29, 1951, P. L. 1636, amended.

Section 804.1. Rights of Promoted Employee During Probationary Period.—If the probationary period has resulted from a promotion, such removal shall not be from the classified service. A classified employe so removed during a probationary period, resulting from promotion, shall have the right to and shall be returned to the position or [classification] *class* held immediately prior to such promotion without necessity of appeal or hearing.

Section 21. Sections 806 and 807 of the act, amended June 21, 1947 (P. L. 835), are amended to read:

Sections 806 and 807 of act, amended June 21, 1947, P. L. 835, further amended.

Section 806. Resignation.—The rules of the commission shall state what shall constitute resignation from the classified service. Absence from duty for five consecutive working days without notice to the appointing authority may be regarded as an abandonment of a position and in effect a resignation. Upon the request of an appointing authority, and with the approval of the commission, an employe may be reinstated in the classification from which he has resigned. No resignation *except by abandonment* of any person in the classified service shall be effective unless accepted by the appointing authority within fifteen days after the actual date of the making thereof. No person about to be appointed to any position in the *classified* service [of the Commonwealth] shall in advance of or at the time of such appointment sign or execute a resignation dated or undated. No resignation, *except by abandonment*, shall be made or shall be valid unless it bears the signature of the person resigning and the date of the resignation in his handwriting. [Any person who resigns from the classified service may ask the commission, in writing, within fifteen days after such resignation, for a public hearing, stating his reasons. If on investigation there appears to be good evidence that the employe has been forced to resign against his will and without just cause, or that his separation from the service has been involuntary and without just cause, the commission shall grant him, within thirty days, a public hearing as hereinafter provided in the case of removal or demotion, and shall treat the separation as though it were a removal.]

Section 807. Removal.—[(a)] No [person] *regular employe* in the classified service shall be removed except for just cause [which shall not be his race, religion or political, partisan or labor union affiliation. To all persons in the classified service, except provisional, temporary and emergency employes, or probationary employes, written notice of removal, setting forth the reasons for such action and effective date thereof, must be furnished. They shall have ten days from the receipt of such written notice to give the appointing authority such written answer as the person removed may desire. In every case of removal, a copy of the statement of reasons therefor, with the full written answer thereto, if any, shall be furnished to the commission by the appointing authority within ten days from the receipt of the written answer, and shall be made a part of the public records of the commission. Within thirty days after receipt of such notice of removal from an appointing authority the commission upon the request of the appointing authority or of the removed employe or upon its own behalf shall initiate an investigation which shall include a public hearing. Such investigation and hearing may be conducted by the commission or by anyone designated by the commission. The investigation and hearing shall be for the purpose of fairly determining whether the employe involved merits continuance in his position or should be removed therefrom or otherwise disciplined for the good of the service. At the hearing the commission, or those acting for the commission, shall not be required to follow technical rules of evidence or court procedure, but shall diligently seek all of the evidence and information bearing on the merits of the case. Where an investigation is conducted at the request of the removed employe, the commission, within ten days after the completion of such investigation and hearing, or sooner, if practicable, shall make its findings and conclusions which shall be forthwith certified to the appointing authority. If the commission finds that the action complained of was taken by the appointing authority for any political, partisan, religious or racial reason, or because of labor union affiliation, the employe shall be reinstated to his position without loss of pay. In all other cases the final decision shall not be reviewable by any court, but if such final decision is in favor of the employe the appointing authority shall reinstate him with the payment of so much of the salary or wages lost by him as the commission may, in its discretion, order. The commission may, in its discretion, upon request of an appointing authority, order that the name of any person whose removal from the classified service has become final and binding be placed at the head of the appropriate eligible list or that he be transferred or

reinstated to his former, or a lower position: Provided, That he meets the minimum qualification for the position, and provided that such action is taken not later than thirty days after the appointing authority has made its request to the commission.

(b) Charges against any employe in the classified service asking for his removal for a violation of law or for any cause enumerated in the rules may be filed by any citizen or taxpayer with the appropriate appointing authority and with the director. Charges so filed shall, at the discretion of the commission, be recorded in its minutes, be investigated and determined in the manner provided in this section.

(c) Notwithstanding the provisions of this act, the Governor may, upon recommendation of the appointing authority, suspend or remove the director and any employe, if he deems such action to the best interests of the public service.

(d) Demoted or furloughed employes shall have such rights of notice and hearing similar to those provided under this section for removed employes as shall be prescribed in the rules of the commission].

Section 22. Sections 807.1 and 807.2 of the act, added June 1, 1945 (P. L. 1366), are amended to read:

Sections 807.1 and 807.2 of act, added June 1, 1945, P. L. 1366, amended.

Section 807.1. Leave of Absence.—An employe who has been granted a leave of absence at the discretion of an appointing authority shall, upon expiration of the leave of absence, have the right of return to the [classification] class and civil service status from which leave was granted, or to any [classification] class and civil service status which he previously held, provided such [classification] class is contained in the current [classification] class plan of the agency, or to any [classification] class and civil service status in the same or lower grade, provided that he meets the minimum qualifications given in the classification plan of the agency, provided that in all three instances there is a vacancy with the same appointing authority. If there is no vacancy to which the employe on leave can be returned, he shall retain priority of return to the [classification] class from which the leave of absence was granted for a period of one year following the date of expiration of the leave, and during this time shall have precedence for employment over employes furloughed from the same [classification] class.

Section 807.2. Seniority.—Seniority is established for each [classification] class in which an employe holds or has held civil service status. Seniority in each [classification] class begins with the date of first civil service employment in that [classification] class and includes periods of subsequent employment (civil service or pro-

visional) in other [classifications] *classes* in the same or higher grade.

Section 901 of act, amended.

Section 23. Section 901 of the act is amended to read:

Section 901. Director's Certificate of Legality of Employment.—The director shall [periodically certify to the auditor general lists of employes in the service of the Commonwealth who have been appointed and employed in accordance with the provisions of this act] *notify the Auditor General whenever persons are appointed to the classified service in accordance with the provisions of this act and whenever the employment of such persons ceases to be in compliance with the provisions of this act.*

Section 904 of act, amended June 21, 1947, P. L. 835, further amended.

Section 24. Section 904 of the act, amended June 21, 1947 (P. L. 835), is amended to read:

Section 904. Prohibition of Political Activity.—No person in the classified service shall be a member of or delegate or alternate to any political convention, nor shall he participate at any such convention, except in the performance of his official duty or as a visitor, nor shall he serve as a member of any committee of any political party, or take an active part in political management or in political campaigns, or use his office or position to influence political movements or to influence the political action of any officer or employe in the *classified* service [of the Commonwealth], nor shall he circulate or seek signatures to any nominations or other petition required by any primary or election law, nor shall he seek or accept election, nomination or appointment as an officer of a political club or organization, or serve as a member of a committee of any such club or organization, nor shall he in any manner participate in or interfere with the conduct of any election or the preparation therefor at the polling place or with the election officers while counting the votes or returning the election material to the place provided by law for that purpose, save only for the purpose of making and depositing his own ballot as speedily as it reasonably can be done, nor shall he be within the polling place or within fifty feet thereof, except for the purpose of carrying out official duties and of ordinary travel or residence during the period of time beginning with one hour preceding the opening of the polls for holding such election and ending with the time when the election officers shall have finished counting the votes and have left the polling place for the purpose of depositing the election material in the place provided by law for that purpose, excepting only police officers, who may temporarily approach or enter the

polling place in order to make any arrest permitted by law or for the purpose of preserving order and in each case remain only long enough to accomplish the duties aforesaid after which the said officers shall at once withdraw: Provided, however, That the rights of any individual as a citizen are not impaired hereby, and the prerogative to attend meetings, to hear or see any candidate or nominee, nor to express one's individual opinion, shall remain inviolate.

Section 25. The act is amended by adding, after section 905, a new section to read:

Act amended by adding a new section 905.1.

Section 905.1. Prohibition of Discrimination.—No officer or employe of the Commonwealth shall discriminate against any person in recruitment, examination, appointment, training, promotion, retention or any other personnel action with respect to the classified service because of political or religious opinions or affiliations because of labor union affiliations or because of race, national origin or other non-merit factors.

Section 26. Section 906 of the act is amended to read:

Section 906 of act, amended.

Section 906. Removal and Disqualification of Officers and Employes.—Any person holding a position in the *classified* service [of the Commonwealth] who violates any of the provisions of this act or of the rules made thereunder shall be immediately separated from the service. It shall be the duty of the appointing authority of the State Agency in which the offending person is employed to remove him at once in accordance with the provisions of this act. Any person removed under this section shall for a period of one year be ineligible for reappointment to any position in the *classified* service [of the Commonwealth].

Section 27. The act is amended by adding, after article IX., a new article to read:

Act amended by adding a new article IX.1.

ARTICLE IX.1

Notice and Hearings

Section 950. Notice.—Every person in the classified service shall be furnished with written notice of any personnel action taken with respect to him pursuant to the provisions of this act. Such notice, a copy of which shall be submitted to the commission, shall be furnished within time limits prescribed by the rules of the commission. The notice shall in the case of the permanent separation, suspension for cause, or demotion of a regular employe set forth the reason or reasons for the action.

Section 951. Hearings.—(a) Any regular employe in the classified service may, within twenty calendar days of receipt of notice from the appointing authority, appeal in writing to the commission. Any permanent separation, suspension for cause, furlough or demotion on the grounds that such action has been taken in his case in violation of the provisions of this act, upon receipt of such notice of appeal, the commission shall promptly schedule and hold a public hearing. As soon as practicable after the conclusion of the hearing, the commission shall report its findings and conclusions to the appointing authority and the employe. If such final decision is in favor of the employe, the appointing authority shall reinstate him with the payment of so much of the salary or wages lost by him as the commission may in its discretion order.

(b) Any person who is aggrieved by an alleged violation of section 905.1 of this act may appeal in writing to the commission within twenty calendar days of the alleged violation. Upon receipt of such notice of appeal, the commission shall promptly schedule and hold a public hearing. As soon as practicable after the conclusion of the hearing, the commission shall report its findings and conclusions to the aggrieved person and other interested parties. If such final decision is in favor of the aggrieved person, the commission shall make such order as it deems appropriate to assure the person such rights as are accorded him by this act.

(c) All final decisions of the commission shall not be reviewable by any court.

(d) Notwithstanding any other provisions of this section, the commission may, upon its own motion, investigate any personnel action taken pursuant to this act and, in its discretion, hold public hearings, record its findings and conclusions, and make such orders as it deems appropriate to assure observance of the provisions of this act and the rules and regulations thereunder.

Status.

Section 28. Status of Certain Employes.—On effective date of this amendatory act: (a) any person occupying a position in the classified service as defined in section 3 (d), which, on the day preceding the effective date of this amendatory act, was under any type of merit system by virtue of legislative or executive authority, shall be accorded the status he held on such date, except that any person occupying a position in the classified service as defined in section 3 (d) (5), who attained regular status or held probationary status after October 1, 1962, and any person who held regular or probationary status in a position in the classified service, as defined in section 3 (d) (13) (ii) or section 3 (d)

(14), shall, except as hereinafter provided, serve the maximum probationary period authorized by section 603 as amended by this amendatory act beginning on the effective date of this amendatory act.

(b) Any person occupying a position in the classified service as defined in section 3 (d), which, on the day preceding the effective date of this amendatory act, was not under any type of merit system, shall, except as hereinafter provided, serve the maximum probationary period authorized by section 603 as amended by this amendatory act beginning on the effective date of this amendatory act.

(c) Any person serving such probationary period may, at any time within such period (i) upon written notification of satisfactory work being submitted to the director by the appointing authority, countersigned by the Budget Secretary, receive regular employment status, or (ii) upon written notification of unsatisfactory work being submitted to the director by the appointing authority, countersigned by the Budget Secretary, be separated from the classified service without the right of appeal. If no prior notification is given as provided in (i) or (ii) above before any person serving such probationary period receives regular employment status, the written notification of satisfactory work required by section 603 (b) shall be submitted to the director, countersigned by the Budget Secretary. If the written notification to the director at such time, countersigned by the Budget Secretary, is of unsatisfactory work or in the absence of the written notification of satisfactory work, such person shall be separated from the classified service without the right of appeal.

(d) Any employe who holds a position which is required to be under a merit system by reason of the receipt of Federal grants-in-aid and which is brought into the classified service pursuant to this amendatory act shall be deemed to be and shall possess the rights of a regular employe under the provisions of the act to which this is an amendment, in so far as necessary to ensure the continued eligibility of the Commonwealth and its political subdivisions for such Federal grants-in-aid. Beyond such necessity any such employe shall be required to comply with all the foregoing provisions which are applicable to the position so held.

Section 29. The following acts and parts of acts and all amendments thereof are repealed: **Specific repeals.**

(1) Subsection (c) of section 2111, act of April 29, 1929 (P. L. 177), known as "The Administrative Code of 1929," added August 24, 1951 (P. L. 1340).

(2) Sections 13 and 14, act of August 6, 1941 (P. L. 861), entitled "An act to create a uniform and exclusive system for the administration of parole in this Commonwealth; establishing the 'Pennsylvania Board of Parole'; conferring and defining its jurisdiction, duties, powers and functions, including the supervision of persons placed upon probation in certain designated cases; providing for the method of appointment of its members; regulating the appointment, removal and discharge of its officers, clerks and employes; dividing the Commonwealth into administrative districts for purposes of parole; fixing the salaries of members of the board and of certain other officers and employes thereof; making violations of certain provisions of this act misdemeanors; providing penalties therefor; and for other cognate purposes, and making an appropriation."

(3) Act of September 20, 1961 (P. L. 1568), known as the "Department of Highways' Career System Act."

(4) All others acts and parts of acts are repealed in so far as they are inconsistent herewith.

Construction.

Section 30. Nothing contained in this amendatory act shall be construed to remove from the classified service any position which was in the classified service in the service of the Commonwealth immediately prior to the effective date of this amendatory act.

Act effective immediately.

Section 31. This act shall take effect immediately.

APPROVED—The 27th day of August, A. D. 1963.

WILLIAM W. SCRANTON

—
No. 521

AN ACT

Amending the act of May 1, 1933 (P. L. 103), entitled "An act concerning townships of the second class; and amending, revising, consolidating, and changing the law relating thereto," authorizing townships to adopt certain expedient or necessary ordinances, by-laws, rules and regulations; and conferring powers and imposing duties on the Pennsylvania Public Utility Commission as to ordinances, by-laws, rules and regulations adversely affecting utility service to the public outside the township.

The Second Class Township Code.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 702, act of May 1, 1933, P. L. 103, reenacted and amended July 10, 1947, P. L. 1481, amended by adding a new clause LXII.

Section 1. Section 702, act of May 1, 1933 (P. L. 103), known as "The Second Class Township Code," reenacted and amended July 10, 1947 (P. L. 1481), is amended by adding, at the end thereof, a new clause to read: