

No. 132, A.]

[Published June 16, 1905.]

CHAPTER 363.

AN ACT in relation to the civil service of the state of Wisconsin and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Terms defined. SECTION 1. When used in this act:

1. The term "commission" signifies the state civil service commission.

2. The term "civil service" signifies all offices and positions of trust or employment, including mechanics, artisans and laborers, in the service of the state, except offices and positions in the militia.

3. The term "appointing officer" signifies the officer, commission, board or body, having the power of appointment, or election to, or removal from, subordinate positions in any office, department, commission, board or institution.

4. The terms "subordinate" and "employee" signify any person holding a subordinate position subject to appointment, removal, promotion or reduction, by an appointing officer.

Appointment to civil service, how made. SECTION 2. After the passage of this act, appointments to, and promotions in the civil service of this state shall be made only according to merit and fitness, to be ascertained as far as practicable by examinations, which so far as practicable, shall be competitive. After the expiration of six months from the passage of this act, no person shall be appointed, transferred, removed, reinstated, promoted or reduced as an officer, clerk, employee or laborer in the civil service under the government of this state, in any manner, or by any means, other than those prescribed in this act.

Commissioners; appointment, term, compensation, oath; disqualified from holding other office. SECTION 3. As soon as this act shall go into effect the governor shall, by and with the advice and consent of the senate, appoint three persons to serve, one for six years, one for four years, and one for two years, as civil service commissioners, and the said three commissioners shall constitute the civil service commission of this state. Every

alternate year thereafter, the governor, with the consent of the senate, shall appoint one person as the successor of the commissioner whose term shall expire, to serve for the term of six years from the date of the appointment, and until a successor is appointed and qualified. The governor may remove any commissioner at any time for inefficiency, neglect of duty, or malfeasance in office. At no time shall more than two commissioners be adherents of the same political party. Any vacancy in such commission shall be filled by appointment by the governor, subject to confirmation by the senate, but any appointment shall be in full force until acted upon by the senate. The commissioners shall hold no other lucrative administrative office under the United States or the state of Wisconsin. Each commissioner shall be paid ten (\$10.00) dollars per diem for the time actually and necessarily devoted to his official duties not exceeding one hundred days each year, and his necessary expenses incurred in the discharge of his official duties. Each commissioner shall qualify by filing with the secretary of state an oath to perform faithfully the duties of his office.

President of commission, chief examiner and secretary, stenographer and other employees; salaries; local examiner.

SECTION 4. The civil service commission may elect one of its members president, and may employ a chief examiner, who shall be ex-officio secretary, at a salary of \$2,500 per year, a stenographer at \$720 per year, and may employ such additional clerks or examiners as may be necessary at an expense not to exceed \$2,000 per year. Said employes shall be paid necessary expenses actually incurred in the discharge of their official duties. The commissioners may designate persons in or out of the official service of the state or of any city or county who shall, if in the service, with the consent of the head of department or office in which such person serves, act as local examiner. Such persons in the official service in the performance of such duties as the commission shall direct, shall be under the direct and sole control of the commission, and their duties shall be considered part of the duties of the office in which they are serving, and time shall be allowed therefor during office hours and no extra compensation shall be paid such officers for such service.

Office accommodations, supplies, etc; appropriation. SECTION 5. The commission shall be provided with suitable office accommodations in the capitol building at Madison, and it shall be the duty of the officials having control of municipal and

county buildings to furnish convenient offices and rooms for examinations, and necessary furniture, heat and light, for the accommodation of local examiners and registrars upon requisition by the commission. The commission shall be furnished by the state superintendent of public property with stationery, printing, supplies, postage and an official seal, and other articles which it may require. All salaries, expenses and disbursements of the commissioners and their subordinates and employees, shall be paid out of the state treasury, as the salaries and expenses of other state offices are paid, and a sum sufficient to carry out the provisions of this act, not exceeding the sum of ten thousand dollars per annum, is hereby appropriated.

Appointments. SECTION 6. It shall be the duty of all officers of this state to conform to and to comply with and to aid in all proper ways in carrying into effect the provisions of this act and the rules and regulations prescribed thereunder and any modification thereof. No appointing officer shall, after six months from the date of the passage of this act, select or appoint any person for appointment, employment, promotion or reinstatement, except in accordance with the provisions of this act and the rules and regulations prescribed thereunder. Any person employed or appointed contrary to the provisions of this act or of the rules and regulations established thereunder, shall be paid by the officer or officers so employing or appointing, or attempting to employ or appoint him, the compensation agreed upon for any service performed under such appointment or employment, or attempted appointment or employment, or in case no compensation is agreed upon, the actual value of such services and any expenses incurred in connection therewith, and shall have a cause of action against such officer or officers, or any of them, for such sum or sums and for the costs of the action. No public officer shall be reimbursed by the state for any sums so paid or recovered in any such action.

Duties of commission; biennial report. SECTION 7. The civil service commission shall:

First. Prescribe, amend and enforce rules and regulations for carrying into effect the provisions of this act. All rules so prescribed shall be subject to the approval of the governor, and they may from time to time, subject to like approval, be added to, amended or rescinded, provided however, that if the governor takes no action on a rule or amendment submitted to him

within a period of ten days from the date of its submission, then the rule or amendment shall become effective as though approved by the governor.

Second. Keep minutes of its own proceedings and records of its examinations and other official actions. All recommendations of applicants for office received by the said commission, or by any appointing officer, shall be kept and preserved by the commission, and all such records, recommendations of former employers, excepted, and all written causes of removal and answers thereto filed with it, shall, subject to reasonable regulations, be open to public inspection.

Third. Make investigations, either sitting as a body or through a single commissioner, concerning all matters touching the enforcement and effect of the provisions of this act, and the rules and regulations prescribed thereunder concerning the action of any examiner or subordinate of the commission and any person in the public service, in respect to the execution of the act, and in the course of such investigations, each commissioner and the secretary and the chief examiner shall have the power to administer oaths and affirmations, and to take testimony.

Fourth. Have power to subpoena and require the attendance in this state of witnesses and the production thereby of books and papers pertinent to the investigation and inquiries hereby authorized, and to examine them and such public records as it shall require in relation to any matter which it has authority to investigate. In the discretion of the commission, fees may be allowed to witnesses, and on their certificate, duly audited, shall be paid by the state treasurer, for attendance and travelling as provided in section 4067 of the statutes of 1898. All officers in the civil service, and their deputies, clerks, subordinates and employees, shall attend and testify when requested to do so by said commission. Any disobedience thereto, or neglect of any subpoena issued by the said commissioners, or any one of them, or their secretary or chief examiner, to any person, or the refusal of any witness to testify to any matter regarding which he may lawfully be interrogated, shall be held a contempt of court, and it shall be the duty of the circuit court of any county, or of the judge thereof, on application of the commission, or any commissioner, to compel the obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court, or a refusal to testify therein.

Fifth. Make a biennial report to the governor on or before the first day of December in each even numbered year, showing

its own actions, the rules and regulations and all the exceptions thereto in force, and the practical effects thereof, and any suggestions it may approve for the more effectual accomplishment of the purposes of this act. It shall also give the names and separate compensation of all persons employed by the commission during the preceding year and the purposes of such employment. Such report shall be immediately printed for public distribution, and shall be transmitted to the legislature when next convened.

Classification of service. SECTION 8. The civil service shall be divided into the unclassified service and the classified service. The unclassified service shall comprise: All officers elected by the people. All officers and employees appointed by the governor whether subject to confirmation or not. All officers and employees in any department for the creation of which a vote of two thirds of all the members elected to each house is required. All presidents, deans, principals, professors, instructors, scientific staff and other teachers in the university, normal or public schools, the library staff in any library maintained wholly or in part at state expense, the superintendent, warden or other head of the state reformatory, charitable and penal institutions. All persons appointed by name in any statute. All legislative officers. The classified service shall comprise all positions not included in the unclassified service.

Commission to make rules and regulations; appointments to be for probationary period; examination of present incumbents. SECTION 9. Within six months after the passage of this act and the appointment of the civil service commissioners as herein provided, the commission shall put into effect rules for the classification of the officers, places and employments now or hereafter created in the classified service of this state. Within the same time the commission shall also make rules and regulations providing for examinations for positions in the classified service of the state, appointments to, removals from, and promotions and reductions therein, and for such other matters as are necessary to carry out the purposes of this act. Due notice of the contents of such rules and regulations and of any modifications thereof shall be given by mail in due season to appointing officers affected thereby, and said rules, regulations and modifications shall also be printed for public distribution. All original appointments to the competitive and non-competitive classes and the labor class of the classified service shall be for a pro-

bationary period of one, two or three months in the discretion of the appointing officer, but dismissal for cause may be made during such period. If at the close of this probationary term the conduct or capacity of the probationer has not been satisfactory to the appointing officer, the probationer shall be notified in writing that he will not receive absolute appointment; otherwise his retention in the service shall be equivalent to his final and absolute appointment. The commission shall require of all officers or employees at present in the civil service falling within the provisions of this law, as well as of all persons appointed after the passage of this act and before the rules shall take effect, except officers or employees of the several state reformatory, charitable and penal institutions, a non-competitive examination as a condition of continuing in the service longer than six months after the adoption of the rules provided for in this section. Reasonable notice of examinations shall be given to such officers and employees.

Character of examinations; to whom open; distribution of appointments. SECTION 10. All examinations for positions in the classified service shall be practical in character, and 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, giving due allowance for experience in the same or similar positions. The competitive examinations shall be free and open to all applicants who are citizens of the United States and of the state of Wisconsin and who have fulfilled the preliminary requirements stated in section 11 of this act, and shall be held at such times, and places as shall, in the judgment of the commission, most nearly meet the convenience of applicants and the needs of the service. Examinations of a technical or special character, or where requirements are peculiarly within the knowledge of the office, institution or department in which appointment is to be made, shall be proposed by the incumbent of such office or head of such institution or department, or by persons having knowledge and experience in the same or similar employments. It is the declared policy of the state that under the operation of this act there shall be fair distribution throughout the state of persons accepted for the classified service, and to that end examinations shall be held simultaneously at a convenient point in each of the assembly districts in the state, and in the case of assembly districts embracing more than one county, at each of the county seats therein.

Application for admission to examination; what persons may be barred; positions in mechanical trades; when bond may be required. SECTION 11. The civil service commission shall require persons applying for admission to any examination provided for under this act, or under the rules and regulations of the said commission, to file in its office a reasonable time prior to the proposed examination a formal application, in which the applicant shall state under oath or affirmation:

1. His full name, residence and post office address.
2. His nationality, age, and the place and date of his birth.
3. His health and his physical capacity for public service.
4. His business and employments and residences for at least the five previous years.

5. Such other information as may reasonably be required touching the applicant's merit and fitness for the public service.

Blank forms for such applications shall be furnished by the commission without charge to all persons requesting the same. The commission may require in connection with such application such certificates of citizens, physicians or others having knowledge of the applicant as the good of the service may require. The commission may refuse to examine the applicant, or after examination to certify an eligible, who is found to lack any of the preliminary requirements established by the commission for the examination for the position or employment for which he applies, or who is physically so disabled as to be rendered unfit for the performance of the duties of the position to which he seeks appointment, or who is addicted to the habitual use of intoxicating liquors to excess, or has been guilty of any crime 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 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 refuses to furnish testimony as required in section 7 of this act. Applicants for positions in the recognized mechanical trades must have had practical experience for such periods as the commission may prescribe. Whenever the said commission refuses to examine an applicant or after an examination to certify an eligible, as provided in this section, then said commission, if requested by the person so rejected, shall give to him a full and explicit statement of the exact cause of such refusal to examine or to certify as the case may be. When any position to be filled involves fiduciary responsibility, the appointing officer, where otherwise

permitted by law, may require the appointee to furnish bond or other security, and shall notify the commission of the amount and other details thereof; provided, however, that any surety company, the bonds of which are accepted by a judge of any court of record in this state, shall be a sufficient security on any such bond.

Classified service to be arranged in five classes. SECTION 12. The offices, positions and employments in the classified service of the state shall be arranged by the civil service commission in five classes to be designated as the exempt class, the competitive class, the non-competitive class, the labor class and legislative employees.

Classification of service in state reformatory, charitable and penal institutions; appointments, removals, etc. SECTION 13. The superintendents or heads of the several state reformatory, charitable and penal institutions shall, within thirty days, arrange all positions connected with their respective institutions, into classified lists, conforming as near as may be to the spirit and purpose of this act, and such classifications, when approved by the state board of control, shall be adopted by the commission as the classifications in such respective institutions, and adequate eligible lists shall be made up and so far as possible at all times kept by the commission from which appointments shall be made in such institutions. But the provisions of this act with reference to removals, suspensions, discharges, reductions in pay or position, transfers and reinstatements shall not be applicable in such cases, except that they shall be made for just cause, which shall be neither religious nor political. In such institutions emergency appointments and appointments when no suitable person is on an eligible list may be made otherwise than from such list. And such persons when so appointed shall have the same rights as though taken from an eligible list, except that they may be subjected to such test as to merit and fitness as shall be prescribed by the commission.

Positions included in exempt class; appointments to. SECTION 14. The following positions shall be included in the exempt class:

1. One deputy or assistant of each principal executive officer and the chief clerk or secretary of any board or commission.
2. One stenographer for each appointing officer, board or commission.

3. The clerks and other assistants and employees of the supreme court.

4. In addition to the above there may be included in the exempt class all other offices or positions, except laborers, for the filling of which competitive or non-competitive examinations shall be found by the civil service commission to be impracticable on account of the temporary character of the employment or for special reasons satisfactory to the commission. But no office or position shall be deemed to be in the exempt class unless it is specifically named in such class in the rules, and the reasons for such exemptions shall be stated separately in the reports of the said commission. Not more than one appointment shall be made to or under the title of any such office or position unless a different number is specifically mentioned in the rules. No office or position shall be classified by the commission in the exempt class except after public hearing by the commission or any member or the chief examiner thereof. Suitable public notice of such hearings shall be given by the said commission. At any such hearing any taxpayer of this state shall have the right to be heard, either in person or by counsel, either in opposition to or in favor of the proposed exemption. Appointments in the exempt class may be made without examination.

Positions included in competitive class; appointments to; term of eligibility. SECTION 15. The competitive class shall include all positions for which it is practicable to determine the merit and fitness of applicants by competitive examinations, and shall include all positions and employments now existing or hereafter created, of whatever functions, designations or compensation, in each and every branch of the classified service, except such positions as are in the exempt class, the non-competitive class, or the labor class. Appointments shall be made to or employment shall be given in all positions in the competitive class that are not filled by promotion, reinstatement, transfer or reduction under the provisions of this act and the rules made in pursuance thereof, by appointment from among those certified to the appointing officer in accordance with the provisions of section 16 of this act. The term of eligibility of an applicant shall be fixed for each list by the civil service commission at not less than one nor more than three years. Appointments shall be made from the eligible list most nearly appropriate, and a new and separate list shall be created for a stated position only when there is no appropriate list existing from which ap-

pointment may be made. No person shall be appointed or employed under any title not appropriate to the duties performed, and no person shall be transferred to, or assigned to perform the duties of, any position subject to a competitive examination, unless he shall have previously passed an open competitive examination equivalent to that required for such position.

Notice of vacancies; appointments to be made from three highest on eligible list. SECTION 16. Notice shall be given in writing by the appointing officer to the civil service commission of the existence of any vacancy or vacancies in any office or employment in the competitive class under the provisions of this act, and within ten days after the receipt of such notice the commission shall certify from the register of eligibles appropriate for the group in which the position to be filled is classified, the three names at the head thereof which have not been certified three times to the department or office in which the vacancy exists. Whenever eligibles are certified, they must always be those candidates who have been graded highest in an examination held in pursuance of this act and the rules made in accordance therewith, except that where practicable, other conditions being equal, the rules shall provide for a preference in favor of veterans of the late civil war. In every case after a name has been certified three times, it may be dropped from the list by the commission, but certificates for temporary appointment shall not be counted as one of such certifications. It shall be the duty of the appointing officer to appoint on probation with sole reference to merit and fitness one of the said candidates whose name shall have been certified in the manner above set forth to fill such vacancy then existing in the office or employment aforesaid; unless objection shall be made and sustained by the commission to one or more of the persons certified for any of the reasons stated in section 11 of this act; provided, however, that the provisions of this section may be altered by the commission when the office of employment comes within those where by section 17 of this act competitive examinations are not required. The commission shall make rules for the procedure in such cases.

When positions in competitive class may be filled without competition. SECTION 17. Positions in the competitive class may be filled without competition only as follows:

1. Whenever there are urgent reasons for filling a vacancy in any position in the competitive class and the commission is un-

able to certify to the appointing officer upon requisition by the latter a list of persons eligible for appointment after a competitive examination, the appointing officer may nominate a person to the commission for non-competitive examination, and if such nominee shall be certified by the said commission as qualified after such non-competitive examination, he may be appointed provisionally to fill such vacancy until a selection and appointment can be made after competitive examination, but such provisional appointment shall not continue for a longer period than two months, nor shall successive temporary appointments be made to the same position under this provision. In case of an emergency an appointment may be made without regard to the rules of this statute, but in no case to continue longer than ten days, and in no case shall successive emergency appointments be made.

2. In case of vacancy in a position in the competitive class 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 commission may suspend the provisions of the statute requiring competition in such case, but no suspension shall be general in its application to such place, and all such cases of suspension shall be reported in the annual report of the commission with the reasons for the same.

3. Where the services to be rendered by an appointee are for a temporary period not to exceed one month, and the need of such service is important and urgent, the appointing officer may select for such temporary service any person on the proper list of those eligible for the permanent appointment without regard to his standing on such list. Successive temporary appointments to the same position shall not be made under this provision. 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.

Filling vacancies in and making promotions to positions in competitive class. SECTION 18. Vacancies in positions in the competitive class shall be filled, so far as practicable, by promotions from among persons holding positions in a lower grade in

the department, office, or institution in which the vacancy exists, under rules and regulations made and enforced by the civil service commission. Promotions shall be based upon merit and fitness to be ascertained by examinations to be provided by the commission and upon the superior qualifications of the person promoted as shown by his previous service, due weight being given to seniority and experience. The commission may prescribe forms and rules for reports to be made by the proper officer on the efficiency of their subordinates and employees. For the purposes of this section an increase in the salary or other compensation of any person holding an office or position within the scope of the rules in force hereunder, beyond the limit fixed for the grade in which such office or position is classified, shall be deemed a promotion. No promotion shall be made to a position in the competitive class from a position in another class, except that persons holding positions in the labor class may be promoted to positions in the lowest grade of the competitive class upon examination as provided above, when such examination is specifically authorized by the commission. No person shall be promoted to a position for original entrance to which there is required by this act or the rules adopted pursuant thereto, an examination involving essential tests or qualifications different from or higher than those required for original entrance to the positions held by such persons, except as provided above.

Transfers and reinstatements. SECTION 19. No transfer or reinstatement shall be made for a position in one class to a position in another class unless the same be specifically authorized by the civil service commission. Section 18 and the rules adopted thereunder shall be read with this section and the rules adopted hereunder, and where the transfer involves a promotion the requirements of the promotion rule and regulation shall be observed. No transfer shall be authorized by the civil service commission of any person holding a position in the exempt class or in the non-competitive class or the labor class, to a position in the competitive class unless the person seeking to be transferred shall have served at least three years in the position from which he desires transfer, and unless the position to which he desires transfer is similar in the duties to be performed to the position from which he desires transfer. No such transfer shall be authorized unless the person so wishing to be transferred has attained a place upon the appropriate eligible in force at the time the request for the transfer is made. Any person who has held a posi-

tion by appointment under the civil service rules and who has been separated from the service without any delinquency or misconduct on his part but owing to reasons of economy or otherwise, may be reinstated within one year from the date of such separation to the same or similar position in the same department, provided, that for the original entrance to the position proposed to be filled by such reinstatement there is not required in the opinion of the civil service commission examination involving essential tests or qualifications different from or higher than those involved in the examination for the original entrance to the position formerly held by the person proposed to be reinstated.

Positions in non-competitive class; appointments to. SECTION 20. The non-competitive class shall include such positions as are not in the exempt class or the labor class, and which it is impracticable to include in the competitive class. Appointments to positions in the non-competitive class shall be made after such non-competitive examination as is prescribed by the rules of the commission. The commission shall state in its annual report the number of persons who come within this class, and the character of their services.

Labor class. SECTION 21. The labor class shall include ordinary unskilled laborers. Vacancies in the labor class shall be filled by appointment from lists of applicants registered in their respective localities by the civil service commission according to rules and regulations determined by said commission except in cases of temporary employment. There may be separate lists of applicants for different kinds of labor or employments and the commission may establish separate labor lists for various localities, institutions and departments. Where the labor service of any institution or department extends to separate localities the commission may provide separate registration lists for each district or locality. The commission shall require an applicant for registration for the labor service before he can be registered to furnish such evidence or to pass such examination as they may deem proper with respect to his age, residence, physical condition, ability to labor, sobriety, industry, capacity and experience in the employment for which he applies.

Removals. SECTION 22. No subordinate or employee in the competitive class, non-competitive class, or the labor class of the civil service of the state, who shall have been appointed under the provisions of this act or the rules made pursuant thereto,

shall be removed, suspended for more than fifteen days, discharged, or reduced in pay or position, except for just cause, which shall not be religious or political. In all cases of removal the appointing officer shall, at the time of such action, furnish to the subordinate his reasons for the same and allow him a reasonable time in which to make an explanation. The reasons for removal and the answer thereto shall be filed in writing with the commission.

Appointments to classified service; roster of appointees.

SECTION 23. No person shall be appointed to or employed in any position in the classified service for which rules have been prescribed pursuant to the provisions of this act, until he has passed an examination or is shown to be specially exempted from such examination in conformity with the provisions of this act and of the rules made pursuant thereto. It shall be the duty of each appointing officer of this state to report to the civil service commission forthwith in writing upon such appointment or employment, the name of such appointee, or employee, the title and character of his office or employment, whether on probation or absolute appointment, the date of commencement of service by virtue thereof, and the salary or compensation thereof, and to report from time to time, and, upon the date of the official action, in, or knowledge of each case, any separation of a person from the service or any promotion, reduction, transfer, reinstatement, or other change therein, and such other information as the civil service commission may require in order to keep the roster hereinafter mentioned. The civil service commission shall keep in its office an official roster of the classified civil service of this state and shall enter thereon the name of each and every person who has been appointed to, employed, promoted, reduced or reinstated in any position in such service, upon such evidence as it may require or deem satisfactory that such person was appointed to, employed, promoted, reduced, or reinstated in the service in conformity with the provisions of this act and the rules adopted pursuant thereto. This roster shall be open to public inspection at all reasonable hours. This roster shall show in connection with each name the date of appointment, employment, promotion, reduction or reinstatement, the compensation of the position, the title of the position, and the nature of the duties thereof, and the date and cause of any termination of such office or employment. The commission shall have access to all public records and papers, the examination of which will aid in the discharge of its duty in connection with said roster.

Pay rolls to be certified by civil service commission. SECTION 24. It shall be unlawful for the secretary of state, or other fiscal officer of this state to draw, sign, or issue, or to authorize the drawing, signing or issuing, of any warrant on the treasurer or other disbursing officer of the state, or for the treasurer or other disbursing officer of the state to pay any salary or compensation to any officer, clerk, employee, or other person in the classified service of the state, unless an estimate, payroll or account for such salary or compensation containing the names of every person to be paid, shall bear the certificate of the civil service commission that the persons named in such estimate, payroll, or account have been appointed, employed, reinstated or promoted in pursuance of this act. Any officer, clerk, employee, or other person entitled to be certified by said commission to the secretary of state or other fiscal or disbursing officer of the state, as having been appointed or employed in pursuance of law and of the rules made in pursuance of law, and refused such certificate, may maintain a proceeding by mandamus to compel such commission to issue such certificate. Any sums paid contrary to the provision of this section may be recovered from any officer or officers making such appointments in contravention of the provisions of law or of the 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 the same or from the sureties on the official bond of any of said officers, in an action in the circuit court of any county within the state, maintained by the civil service commission or of any member thereof, or by a citizen resident therein, who is assessed for, and liable to pay, or within one year before the commencement of the action has paid, a state, city, or county tax within this state. All moneys recovered in any action brought under this section must, when collected be paid into the treasury of the state or of the proper city or county thereof, except that such citizen being plaintiff in any such action shall be entitled to receive for his own use the taxable costs of such action and five per cent of the amount recovered as attorney's fees.

Recommendations. SECTION 25. No recommendation for any person who shall apply for office or place, or for examination or registration under the provisions of this act, or of the rules established pursuant thereto, except as to character, and, in the case of former employers, as to ability, shall be given to, or considered by any person concerned in making any examination, registration, appointment, promotion, or reinstatement un-

der this act, and the rules made pursuant thereto. No recommendation whatsoever shall relate to the political or religious opinions of any applicant. No recommendation for the promotion of any person in the classified service shall be considered by any officer concerned in making promotions except it be made by the officer or officers under whose supervision or control such employee is serving. Any recommendations made contrary to the provisions of this section with the knowledge and consent of the applicant or employee shall be sufficient cause for refusing his application or appointment, or for debarring him from the promotion proposed, and a repetition of the offense shall be sufficient cause for removing him from the service.

Political or religious affiliations not to be considered. SECTION 26. No question in any form of application or in 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 discriminations 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 classified service because of his political or religious opinions or affiliations.

Falsely marking examination papers, etc. SECTION 27. Any commissioner, or examiner, or any other person who shall willfully by himself or in co-operation with one or more persons, defeat, deceive or obstruct any person in respect of his or her right of examination or registration, according to this act, or to any rules or regulations prescribed pursuant thereto, or who shall willfully or corruptly, falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified, pursuant to the provisions of this act, or aid in so doing, or who shall willfully or corruptly make any false representations concerning the same, or concerning the person examined, or who shall willfully or corruptly furnish any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any persons so examined, registered or certified, being appointed, employed or promoted, or who shall personate any other person, or permit or aid 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, shall for each offense be deemed guilty of a misdemeanor.

Solicitation of subscriptions, etc., by government officers and employees prohibited. SECTION 28. No officer, agent, clerk or employee under the government of the state shall, directly or indirectly solicit or receive, or be in any manner concerned in soliciting or receiving, any assessment, subscription or contribution, or political service, whether voluntary or involuntary, for any political purpose whatever, from any officer, agent, clerk or employee of the state. Every said officer, agent, clerk or employee who may have charge or control in any building office, or room occupied for any purpose of said government is hereby authorized to prohibit the entry of any person, and he shall not permit any person to enter the same for the purpose of therein making, collecting, receiving or giving notice, of any political assessment, subscription or contribution, and 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 assessment, subscription or contribution. Any person who shall be guilty of violating any provision of this section shall be guilty of a misdemeanor.

Influencing voter by promising appointment prohibited. SECTION 29. Whoever, while holding any public office, or in nomination for, or while seeking a nomination or appointment for, any public office, shall use or promise to use, whether directly or indirectly, any official authority or influence (whether then possessed or merely anticipated) in the way of conferring upon any person, or in order to secure or aid any person in securing any office or public employment or public contract or any nomination, confirmation, promotion, or increase in salary, upon a consideration or condition that the vote or political influence or action of the last named person or any other, shall be given or used in behalf of any candidate, officer or party, or upon any other corrupt condition or consideration, shall be deemed guilty of bribery, or an attempt at bribery as the case may be. And whoever, being a public officer or having or claiming to have, authority or influence for or affecting the nomination, public employment, confirmation, promotion, removal, increase or decrease of salary, or position of any public officer, shall use, or promise or threaten to use, any such authority or influence, directly or indirectly, in order to coerce or persuade the vote or political action of any citizen, or the removal, discharge or pro-

motion of any officer or public employee, or upon any other corrupt consideration, shall also be guilty of bribery or of an attempt at bribery as the case may be. Every person found guilty of such bribery or of an attempt to commit the same as aforesaid, shall, upon conviction thereof, be liable to be punished by a fine of not less than one hundred dollars nor more than three thousand dollars, or to be imprisoned not less than ten days nor more than two years, or to both said fine and imprisonment in the discretion of the court. The phrase "public officer" shall be held to include all public officials in this state, whether paid directly or indirectly from the public treasury of the state, or by fees or otherwise, and the phrase "public employee" shall be held to include every person not being an officer who is paid from said treasury of the state.

Appointments in violation of this act to constitute a misdemeanor. SECTION 30. Whoever, after a rule has been duly established and published, according to the provisions of this act, makes an appointment to office or selects a person for employment contrary to the provisions of such rule, or willfully refuses or neglects otherwise to comply with, or to conform to, the provisions of this act, or violates any of such provisions shall be deemed guilty of a misdemeanor. If any person shall be convicted under this section, any public office which such person may hold shall by force of such conviction be rendered vacant, and such person shall be incapable of holding office for the period of five years from the date of such conviction.

Punishment of misdemeanors under this act. SECTION 31. Misdemeanors under the provisions of this act shall be punishable by a fine of not less than fifty dollars nor more than one thousand dollars, or by imprisonment for a term not exceeding two years or by both such fine and imprisonment in the discretion of the court.

Right of tax payer to restrain payment of compensation. SECTION 32. The right of any tax payer to bring any action to restrain the payment of compensation to any person appointed to or holding any office or place of employment in violation of the provisions of this act, shall not be limited or denied by reason of the fact that said office, or place of employment shall have been classified, as, or determined to be, not subject to competitive examination; provided, however, that any judgment or injunction granted or made in any such action shall be prospective

only, and shall not affect payments already made or due to such persons by the proper disbursing officers, in accordance with the civil service rules in force at the times of such payments.

Conflicting laws repealed. SECTION 33. All acts and parts of acts inconsistent with this act are hereby repealed.

SECTION 34. This act shall take effect and be in force from and after its passage and publication.

Approved June 14, 1905.

No. 37, A.]

[Published June 16, 1905.]

CHAPTER 364.

AN ACT authorizing cities of the second, third and fourth class, whether operating under the general or a special charter to perform public work and collect the cost thereof.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

When bids may be rejected and work done by city. SECTION 1. Whenever the common council of any city of this state, other than of the first class, whether operating under the general or a special charter, shall, after notice duly given, receive bids for the grading of streets, construction of sewers, laying of pavements, sprinkling and cleaning of streets, or for any other public work or improvement, or for the furnishing of materials therefor, be of the opinion that such bids are fraudulent, collusive or greater in amount than the fair and reasonable value of the work to be done or materials to be furnished, said common council may, by resolution and by the vote of two-thirds of its members, direct and determine that the bids so received shall be rejected and that the work to be done and materials to be furnished shall be performed and furnished by said city directly, and under the direction and supervision of the Board of Public Works or body performing the duties usually devolving upon such board.

Power of common council. SECTION 2. Whenever the common council of any city shall determine to carry on any public