CHAPTER 19

Civil Service Commissions

ARTICLE 1

In Cities With Commission Form of Government

**SECTION 5‑19‑10.** Appointment and removal of commissioners; vacancies.

 The city or town council of any city or town adopting the commission form of government, except a municipality of over two thousand and less than four thousand inhabitants, shall immediately after the organization of the new city council first elected after adoption of such form of government by ordinance appoint three civil service commissioners, who shall hold office for two, four and six years, the successors of each to be thereafter appointed for the term of six years at the expiration of the preceding term of service. Such commissioners shall be removable from office by council only for cause, four councilmen voting for such removal. Council shall have authority to fill any vacancy for the unexpired term. Each such commissioner shall before entering upon his duties take and subscribe the oaths required of councilmen by law.

HISTORY: 1962 Code Section 47‑701; 1952 Code Section 47‑701; 1942 Code Sections 7606, 7612, 7651; 1932 Code Sections 7606, 7612, 7651; Civ. C. ‘22 Sections 4699, 4705, 4744; Civ. C. ‘12 Section 3087; 1910 (26) 523; 1912 (27) 793; 1915 (29) 203; 1930 (36) 1104.

CROSS REFERENCES

Authorization of Fiscal Accountability Authority, through the Office of Insurance Reserve Fund, to provide insurance, see Section 1‑11‑140.

County and Municipal Employees Grievance Procedure Act, see Section 8‑17‑110 et seq.

Coverage of certain public officers and employees under the Federal Social Security Act, see Section 9‑3‑10 et seq.

Police commissioners in cities of 20,000 to 50,000, see Section 23‑21‑10 et seq.

Public officers and employees, generally, see Title 8, Section 8‑1‑10 et seq.

South Carolina Police Officers Retirement System, see Section 9‑11‑10 et seq.

South Carolina Retirement System, see Section 9‑1‑10 et seq.

State Retirement and Social Security Act of 1955, see Section 9‑5‑10 et seq.

LIBRARY REFERENCES

Municipal Corporations 131, 156, 216(1).

Westlaw Key Number Searches: 268k131; 268k156; 268k216(1).

C.J.S. Municipal Corporations Sections 355, 367, 421 to 422, 431, 437, 611.

NOTES OF DECISIONS

In general 1

1. In general

Stated in Wright v. City of Florence (S.C. 1956) 229 S.C. 419, 93 S.E.2d 215.

**SECTION 5‑19‑20.** Examinations and certification of results.

 The civil service commissioners shall, twice a year or oftener if they deem it necessary, under such rules and regulations as they may prescribe, hold examinations for the purpose of determining the qualifications of applicants for positions on the police force, in the fire department, in the health department in cities of more than ten thousand and less than twenty thousand inhabitants and of more than fifty thousand and less than one hundred thousand inhabitants or in any other special line of service in the city government which may be placed by the city council under civil service regulations. The examination for each line of service shall be practical, fairly testing the fitness of the persons examined to discharge efficiently the duties of the particular line of employment. The commissioners shall, as soon as practicable after each such examination, certify to the council the persons who have satisfactorily passed such examination, stating the order of excellence. But the commissioners shall not certify the name of, and may deny the examination to, any person as to whose honesty and integrity or general moral character they have not reasonably satisfied themselves by affirmative investigation.

HISTORY: 1962 Code Section 47‑703; 1952 Code Section 47‑703; 1942 Code Sections 7606, 7612, 7651; 1932 Code Sections 7606, 7612, 7651; Civ. C. ‘22 Sections 4699, 4705, 4744; Civ. C. ‘12 Section 3087; 1910 (26) 523; 1912 (27) 793; 1915 (29) 203; 1930 (36) 1104.

LIBRARY REFERENCES

Municipal Corporations 217.3.

Westlaw Key Number Search: 268k217.3.

C.J.S. Municipal Corporations Sections 605 to 607, 612 to 614, 616 to 617.

**SECTION 5‑19‑30.** Other duties of commissioners.

 The civil service commissioners shall give attention to the work of all the departments within the civil service of the city and make reports to the council and such publications to the public as they may deem proper.

HISTORY: 1962 Code Section 47‑704; 1952 Code Section 47‑704; 1942 Code Sections 7606, 7612, 7651; 1932 Code Sections 7606, 7612, 7651; Civ. C. ‘22 Sections 4699, 4705, 4744; Civ. C. ‘12 Section 3087; 1910 (26) 523; 1912 (27) 793; 1915 (29) 203; 1930 (36) 1104.

**SECTION 5‑19‑40.** Selection and removal of employees.

 Council may choose employees in the civil service departments of the government, which shall always include the police department and the fire department and, in cities of more than ten thousand and less than twenty thousand inhabitants and of more than fifty thousand and less than one hundred thousand inhabitants, the department of health, only from persons so certified by the civil service commissioners. No appointee to a civil service position shall be removed from office by council except by and with the approval of a majority of the civil service commissioners upon charges duly presented as to which the employee shall have the opportunity to make his defense, except that the chief of police and the chief of the fire department or any superintendent or foreman in charge of municipal work may temporarily suspend or discharge any subordinate then under his direction for neglect of duty or disobedience of his orders, but shall within twenty‑four hours thereafter report such suspension or discharge and the reason therefor to the member of council who is the superintendent of such department. Such member of council shall thereupon affirm or revoke such discharge or suspension which shall be final unless such employee shall, within five days of such ruling, appeal therefrom to council, which shall, with the civil service commissioners, fully hear and determine the matter and shall not finally discharge the employee without the concurrence of two thirds of the civil service commissioners.

HISTORY: 1962 Code Section 47‑705; 1952 Code Section 47‑705; 1942 Code Sections 7606, 7612, 7651; 1932 Code Sections 7606, 7612, 7651; Civ. C. ‘22 Sections 4699, 4705, 4744; Civ. C. ‘12 Section 3087; 1910 (26) 523; 1912 (27) 793; 1915 (29) 203; 1930 (36) 1104.

LIBRARY REFERENCES

Municipal Corporations 217.3, 218(8).

Westlaw Key Number Searches: 268k217.3; 268k218(8).

C.J.S. Municipal Corporations Sections 599, 605 to 607, 612 to 614, 616 to 617, 636, 641, 644 to 647.

ARTICLE 3

In Other Cities of Certain Population

**SECTION 5‑19‑110.** Authorization.

 Any municipality in this State which does not operate under the commission form of government and which had a population of (a) not more than sixty‑five thousand and not less than ten thousand, (b) not more than seven thousand and not less than six thousand five hundred or (c) not more than six thousand and not less than five thousand five hundred, according to the United States census of 1970, may by ordinance provide for a civil service commission for such municipality, to be administered by not more than five commissioners to be elected by the city council of such municipality, with the duties, powers and authority conferred and authorized by this article. One member of the first commission so created under this article shall be chosen for one year, one for two years and the other for three years. Thereafter at the expiration of each respective term of office the city council shall elect a commissioner for the term of three years so that the term of office of one member shall expire each year. Vacancies shall be filled by the city council for the unexpired term.

 If a municipality chooses to have five commissioners, of those initially elected one shall be elected for one year, one for two years, one for three years, one for four years and one for five years. Their successors shall be elected to serve for terms of five years and until their successors are elected and qualify.

HISTORY: 1962 Code Section 47‑721; 1952 Code Section 47‑721; 1942 Code Section 7546; 1939 (41) 160; 1943 (43) 45; 1949 (46) 45; 1950 (46) 2168, 2301; 1953 (48) 86; 1972 (57) 2379; 1978 Act No. 619.

CROSS REFERENCES

County and Municipal Employees Grievance Procedure Act, see Section 8‑17‑110 et seq.

Coverage of certain public officers and employees under the Federal Social Security Act, see Section 9‑3‑10 et seq.

Insurance for employees of political subdivisions procured through the State Fiscal Accountability Authority, see Section 1‑11‑140.

Public officers and employees, generally, see Section 8‑1‑10 et seq.

South Carolina Police Officers Retirement System, see Section 9‑11‑10 et seq.

South Carolina Retirement System, see Section 9‑1‑10 et seq.

State Retirement and Social Security Act of 1955, see Section 9‑5‑10 et seq.

LIBRARY REFERENCES

Municipal Corporations 216(1).

Westlaw Key Number Search: 268k216(1).

C.J.S. Municipal Corporations Section 611.

NOTES OF DECISIONS

In general 1

1. In general

Civil service ordinance may be repealed. City council has power under this section [Code 1962 Section 47‑721] to abolish ordinance creating a civil service commission, and by so doing it does not deprive those whose terms of office are unexpired of their contractual or constitutional rights. Wright v. City of Florence (S.C. 1956) 229 S.C. 419, 93 S.E.2d 215.

**SECTION 5‑19‑120.** Qualifications of commissioners; oath; removal.

 The members of any such commission shall be of good moral character and not less than thirty years of age and shall possess the qualifications and requirements in force with respect to other officers of the city and shall take a similar oath of office. They shall be and remain residents of the municipality during their term of office and shall be subject to removal from office only for cause and after written charges have been preferred and sustained by a two‑thirds vote of the city council.

HISTORY: 1962 Code Section 47‑722; 1952 Code Section 47‑722; 1942 Code Section 7546; 1939 (41) 160; 1943 (43) 45.

LIBRARY REFERENCES

Municipal Corporations 156.

Westlaw Key Number Search: 268k156.

C.J.S. Municipal Corporations Sections 421 to 422, 431, 437.

**SECTION 5‑19‑130.** Compensation.

 The commissioners shall be paid such compensation for their services as may be fixed by the city council, and the chairman and secretary of the commission may be paid additional compensation in the discretion of council for their services.

HISTORY: 1962 Code Section 47‑723; 1952 Code Section 47‑723; 1942 Code Section 7546; 1939 (41) 160.

LIBRARY REFERENCES

Municipal Corporations 162.1.

Westlaw Key Number Search: 268k162.1.

C.J.S. Municipal Corporations Section 379.

**SECTION 5‑19‑140.** Chairman and secretary.

 On the creation of such commission and each year thereafter when the expiring term has been filled, the commissioners shall elect from their number a chairman. The city clerk of such city or his assistant shall serve as secretary for the commission. The chairman shall enforce the orders of the commission and preside at its meetings. The secretary shall be the custodian of all the records of the commission and shall keep accurate minutes and records of all regular and special meetings of the commission.

HISTORY: 1962 Code Section 47‑724; 1952 Code Section 47‑724; 1942 Code Section 7546; 1939 (41) 160.

**SECTION 5‑19‑150.** Meetings.

 The commission shall hold meetings at least once during each month at a fixed and stated time, as well as such special or extra meetings as may be called by the chairman or a majority of the commission.

HISTORY: 1962 Code Section 47‑725; 1952 Code Section 47‑725; 1942 Code Section 7546; 1939 (41) 160.

LIBRARY REFERENCES

Municipal Corporations 216(1).

Westlaw Key Number Search: 268k216(1).

C.J.S. Municipal Corporations Section 611.

**SECTION 5‑19‑160.** Mayor, city council or any committee from city council may attend commission meetings.

 The mayor, the city council or any committee from the city council may sit in at any regular commission meeting and join in the discussion, but shall not be permitted to vote on matters herein delegated to the commission.

HISTORY: 1962 Code Section 47‑726; 1952 Code Section 47‑726; 1942 Code Section 7546; 1939 (41) 160.

LIBRARY REFERENCES

Municipal Corporations 216(1).

Westlaw Key Number Search: 268k216(1).

C.J.S. Municipal Corporations Section 611.

**SECTION 5‑19‑170.** General duties; employees.

 Such civil service commission, by and with the advice of the chief of each department, shall have disciplinary control and supervision over the employees of the fire department and the police department of such city and may employ, promote and discharge employees thereof, except that the chiefs of the fire, police and detective departments shall be elected by the commission and confirmed or approved by city council. The commission shall make and enforce all such rules and regulations as may be deemed necessary in the exercise of their duties and powers and establish and fix the requirements of applicants for employment therein.

HISTORY: 1962 Code Section 47‑727; 1952 Code Section 47‑727; 1942 Code Section 7546; 1939 (41) 160; 1943 (43) 45.

LIBRARY REFERENCES

Municipal Corporations 216(1).

Westlaw Key Number Search: 268k216(1).

C.J.S. Municipal Corporations Section 611.

**SECTION 5‑19‑180.** Examinations of applicants for positions in fire and police departments; temporary and clerical employees; minimum age for applicants for positions in fire departments.

 All applicants for position in the fire or police departments shall be subjected to an examination by the commission which shall be competitive and free to all resident persons possessing the right of suffrage and meeting the requirements prescribed by the commission, subject to reasonable limitations as to residence, age, health, education and moral character. Such examinations shall be practical in their nature and shall relate to those matters which fairly test the relative capacity and fitness of the persons examined to discharge the duties of the position to which they seek to be appointed. But no such applicants shall be examined concerning their political or religious opinions or affiliations. In the conduct of such examinations the commission may call to its assistance the aid of such persons as it may desire either from within or without the personnel of the department affected.

 With the approval of the city council special and temporary policemen or firemen may be appointed by the commission to serve at its pleasure, such employees not to be subject to the provisions of this section having reference to competitive examinations. And employees performing strictly clerical work for either department or the commission, if there be any such, shall likewise not be subject to the provisions of this section having reference to competitive examinations, and such employees shall also be appointed with the approval of the city council and hold office at the pleasure of the commission. Provided, as to age, applicants for positions in fire departments within this article shall have a minimum age of eighteen years.

HISTORY: 1962 Code Section 47‑728; 1952 Code Section 47‑728; 1942 Code Section 7546; 1939 (41) 160; 1965 (54) 537.

CROSS REFERENCES

Police commissioners in cities of 20,000 to 50,000, see Sections 23‑21‑10 et seq.

LIBRARY REFERENCES

Municipal Corporations 184(2), 197.

Westlaw Key Number Searches: 268k184(2); 268k197.

C.J.S. Municipal Corporations Sections 478 to 481, 483 to 484, 548 to 552.

**SECTION 5‑19‑190.** Notice of examinations.

 Notice of the time and place of the holding of every examination shall be given by the commission by posting such notice in a conspicuous place at the city hall in such municipality for at least two weeks preceding such examination and by publication in a newspaper published in the city affected, at least one week preceding such examination.

HISTORY: 1962 Code Section 47‑729; 1952 Code Section 47‑729; 1942 Code Section 7546; 1939 (41) 160.

LIBRARY REFERENCES

Municipal Corporations 217.3(1).

Westlaw Key Number Search: 268k217.3(1).

C.J.S. Municipal Corporations Section 613.

**SECTION 5‑19‑200.** Register of successful applicants; re‑examinations.

 The commission shall prepare and keep a register of persons successfully passing such examination, and such register shall determine the order of appointments under the rules and regulations established by the commission, except that after the expiration of one year from the date of such examination the commission may require further satisfactory examination on one or more of the points covered by the original examination before naming an applicant to a position in either department.

HISTORY: 1962 Code Section 47‑730; 1952 Code Section 47‑730; 1942 Code Section 7546; 1939 (41) 160.

LIBRARY REFERENCES

Municipal Corporations 217.3(5).

Westlaw Key Number Search: 268k217.3(5).

C.J.S. Municipal Corporations Sections 614, 617.

**SECTION 5‑19‑210.** Probation period.

 A six months’ period shall elapse from the date of employment of new and additional officers and men under the terms and conditions of the ordinance establishing the commission during which six months’ probation period the commission may discharge such officers or employees without cause and without a hearing, at its discretion. But after such six months’ probation period, no officer or employee may be discharged except as provided for in Sections 5‑19‑240, 5‑19‑260, and 5‑19‑270.

HISTORY: 1962 Code Section 47‑731; 1952 Code Section 47‑731; 1942 Code Section 7546; 1939 (41) 160; 1943 (43) 45; 1959 (51) 313.

LIBRARY REFERENCES

Municipal Corporations 217.2.

Westlaw Key Number Search: 268k217.2.

C.J.S. Municipal Corporations Section 619.

**SECTION 5‑19‑220.** Service records.

 A practical and reasonably accurate service record of each and every employee shall be kept in conformity with rules to be established by the commission, and such records shall be considered by the commission in making promotions.

HISTORY: 1962 Code Section 47‑732; 1952 Code Section 47‑732; 1942 Code Section 7546; 1939 (41) 160.

LIBRARY REFERENCES

Municipal Corporations 217.5.

Westlaw Key Number Search: 268k217.5.

C.J.S. Municipal Corporations Sections 632 to 634.

**SECTION 5‑19‑230.** Promotions; appointments of department chiefs.

 All promotions in the fire or police department of any such municipality shall be by the chief of each respective department, by and with the approval of the commission, except for the office of chief of these departments, which offices shall be filled by the commission, subject to confirmation and approval by the city council. But no person shall be eligible for such appointment as chief unless he has been a member of such department for a period of at least two years prior to such appointment, except that if the commission is unable to secure from the personnel of the department an acceptable person, then it may apply to the city council for permission to elect such officer or officers from outside the department, and, if such approval is granted, the commission may name such official from qualified applicants outside the personnel of the department.

HISTORY: 1962 Code Section 47‑733; 1952 Code Section 47‑733; 1942 Code Section 7546; 1939 (41) 160; 1943 (43) 45.

LIBRARY REFERENCES

Municipal Corporations 184.1, 197.

Westlaw Key Number Searches: 268k184.1; 268k197.

C.J.S. Municipal Corporations Sections 501, 548 to 552.

**SECTION 5‑19‑240.** Employees shall be removable only for cause; suspension pending investigation.

 No officer or employee of the fire or police department, including the chiefs thereof, shall be dismissed, removed, or discharged except for cause. But the commission may suspend any officer or employee pending an investigation of charges against him not to exceed fifteen days at any one time.

HISTORY: 1962 Code Section 47‑734; 1952 Code Section 47‑734; 1942 Code Section 7546; 1939 (41) 160; 1943 (43) 45.

LIBRARY REFERENCES

Municipal Corporations 185(1), 198(2).

Westlaw Key Number Searches: 268k185(1); 268k198(2).

C.J.S. Municipal Corporations Sections 510 to 512, 534, 547, 562, 566, 571.

**SECTION 5‑19‑250.** Suspension of employees by superior officers.

 An employee of either department may be suspended for a period not exceeding five days by his chief for the commission of any of the offenses referred to in Section 5‑19‑270, but such suspension shall be reported to the commission within twenty‑four hours, and it may remove such suspension or shorten the term thereof.

HISTORY: 1962 Code Section 47‑735; 1952 Code Section 47‑735; 1942 Code Section 7546; 1939 (41) 160; 1943 (43) 45.

LIBRARY REFERENCES

Municipal Corporations 185(1), 198(2).

Westlaw Key Number Searches: 268k185(1); 268k198(2).

C.J.S. Municipal Corporations Sections 510 to 512, 534, 547, 562, 566, 571.

**SECTION 5‑19‑260.** Complaints and trials.

 A complaint against any officer or employee of either department may be orally or in writing lodged with the commission or any member thereof. The commission or any member may investigate the charge, and if a prima facie case is found to exist, the officer or employee may be brought to trial by the commission. But the commission, five days before any such trial, shall have served upon the officer or employee a written statement of the charges upon which the trial is to be had. In or for the conduct of such trial, the commissioners shall have the power to secure by summons both the attendance and testimony of witnesses and the production of books and papers relevant to such trial. And the accused shall have the same right. At any such trial both the commission and the accused may be heard in person or by counsel, and the city council may employ counsel to prosecute the case and fix the fee to be paid for such services.

HISTORY: 1962 Code Section 47‑736; 1952 Code Section 47‑736; 1942 Code Section 7546; 1939 (41) 160; 1943 (43) 45.

LIBRARY REFERENCES

Municipal Corporations 185(8), 198(3).

Westlaw Key Number Searches: 268k185(8); 268k198(3).

C.J.S. Municipal Corporations Sections 499 to 500, 506 to 507, 509, 516, 519, 543, 562, 566, 572.

**SECTION 5‑19‑270.** Acts for which officer or employee may be punished upon finding of guilt; punishment.

 In the event any officer or employee be found guilty of (a) violating any ordinance of his city or law of the State or any rule or order of the commission or city council pertaining to his work or conduct or the conduct of the department of which he is an officer or employee, (b) insubordination to the commission or his superior officer, (c) disrespectful conduct toward the mayor of the city or any of its councilmen, (d) conduct unbecoming an employee of the city or his department, (e) conduct which might bring discredit upon or disrepute to the city or his department, (f) inefficiency or (g) oppressive use of his authority, the commission may dismiss or discharge him from service, demote him in rank, fine him not exceeding thirty days’ pay or withdraw his vacation privileges.

HISTORY: 1962 Code Section 47‑737; 1952 Code Section 47‑737; 1942 Code Section 7546; 1939 (41) 160; 1943 (43) 45.

LIBRARY REFERENCES

Municipal Corporations 185(1), 198(2).

Westlaw Key Number Searches: 268k185(1); 268k198(2).

C.J.S. Municipal Corporations Sections 510 to 512, 534, 547, 562, 566, 571.

**SECTION 5‑19‑280.** Reports.

 Every such commission shall make a full semiannual report to the city council of its actions for the preceding six months, including the rules and regulations promulgated and in force, and it may include in such report any recommendations affecting the police and fire departments. Copies of such semiannual report shall be kept in the files of the commission as a part of its permanent records. The city council may at any time call upon the commission for a report on any special matter, and the commission shall provide a full and complete report in keeping with such request.

HISTORY: 1962 Code Section 47‑738; 1952 Code Section 47‑738; 1942 Code Section 7546; 1939 (41) 160.

**SECTION 5‑19‑290.** Effect of provisions of article upon powers of city council.

 No clause or provision of this article shall be so construed as to deprive the city council of such municipality of its control over the operations of the police and fire departments or the right to prescribe and require the performance of the duties of the personnel of such departments, nor so as to deprive such city council of the right to control the finances and fix the number of employees in the departments and the compensation to be paid each and to exercise the exclusive right to purchase all equipment and supplies for such departments.

HISTORY: 1962 Code Section 47‑739; 1952 Code Section 47‑739; 1942 Code Section 7546; 1939 (41) 160; 1943 (43) 45.

LIBRARY REFERENCES

Municipal Corporations 176(3.1).

Westlaw Key Number Search: 268k176(3.1).

C.J.S. Municipal Corporations Sections 450 to 451, 453, 524, 535, 576.

**SECTION 5‑19‑300.** Article is cumulative.

 It is not intended by this article to repeal any existing laws as they may affect municipalities of this State, but to extend and enlarge the powers of such municipalities as may fall within the population limitations of this article, and as may elect to create such civil service commission by appropriate ordinance.

HISTORY: 1962 Code Section 47‑740; 1952 Code Section 47‑740; 1942 Code Section 7546; 1939 (41) 160.

NOTES OF DECISIONS

In general 1

1. In general

Quoted in Wright v. City of Florence (S.C. 1956) 229 S.C. 419, 93 S.E.2d 215.