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Police, Dept. of- City
Charter Amendments

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AN ACT

TO AMEND THE GREATER
NEW YORK CHARTER IN
RELATION TO PROMOTIONS
IN THE POLICE FORCE.

Introduced by
Mr.

A N A C T

TO AMEND THE GREATER NEW YORK CHARTER IN RELATION
TO PROMOTIONS IN THE POLICE FORCE.

The People of the State of New York,
represented in Senate and Assembly, do enact
as follows:

Section 1: Section two hundred and eighty-eight of the Greater New York Charter as amended by Chapter one hundred and sixty of the laws of nineteen hundred and seven and by Chapter of the laws of nineteen hundred and fourteen is hereby amended to read as follows:

PROMOTIONS IN POLICE FORCE.

§288. Promotion of officers and members of the police force shall be made by the police commissioner, as provided in section one hundred and twenty-four of this act, on the basis of seniority, meritorious police service and superior capacity, as shown by competitive examination, but no detail to act as inspector, or to service in the detective bureau, as hereafter provided, shall be deemed a promotion. Individual acts of personal bravery may be treated as an element of meritorious service in such examination, the relative rating therefor to be fixed by the municipal civil service commission. The police commissioner shall transmit to the municipal civil service commission in advance of such examination

the complete record of each candidate for promotion.

Sergeants shall be selected from among patrolmen of the first grade, but sergeants may be reduced to the grade of patrolman at any time by the police commissioner.

Lieutenants of police shall be selected from among

sergeants who shall have served at least [two years]

six months continuously as such. Captains shall be

selected from among lieutenants of police who shall have

served at least [three years] one year as such. The

police commissioner shall, in the exercise of his dis-

cretion, from time to time detail nineteen captains to

act as inspectors, with the title while so acting of

inspectors of police, and at his pleasure may revoke any

or all such details. While so detailed such officer

shall receive a salary at the rate of seven hundred and

fifty dollars a year in addition to the amount of salary

which regularly attaches to the office of captain.

When a captain shall have acted under regular detail as

inspector during a period or periods aggregating five

years, such officer shall have the same rights in respect

to the relief pension fund as were vested by law in in-

spectors of police on the first day of February in the

year nineteen hundred and seven; provided, however,

that when the commissioner designates a captain to act

in the place of a captain under regular detail as in-

spector, during the temporary absence or disability of

the latter, the officer so designated shall not be en-

titled to any additional salary, and the period of such

designation shall not be counted in his favor in computing such five-year period. A captain, while detailed to act as inspector, shall be chargeable with and responsible for the discipline and efficiency of the force under his command.

Section 2: This act shall take effect immediately.

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AN ACT

TO AMEND SECTION 1543-A OF
THE GREATER NEW YORK CHARTER
BY ELIMINATING THE RE-HEARING
OF CHARGES AND THE REINSTATE-
MENT OF MEMBERS OF THE UNI-
FORMED POLICE FORCE WITH THE
CONSENT OF THE MAYOR AND THE
POLICE COMMISSIONER.

Introduced by
Mr.

A N A C T

TO AMEND SECTION 1543-A OF THE GREATER NEW YORK CHARTER BY ELIMINATING THE RE-HEARING OF CHARGES AND THE RE-INSTATEMENT OF MEMBERS OF THE UNIFORMED POLICE FORCE WITH THE CONSENT OF THE MAYOR AND THE POLICE COMMISSIONER.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section fifteen hundred and forty three A of the Greater New York Charter is hereby amended to read as follows:

[Police and] Fire commissioner [s] may rehear charges and reinstate members of force.

§1543-a. Upon written application to the mayor by the person aggrieved, setting forth the reasons for demanding such rehearing, [the police commissioner, if the person aggrieved was a member of the police force, or] the fire commissioner, [if the person aggrieved was a member of the fire department,] shall have the power, in his discretion, to rehear the charges upon which a member of the uniformed [police or] fire department, [as the case may be,] has been dismissed, unless such dismissal was for insubordination, conduct unbecoming an officer or member, cowardice or intoxication: provided that such former member of such force [or department] shall waive in writing all claim against the city of New York for back pay and provided further that the mayor shall, in writing, consent to such rehearing, stating the reasons why such charges should be reheard.

Such application for a rehearing shall be made within one year after this act takes effect or within one year from the date of the removal if such removal occurs after this act takes effect.

If such commissioner shall determine that such member has been illegally or unjustly dismissed such commissioner may reinstate such member and allow him the whole of his time since such dismissal, to be applied on his time of service in such department, or for such other or further relief as such commissioner may determine just, or to affirm his dismissal as he may determine from the evidence.

Section 2. This act shall take effect immediately.

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AN ACT

TO AMEND THE GREATER NEW YORK
CHARTER, IN RELATION TO THE
DISMISSAL OR OTHERWISE DISCI-
PLINING MEMBERS OF THE UNIFORM-
ED FORCE OF THE POLICE DEPART-
MENT, AND REVIEW THEREOF BY THE
COURTS.

Introduced by
Mr.

A N A C T

TO AMEND THE GREATER NEW YORK CHARTER, IN RELATION TO THE DISMISSAL OR OTHERWISE DISCIPLINING MEMBERS OF THE UNIFORMED FORCE OF THE POLICE DEPARTMENT, AND REVIEW THEREOF BY THE COURTS.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section two hundred and eighty-eight of the Greater New York charter, as amended by chapter one hundred and sixty of the laws of nineteen hundred and seven, is hereby amended to read as follows:

§288. Promotions of officers and members of the police force shall be made by the police commissioner, as provided in section one hundred and twenty-four of this act, on the basis of seniority, meritorious police service and superior capacity, as shown by competitive examination, but no detail to act as inspector, or to service in the detective bureau, as hereafter provided, shall be deemed a promotion. Individual acts of personal bravery may be treated as an element of meritorious service in such examination, the relative rating therefor to be fixed by the municipal civil service commission. The police commissioner shall transmit to the municipal civil service commission in advance of such examination the complete record of each candidate for promotion. Sergeants shall be selected from

among patrolmen of the first grade, but sergeants may be reduced to the grade of patrolmen at any time by the police commissioner. [, after due trial upon charges, the determination of which may be reviewed by writ of certiorari.] Lieutenants of police shall be selected from among sergeants who shall have served at least two years continuously as such. Captains shall be selected from among lieutenants of police who shall have served at least three years as such. The police commissioner shall, in the exercise of his discretion, from time to time detail nineteen captains to act as inspectors, with the title while so acting as inspectors of police, and at his pleasure may revoke any or all such details. While so detailed such officer shall receive a salary at the rate of seven hundred and fifty dollars a year in addition to the amount of salary which regularly attaches to the office of captain. When a captain shall have acted under regular detail as inspector during a period or periods aggregating five years, such officer shall have the same rights in respect to the relief pension fund as were vested by law in inspectors of police on the first day of February in the year nineteen hundred and seven; provided, however, that when the commissioner designates a captain to act in the place of a captain under regular detail as inspector, during the temporary absence or disability of the latter, the officer so designated shall not be entitled to any additional salary, and the period of such designation shall not be

counted in his favor in computing such five-year period.

A captain, while detailed to act as inspector, shall be chargeable with and responsible for the discipline and efficiency of the force under his command.

Section 2. Section two hundred and ninety of the Greater New York Charter, as amended by chapter one hundred and sixty of the laws of nineteen hundred and seven, is hereby amended to read as follows:

§290. The central office bureau of detectives heretofore existing pursuant to this section, as revised and re-enacted by chapter four hundred and sixty-six of the laws of nineteen hundred and one, and the rank or grade of detective sergeant in the police force are hereby abolished. But the persons holding the position of detective sergeant when this act takes effect shall remain members of the force with the rank of lieutenants of police and shall retain all their rights as to pay and pension or otherwise as established by law on the first day of February in the year nineteen hundred and seven, and any such person whose name is on an eligible list when this act takes effect shall not be deprived of his eligibility for promotion acquired thereby. The police commissioner shall organize and maintain a bureau for detective purposes to be known as the detective bureau. The police commissioner shall, from time to time, detail to service in said bureau as many members of the force as he may deem necessary to make the bureau efficient, and may at any time revoke any such detail. Of the members of the police force so detailed the police commissioner may designate not exceeding one hundred and fifty in

number as detectives of the first grade, who while performing duty in said bureau, and while so designated as detectives of the first grade, shall be paid the same salary as lieutenants of police under this chapter, but the police commissioner may at his pleasure revoke any such designation. The person who may be assigned by the police commissioner to the command of said bureau while acting in such capacity shall receive the same salary as a captain detailed to act as inspector.

Any member of the force detailed to said bureau while so detailed shall retain his rank in the force and shall be eligible for promotion the same as if serving in the uniformed force, and the time during which he serves in said bureau shall count for all purposes as if served in his rank or grade in the uniformed force. The headquarters of said bureau shall be at police headquarters in the borough of Manhattan. A branch office shall be maintained in the borough of Brooklyn. Other branch offices may be maintained in such places as the commissioner may determine. Nothing in this section shall limit the power of the police commissioner to dismiss or otherwise discipline without trial any member of the uniformed force by an order that shall be final, which final order shall not be subject to review by the courts.

Section 3. Section two hundred and ninety-two of the Greater New York charter is hereby amended to read as follows:

POLICE COMMISSIONER; DUTIES AND POWERS.

§292. The police commissioner shall be the chief executive officer of the police force. He shall be chargeable with and responsible for the execution of all laws and the rules and regulations of the department. He shall assign to duty the officers and members of the police force, and shall have power to change such assignments from time to time, whenever, in his judgment, the exigencies of the service may require such change. He shall have power to suspend without pay, pending the preparation, service and return day of charges and a final order thereon, [trial of charges,] any member of the police force. If any member of the police force so suspended shall not be convicted by the police commissioner of the charges so preferred, he shall be entitled to full pay from the date of suspension, notwithstanding such charges and suspension. Said police officer may grant leaves of absence to members of the force for a period not exceeding five days.

Section 4. Section three hundred of the Greater New York charter, as amended by chapter three hundred and forty-one of the laws of nineteen hundred and four, is hereby amended to read as follows:

POLICE COMMISSIONER; RULES, ETC., FOR GOVERNMENT AND DISCIPLINE OF POLICE DEPARTMENT AND POLICE FORCE; [TRIALS;] DISMISSALS.

§300. The police commissioner is authorized and empowered to make, adopt and enforce rules, orders and regulations for the government, discipline, administration and disposition of the police department and police force and the members thereof. [He shall have power and is authorized to adopt rules and regulations for the examination, hearing, investigation and determination of charges made or preferred against any member or members of the said police force, but no member or members of the police force except as otherwise provided in this chapter shall be fined, reprimanded, removed, suspended or dismissed from the police force until written charges shall have been made or preferred against him or them, nor until such charges shall have been examined, heard and investigated before the police commissioner or one of his deputies, upon such reasonable notice to the member or members charged, and in such manner of procedure, practice, examination and investigation as the said commissioner may, by rules and regulations, from time to time prescribe. The police commissioner shall designate two places for the trial of

members of the police force upon charges, one of said places for the boroughs of Manhattan, Bronx and Richmond, and the other of said places for the boroughs of Brooklyn and Queens. The trial of any member of the police force upon charges shall be held in the place of trial designated by the police commissioner as the place for the trial of charges for the borough within which the accused member was serving at the time the charge was preferred.] No member of the uniformed force shall be fined, reprimanded, suspended, dismissed or reduced until he has been allowed an opportunity of making an explanation before the police commissioner or one of his deputies, orally or in writing, in person or by counsel or both, not less than forty-eight hours after service of written charges upon said member. If such explanation be made before a deputy commissioner, the record thereof, including all papers in the matter and the recommendation of said deputy commissioner, shall be reduced to writing and transmitted to the commissioner for decision. In every case the decision of the commissioner fining, reprimanding, suspending, dismissing or reducing a member of the uniformed force shall be final and not subject to review by the courts.

Within one year after such decision of the commissioner any such member may make a written application to the mayor for another opportunity of making an explanation, setting forth his reasons therefor; and the mayor

may, in his discretion, grant said application, provided
such member shall waive in writing all claim for back
pay or damages. If such application be approved by the
mayor, the police commissioner shall grant another op-
portunity of making an explanation and may, in his dis-
cretion, affirm, revoke or modify his decision upon such
terms as to allowance of time to be applied to the ser-
vice of said member in the police department, or other-
wise, as in his judgment may be equitable. Any member
of the police force who may hereafter become insane or
of unsound mind, so as to be unable or unfit to perform
full police service or duty, may be removed and dismissed
from the police force by the commissioner.

Section 5: Section three hundred and two of the Greater New York Charter is hereby amended to read as follows:

"Police Commissioner; punishments by;
[limitations of suits for reinstatements, etc.]

§ 302. The police commissioner shall have power, in his discretion, on conviction by [him or by] any court or officer of competent jurisdiction, of a member of the force of any criminal offense, or when he deems unsatisfactory an explanation made in answer to charges of neglect of duty, violation of rules, or neglect or disobedience of orders, or absence without leave, or any conduct injurious to the public peace or welfare, or immoral conduct or conduct unbecoming an officer, or any breach of discipline, to punish the offending party by reprimand, forfeiting and withholding pay for a specified time, suspension, without pay during such suspension, or by dismissal from the force; but no more than thirty days' pay or salary shall be forfeited or deducted for any offense. All such forfeitures shall be paid forthwith to the treasurer of the department to the account of the police pension fund. The police commissioner is also authorized and empowered, in his discretion, to deduct and withhold pay, salary or compensation from any member or members of the police force, for or on account of absence for any cause without leave, lost time, sickness or other disability, physical or mental; provided, however, that the pay, salary or compensation so deducted and withheld shall not, except in case of absence without leave, exceed one-half thereof for the period of such absence, any act or law

to the contrary notwithstanding; and said police commissioner is authorized and empowered from time to time to make and prescribe rules and regulations to carry into effect and enforce the provisions of this section. No action, suit or proceeding, either at law or in equity, shall be commenced or maintained against the police department, or any member thereof, or against the police commissioner, or against the mayor, or against The City of New York by any member or officer, or former member or officer of or belonging to the police force or department of said city to recover or compel the payment of any salary, pay, money or compensation for or on account of any service or duty, or to recover any salary, compensation or moneys, or any part thereof forfeited, deducted or withheld for any cause, unless such action, suit or proceedings shall be commenced within two years after the cause of action shall have accrued; provided that causes of action or proceedings which shall have heretofore accrued may be begun or brought within six years after the same shall have accrued and within two years after the passage of this act; but nothing in this section contained shall be construed or held to extend the time in which causes of action or proceedings which shall have heretofore accrued must be brought, and no proceedings shall be brought to procure the restoration or reinstatement to said police force or department of any member or officer thereof, unless said proceeding shall be instituted within four months after the cause of action or proceeding shall have accrued [after the decision or order sought to be reviewed.] Said proceeding when so brought shall be placed upon the calendar by the party instituting the same, for hearing, for a term of the court not later than the second term after the filing of the answer or return in said proceeding, and of service or notice of said filing

upon the party instituting said proceeding. And in the event of the failure of the party instituting the said proceeding to place the said proceeding upon the said calendar, then the said proceeding shall be dismissed for want of prosecution upon application to that effect by the corporation counsel, unless the court for good and sufficient cause shall otherwise order.

Section 6. Nothing in this act shall affect the right to a review in any case wherein charges have been served prior to the time when this act shall take effect.

Section 7. This act shall take effect immediately.

(Copy)
AN ACT

TO AMEND THE GREATER NEW YORK
CHARTER IN RELATION TO THE RE-
FUNDING OF MONEYS FROM THE PEN-
SION FUND TO DISMISSED MEMBERS
OF THE UNIFORMED POLICE FORCE.

Introduced by
Mr.

A N A C T

TO AMEND THE GREATER NEW YORK CHARTER IN RELATION
TO THE REFUNDING OF MONEYS FROM THE PENSION FUND
TO DISMISSED MEMBERS OF THE UNIFORMED POLICE FORCE.

The People of the State of New York, re-
presented in Senate and Assembly, do enact as fol-
lows:

Section 1. The Greater New York Charter
is hereby amended by adding to chapter eight there-
of a new section to be known as section three hun-
dred and fifty-five A, the same to read as follows:

Id; REFUND OF MONEY PAID TO THE PENSION
FUND BY DISMISSED MEMBERS OF THE FORCE.

§355 A. Within fifteen days after the
dismissal of any member of the police force who is
hereafter allowed an opportunity of making an ex-
planation and who has contributed to the pension
fund, the police commissioner shall pay to said dis-
missed member out of the pension fund all moneys
deducted or contributed from said member's pay, sal-
ary or compensation and paid into said fund in ac-
cordance with any law, rule or regulation, except
moneys deducted as fines and penalties. No refund
from the said pension fund shall be made when the
member has been dismissed as the result of a crime
by any court or officer of competent jurisdiction.

Section 2. This act shall take effect im-
mediately.

(Copy)

AN ACT

TO AMEND THE GREATER NEW YORK
CHARTER IN RELATION TO THE PAY-
MENT OF INTEREST FROM THE CITY
TREASURY ON MONEYS REFUNDED FROM
THE PENSION FUND TO DISMISSED
MEMBERS OF THE UNIFORMED POLICE
FORCE.

Introduced by
Mr.

A N A C T

TO AMEND THE GREATER NEW YORK CHARTER IN RELATION
TO THE PAYMENT OF INTEREST FROM THE CITY TREASURY
ON MONEYS REFUNDED FROM THE PENSION FUND TO DIS-
MISSED MEMBERS OF THE UNIFORMED POLICE FORCE.

The People of the State of New York, re-
presented in Senate and Assembly, do enact as fol-
lows:

Section 1. The Greater New York charter
is hereby amended by adding to Chapter VIII there-
of a new section to be known as section three hun-
dred and fifty-five B, the same to read as follows:

14; INTEREST ON REFUNDED PENSION MONEY.

§355 B. There shall be paid from the city
treasury to the dismissed members of the uniformed
police force who are hereafter allowed an opportu-
nity of making an explanation, simple interest at
the rate of four per cent. per annum computed as of
the first day of January of each year on the total
amount contributed by said member to the pension
fund. There shall be appropriated annually by the
city a sufficient sum to meet the payment of said
interest.

No such interest shall be paid when the
member has been dismissed as the result of a con-
viction of a crime by any court or officer of com-
petent jurisdiction.

Section 2. This act shall take effect im-
mediately.

1869 Ch 902 § 13

17 week dig. 168

§13 — The compensation of the Rec^y under this act shall be fixed by the Sup^r. Court. No amount shall exceed the sum of 5% on the amt. of the assets of such co. as shall come into his possession.

Fixed at $3\frac{1}{2}$ on \$1000 000

Fixed Determination was final

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determination

was "not the subject of review by the Courts"