

A BILL

FOR AN ACT PROVIDING FOR THE INVESTIGATION OF THE OFFICIAL CONDUCT OF CITY OFFICERS OF CITIES OF THE FIRST-CLASS, CONTAINING A POPULATION OF OVER THIRTY THOUSAND, AND FOR REMOVALS FROM OFFICE.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. It shall be lawful for any judge of any court of record within and for any county of said State, on the petition of not less than three legal voters of any city of the first-class in such county, containing according to the census of 1885, a population of not less than thirty thousand, to appoint a commission of three persons, who shall also be legal voters of such city, to investigate the official action and conduct of any officer or officers of such city and in all subsequent proceedings, under any such petition to be had before any judge the same shall, as far as practicable, be had before the judge appointing said commission.

SEC. 2. Such petition shall be in writing, signed by all of the petitioners and verified by one of them, and shall state generally, that as the petitioners verily believe, one or more of the officers of such city has been guilty of malfeasance or non-feasance in office, and praying the appointment of such investigating commission, to inquire and report, whether or not any elective or appointed officer of such city then in office, has at any time within one year previously to the filing of such petition, or during such officer's then current term of office, if more than one year thereof shall have expired, has been guilty of either of said offenses and if so, to report the name of every such officer and the particulars of the offense, but it shall not be necessary to state in the petition the name of any such suspected officer.

SEC. 3. The members of every such commission, shall, before entering upon the discharge of their duties as such, take and subscribe on oath, faithfully, impartially, and to the best of their ability, to investigate and report upon all such acts, matters and things, as shall properly come before them, as such commission, for investigation.

SEC. 4. Every such commission shall have the power of a District Court, so far as is necessary, to compel the attendance of witnesses, swear them, direct their examination, compel the production of books and papers, punish for contempt, whether committed in its presence or by disobedience to any of its lawful orders or mandates elsewhere, and to enforce its lawful orders by attachment; and shall adopt such course and manner of procedure in all matters coming before it as it shall deem best.

SEC. 5. Any officer whose action or conduct is being investigated, shall have notice thereof, have the right to be present, to cross-examine witnesses, and to be a witness on his own behalf. He may also be called as a witness by the commission, and shall not be excused from answering any question material to any matter, legitimately under investigation, on the ground that the answer will tend either to criminate or disgrace him. But before answering any such question he shall have the right to forthwith take the opinion in writing of some judge of a court of record as to whether or not the question objected to is material to any question legitimately under investigation, and if the opinion of the judge shall be that it is not, then he shall not be required to answer the same. In every such case, the question objected to shall be stated in writing by the commission to the judge to whom the same is to be submitted.

SEC. 6. If the commission shall find that any such officer as is designated in section 2 of this act has within the time in said section mentioned, been guilty of malfeasance in office amounting to gross official misconduct or of non-feasance in office, amounting to gross neglect of official duty, it shall so report in writing to the judge appointing the same, who shall forthwith suspend from office every elective officer so found guilty and remove from office every appointed officer so found guilty.

SEC. 7. Any elective officer so suspended may except to the order suspending him from office and shall be entitled to a speedy re-hearing, on giving security satisfactory to such judge ordering his suspension for the payment of all the costs thereof in case of affirmance, which rehearing shall be on the same evidence so far as the same shall be by the commission preserved in form suitable for such use and any additional evidence material to the question or questions involved, offered on either side. The proceedings on re-hearing shall be before the court of which the jury so suspending any such officer or officers is a member, shall be summary, and the decision of the court shall be final, and in case either of affirmance or of the failure of the suspended officer within thirty days after the date of the order of suspension, to perfect his right to a re-hearing by giving security for costs, as by this section required, and notifying one or more of the petitioners that he demands such re-hearing, the office shall by the court be declared vacant.

SEC. 8. In the event of the suspension of any elective officer from any office, as provided for by section six of this act, the office shall be temporarily filled by appointment made by said judge, which appointment shall continue until either the suspended officer shall be re-instated by reversal of the order of suspension on re-hearing, or in case of a vacancy in either of the contingencies specified in the last preceding section, until such vacancy shall be filled as hereinafter provided; and in case of the removal of any appointed officer from any office, as provided for by said section six, the vacancy thereby occasioned shall be filled by appointment by commission.

SEC. 9. Whenever any elective office shall become vacant by virtue of proceedings under this act, such vacancy shall be filled by said court on consultation with the members of the commission before which the proceedings resulting in the removal were commenced.

SEC. 10. The report of every such commission shall be in writing, and, together with all papers, documents and written evidence, including evidence taken in writing before the commission, shall be filed in said court, and shall embrace a statement of all costs made before the commission, and an appointment of the same according to the following requirements:

First. If, in the opinion of the commission, no substantial public benefit has resulted from the investigation, it shall assess all of the costs against the petitioners.

Second. In the event of the removal of any officer or officers on the report of the commission, as far as practicable the costs made in the investigation and proceedings pertaining to each of such removals shall be assessed against the officers so removed respectively, and in case any part thereof shall not be collectable from such officer or officers, the same shall be paid by the city.

Third. All other costs, if any, shall be paid by the city. Such taxation of costs by the commission shall be subject to review and re-taxation by the court on motion, and the court shall render judgment therefor.

SEC. 11. The commission may in its discretion, employ a stenographic reporter to take and report such portions of their proceedings, and of the evidence, as it shall direct, and the evidence so reported shall be certified by the chairman of the commission and filed, as hereinbefore directed, for use in case of re-hearing. For all the purposes of this act the terms "malfeasance in office," as used herein, shall be taken and held to mean gross official misconduct, including any official misconduct made by any statute of this State, a misdemeanor or other crime, and the terms "non-feasance in office," shall be taken and held to mean gross neglect of official duty, including any neglect of official duty made by any statute of this State a misdemeanor, or other crime.