

HOUSE No. 11

The Commonwealth of Massachusetts

DEPARTMENT OF CIVIL SERVICE AND REGISTRATION,
DIVISION OF CIVIL SERVICE,
STATE HOUSE, BOSTON, November 27, 1946.

*To the Honorable Senate and the House of Representatives, State House,
Boston, Massachusetts.*

GENTLEMEN:— In compliance with the provisions of section 2 of chapter 31 of the General Laws, as amended, and in accordance with the provisions of chapter 30, section 33, as amended by chapter 292 of the Acts of 1945, the Civil Service Commission recommends legislation for the administration and improvement of the civil service, which is submitted herewith, together with drafts of bills embodying the legislation recommended.

Very truly yours,

JAMES E. O'BRIEN,
Chairman, Civil Service Commission.

RECOMMENDATIONS.

I.

The present law provides a method of computing seniority if the employee is transferred from one department to another, but there is no provision in the law for such computation for a person who is changed from one department to another as the result of appointment or promotion. Provision should be made for the computation of seniority in these cases. Legislation to accomplish this is submitted herewith.

II.

In previous amendments to the law it was made obligatory upon the department head to report to the Division certain actions involving the status of civil service employees, but there were omitted a few types of action which clearly should be reported. These include the more uncommon forms of terminations, but which, nevertheless, should be reported if the records of the Division are to be kept accurate. Legislation to accomplish this is submitted herewith.

III.

At the time of the enactment of the present statute covering suspensions and discharges from civil service positions, the Division was requested to observe its effects and to report requested changes thereto as might be found necessary as the result of the experience gained in its operation. The Commission makes two distinct recommendations in the proposed legislation. The first is to make clear certain references in the present statute, and the proposed legislation sets forth more clearly the procedure to be followed. The second is to require that

the employee choose whether he will present his case for review to the Civil Service Commission or to the courts. There is no advantage to the employee, the appointing officer or the public if the decision of the Civil Service Commission is reviewable by the courts. Such an arrangement consumes the time of all with an intermediate hearing which could have been eliminated had the employee gone directly to court. The proposed legislation permits the employee to elect whether he will present his case to the Commission or to the courts.

IV.

The present law provides that the names of all persons who resign on account of illness shall be placed by the director on a re-employment list. It is recommended that this placement be made only in the case of request from an employee so desiring. In many cases such persons are not physically able to accept employment, and the present requirement causes unnecessary work on the part of the Division in preparing and transmitting such lists, and results in a delay which could be eliminated. Legislation to accomplish this is submitted herewith.

V.

The word "department" as defined in most sections of the civil service law means a department, division, institutional unit or other unit of a department in case such unit is established by law, ordinance or by-law or under authority thereof, and has been so used in interpreting the present law regarding promotions. This method has been found to be satisfactory, and we believe the law should be clarified so that the same definition will apply throughout the law.

VI.

At the present time the Division is prevented from designating persons as consultant examiners retired under the provisions of chapter 32, due to new language used in

that chapter. Occasionally such persons are the only ones with the necessary experience to serve in that capacity. The intent of the retirement law would not be violated in any way by such designation, since the compensation involved is little more than nominal for such service. Legislation to accomplish this is submitted herewith.

VII.

Chapter 708 of the Acts of 1941, as amended, now provides that employees have two years in which to seek reinstatement and restoration to lists as provided therein. References in section 1 of chapter 708 should therefore be corrected from one year to two years, since if a person has that period in which to request reinstatement or restoration, he should not be listed as having terminated his services after one year. The accompanying recommendation makes no change in the intent of the present law, but removes an inconsistency as between two of its sections.

VIII.

The provisions of chapter 708 of the Acts of 1941, as amended, as it relates to the seniority of employees previously serving as military substitutes, has resulted at times in a prejudice to persons who enter the military service by permitting earlier seniority dates to military substitutes as compared with those who stood higher on such eligible lists and who entered the military service. Equitable treatment of those who entered the military service requires that opportunity be given the Division of Civil Service to correct prejudices of this kind, and legislation for this purpose is submitted.