

1 **H. B. 2854**

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3 (By Delegates Lawrence, R. Phillips, Skaff and Paxton)
4 [Introduced January 26, 2011; referred to the
5 Committee on Political Subdivisions then the Judiciary.]
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10 A BILL to amend and reenact §8-14-6 and §8-14-17 of the Code of
11 West Virginia, 1931, as amended, all relating to
12 qualifications for appointments or promotions to positions in
13 paid police departments and to increasing the classes of
14 cities to which these provisions apply by adding Class III and
15 Class IV cities.

16 *Be it enacted by the Legislature of West Virginia:*

17 That §8-14-6 and §8-14-17 of the Code of West Virginia, 1931,
18 as amended, be amended and reenacted, all to read as follows:

19 **ARTICLE 14. LAW AND ORDER; POLICE FORCE OR DEPARTMENTS, ETC.**

20 **PART V. CIVIL SERVICE FOR CERTAIN POLICE DEPARTMENTS.**

21 **§8-14-6. Qualifications for appointment or promotion to positions**
22 **in certain paid police departments to be ascertained by**
23 **examination; provisions exclusive as to appointments,**
24 **etc.; definitions.**

1 (a) All appointments and promotions to all positions in all
2 paid police departments of Class I, ~~and~~ Class II, Class III and
3 Class IV cities shall be made only according to qualifications and
4 fitness to be ascertained by examinations, which, so far as
5 practicable, shall be competitive, as hereinafter provided.

6 (b) No individual, except the chief or deputy chiefs of
7 police, if the position of deputy chief of police has been
8 previously created by the city council of that Class I, ~~or~~ Class
9 II, Class III or Class IV city, may be appointed, promoted,
10 reinstated, removed, discharged, suspended or reduced in rank or
11 pay as a paid member of a paid police department, regardless of
12 rank or position, of any Class I, ~~or~~ Class II, Class III or Class
13 IV city in any manner or by any means other than those prescribed
14 in the following sections of this article ~~Provided, That~~ except
15 that an individual appointed chief or deputy chief of police who
16 held a position as a member of a paid police department in that
17 police department before the appointment as chief or deputy chief
18 of police shall be reinstated to the officer's previous rank
19 following his or her term as chief or deputy chief of police.

20 (c) The term "member of a paid police department", whenever
21 used in the following sections of this article, means an individual
22 employed in a paid police department who is clothed with the police
23 power of the state in being authorized to carry deadly weapons,
24 make arrests, enforce traffic and other municipal ordinances, issue

1 summons for violations of traffic and other municipal ordinances,
2 and perform other duties which are within the scope of active,
3 general law enforcement.

4 (d) The term "appointing officer", as used in the following
5 sections of this article, means the Class I, ~~or~~ Class II, Class III
6 or Class IV city officer in whom the power of appointment of
7 members of a paid police department is vested by charter provision
8 or ordinance of the city.

9 **§8-14-17. Vacancies filled by promotions; eligibility for**
10 **promotion; rights of chief.**

11 (a) Vacancies in positions in a paid police department of a
12 Class I, ~~or Class II~~ Class II, Class III or Class IV city shall be
13 filled, so far as practicable, by promotions from among individuals
14 holding positions in the next lower grade in the department.

15 (b) Promotions shall be based upon experience and by written
16 competitive examinations to be provided by the Policemen's Civil
17 Service Commission. ~~Provided, That~~ Except for the chief or deputy
18 chiefs of police, if the position of deputy chief of police has
19 been previously created by the city council of that Class I ~~or~~
20 ~~Class II~~ Class II, Class III or Class IV city, no individual is
21 eligible for promotion from the lower grade to the next higher
22 grade until the individual has completed at least two years of
23 continuous service in the next lower grade in the department
24 immediately prior to the examination: *Provided, however,* That

1 notwithstanding the provisions of section six of this article, any
2 member of a paid police department of a Class I, ~~or Class II~~ Class
3 II, Class III or Class IV city now occupying the office of chief or
4 deputy chief of police ~~of that paid police department,~~ or hereafter
5 appointed to the office of chief or deputy chief of police, except
6 as hereinafter provided in this section, is entitled to all of the
7 rights and benefits of the civil service provisions of this article
8 except that he or she may be removed from the office of chief or
9 deputy chief of police without cause. ~~and~~ The time spent by the
10 member in the office of chief or deputy chief of police shall be
11 added to the time served ~~by the member~~ during the entire time he or
12 she was a member of that paid police department prior to his or her
13 appointment as chief or deputy chief of police. ~~and shall~~ In all
14 cases of removal, except for removal for good cause, ~~retain the~~
15 member retains the regular rank within that paid police department
16 which he or she held at the time of his or her appointment to the
17 office of chief or deputy chief of police or which he or she has
18 attained during his or her term of service as chief or deputy chief
19 of police.

20 (c) The provisions of this section apply and inure to the
21 benefit of all individuals who have ever been subject to the
22 provisions of this article. The commission may determine in each
23 instance whether an increase in salary constitutes a promotion.

NOTE: The purpose of this bill is to increase the cities to which the code sections applies making provisions regarding the qualifications of paid police officers applicable to Class III and Class IV cities in addition to Class I and Class II.

Strike-throughs indicate language that would be stricken from the present law and underscoring indicates new language that would be added.