

Senate Bill No. 473

(By Senator Kessler (Acting President), Minard, Klempa and Yost)

[Introduced February 9, 2011; referred to the Committee on
Government Organization.]

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10 A BILL to amend and reenact §8-15-11 and §8-15-22 of the Code of
11 West Virginia, 1931, as amended, all relating to reinstating
12 a former fire chief of fire department to previously held
13 position within the paid fire department following expiration
14 of term as chief; and providing for appointment of deputy
15 chief of fire department.

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

17 That §8-15-11 and §8-15-22 of the Code of West Virginia, 1931,
18 as amended, be amended and reenacted, all to read as follows:

19 **ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL**
20 **SERVICE FOR PAID FIRE DEPARTMENTS.**

21 **§8-15-11. Qualifications for appointment or promotion to positions**
22 **in paid fire departments to be ascertained by**
23 **examination; provisions exclusive as to appointments,**
24 **etc.; rights of certain chiefs and deputy chiefs;**
25 **"appointing officer" defined.**

26 (a) All appointments and promotions to all positions in all
27 paid fire departments shall be made only according to

1 qualifications and fitness to be ascertained by examinations,
 2 which, so far as practicable, shall be competitive, as hereinafter
 3 provided.

4 (b) No individual, except the chief or deputy chief, if the
 5 position of deputy chief has been previously created by city
 6 council of that city, may be appointed, promoted, reinstated,
 7 removed, discharged, suspended or reduced in rank or pay as a paid
 8 member of any paid fire department, regardless of rank or position,
 9 in any manner or by any means other than those prescribed in this
 10 article: *Provided,* That in all municipalities in which the office
 11 of fire chief or deputy chief of a paid fire department was not
 12 covered by the provisions of former article six-a of this chapter
 13 on January 1, 1949, the office in the municipality shall be
 14 excepted from the civil service provisions of this article ~~fifteen~~
 15 ~~of this chapter,~~ until the time the governing body of the
 16 municipality, ~~shall~~ by appropriate ordinance or resolution adopted
 17 by a majority of its members, ~~elect~~ elects to place the office of
 18 fire chief and deputy chief under the civil service provisions of
 19 this article.

20 (c) Until the office of fire chief ~~is~~ and deputy chief are
 21 placed under the civil service provisions of this article by the
 22 governing body, the member of any paid fire department now
 23 occupying ~~such~~ that office or hereafter appointed to ~~such~~ that
 24 office shall in all cases of removal, except for removal for good
 25 cause, retain the status he or she held in the paid fire department
 26 at the time of his or her appointment to the office of fire chief
 27 or deputy chief or which he or she attained during his or her term

1 as fire chief or deputy chief.

2 (d) The term "appointing officer" as used in this article ~~shall~~
3 ~~mean~~ means the municipal officer in whom the power of appointment
4 of members of a paid fire department is vested by charter provision
5 or ordinance of the municipality.

6 **§8-15-22. Vacancies filled by promotions; eligibility for**
7 **promotion.**

8 Vacancies in positions in a paid fire department shall be
9 filled, so far as practicable, by promotions from among individuals
10 holding positions in the next lower grade in the department.
11 Promotions shall be based upon experience and by competitive
12 written examinations to be provided by the firemen's civil service
13 commission: *Provided*, That except for the chief or deputy chief,
14 if the position of deputy chief has been previously created by city
15 council of that city, no individual ~~shall be~~ is eligible for
16 promotion from the lower grade to the next higher grade until ~~such~~
17 the individual ~~shall have~~ has completed at least two years of
18 continuous service in the next lower grade in the department
19 immediately prior to ~~said~~ the examination and has completed the
20 registered apprenticeship and certification program under article
21 fifteen-a, chapter eight of this code: *Provided, however*, That
22 completion of the registered apprenticeship and certification
23 program as a requirement for promotion ~~shall apply~~ applies only to
24 those firefighters employed since June 12, 1987. The commission
25 ~~shall have the power to~~ may determine in each instance whether an
26 increase in salary constitutes a promotion.

NOTE: The purpose of this bill is to mandate reinstatement of fire chiefs and deputy fire chiefs to previously held positions within the paid fire department and to allow for the appointment of a deputy fire chief if the city council approves the position.

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