

COMMITTEE SUBSTITUTE

FOR

**H. B. 2703**

---

(BY DELEGATES HAMILTON, LANE, D. CAMPBELL, L. PHILLIPS,  
CROSIER, ANDES, M. POLING, IRELAND, ELLEM, SIGLER  
AND D. POLING)

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(Originating in the Committee on the Judiciary)  
[February 23, 2011]

A BILL to amend and reenact §7-14-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §8-14-7 of said code; and to amend and reenact §8-15-12 of said code, all relating to qualifications of members of the Policemen's Civil Service Commission, the Firemen's Civil Service Commission and the Civil Service Commissions of the counties; restrictions from service; and disqualifications from service.

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

That §7-14-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §8-14-7 of said code be amended

and reenacted; and that §8-15-12 of said code be amended and reenacted, all to read as follows:

**CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

**ARTICLE 14. CIVIL SERVICE FOR DEPUTY SHERIFFS.**

**§7-14-3. Civil Service Commission.**

1           There shall be continued a Civil Service Commission in  
2 each county. ~~and the state.~~ Each such A civil service  
3 commission shall consist of three commissioners:

4           (1) One commissioner ~~of whom shall be~~ appointed by  
5 the county bar association; ~~of such county~~

6           (2) One commissioner ~~of whom shall be~~ appointed by  
7 the county deputy sheriff's association; ~~of such county,~~ and

8           (3) One commissioner ~~of whom shall be~~ appointed by  
9 the county commission. ~~of such county.~~

10           ~~In the event~~ If the bar association or deputy sheriff's  
11 association fails to make an appointment within the  
12 prescribed time ~~prescribed in this section therefor,~~ then such  
13 ~~appointment shall be made by the county commission~~ the  
14 county commission shall make the appointment.

15           A person may not be appointed if that person is a  
16 relative, as defined in section three, article one, chapter sixty,  
17 to: a county commissioner of the county from which the

18 appointment is made; the president or chairman or similarly  
19 situated official of the deputy sheriff's association or the bar  
20 association.

21 A person is not eligible for appointment or  
22 reappointment if he or she has been convicted of a felony or  
23 any misdemeanor involving moral turpitude.

24 A commissioner shall be a qualified voter of the county  
25 during the appointment term.

26 A commissioner may not hold any other office (other  
27 than the office of notary public) under the United States, this  
28 state, or any municipality, county or other political  
29 subdivision thereof; nor shall any commissioner serve on any  
30 political committee or take any active part in the management  
31 of any political campaign.

32 ~~The persons appointed commissioners shall be qualified~~  
33 ~~voters of the county for which they are appointed, and at least~~  
34 ~~two of the commissioners shall be persons in full sympathy~~  
35 ~~with the purposes of this article. Not more than two of the~~  
36 ~~commissioners, at any one time, shall be members of the~~  
37 ~~same political party.~~

38 Only two commissioners may be of the same political  
39 party.

40           ~~The commissioners in each county shall be appointed as~~  
41 ~~follows: Within sixty days from the effective date of this~~  
42 ~~article, the authorities having the power to appoint members~~  
43 ~~to the Civil Service Commission shall appoint the three~~  
44 ~~commissioners, the first to be appointed by the bar~~  
45 ~~association of the county shall serve for six years from the~~  
46 ~~date of appointment, the second to be appointed by the~~  
47 ~~deputy sheriff's association of the county shall serve for four~~  
48 ~~years from the date of appointment, and the third to be~~  
49 ~~appointed by the county commission of the county shall serve~~  
50 ~~for a term of two years from the date of appointment. All~~  
51 ~~subsequent appointments shall be made for terms of four~~  
52 ~~years.~~

53           After the original appointments, all appointments shall  
54 be made for periods of four years.

55           ~~In the event that If any commissioner of the civil service~~  
56 ~~commission ceases to be a member, thereof by virtue of~~  
57 ~~death, final removal or other cause, a new commissioner shall~~  
58 ~~be appointed to fill the unexpired term of that commissioner~~  
59 ~~within ten days. after said ex-commissioner ceased to be a~~  
60 ~~member of the commission. Such The appointment shall be~~  
61 ~~made by the authority entity who appointed the commissioner~~  
62 ~~who is no longer a member. of the commission.~~

63 Each year ~~the three members of the commission~~  
64 commissioners shall ~~together,~~ elect ~~one of their number to act~~  
65 as a president. ~~of the commission for a term of one year.~~

66 The county commission may ~~at any time~~ remove a  
67 commissioner for good cause, which shall be stated in writing  
68 and made a part of the records of the commission.

69 Once the county commission has removed any  
70 commissioner, ~~such~~ the county commission shall within ten  
71 days ~~thereafter~~ file in the office of the clerk of the circuit  
72 court of the county a petition setting forth in full the reason  
73 for the removal and ~~praying for~~ requesting the confirmation  
74 of the circuit court of the action. ~~of the county commission in~~  
75 ~~removing the said commissioner.~~ A copy of the petition shall  
76 be served upon the commissioner so removed simultaneously  
77 with its filing in the office of the clerk of the circuit court and  
78 has precedence on the docket of the circuit court and shall be  
79 heard by the court as soon as practicable. ~~upon the request of~~  
80 ~~the removed commissioner.~~ All rights hereby vested in the  
81 ~~circuit court may be exercised by the judge thereof in~~  
82 ~~vacation. In the event that~~

83 If no term of the circuit court is being held at the time of  
84 the filing of the petition, ~~and the judge thereof cannot be~~

85 ~~reached in the county wherein the petition was filed, the~~  
86 petition shall be heard at the next succeeding term of the  
87 circuit court, ~~whether regular or special;~~ and the  
88 commissioner ~~so removed~~ shall remain removed until a  
89 hearing is had upon the petition. ~~of the county commission.~~  
90 The circuit court ~~or the judge thereof in vacation,~~ shall hear  
91 and decide the issues presented by the petition. The county  
92 commission or commissioner ~~as the case may be,~~ against  
93 whom the decisions of the circuit court ~~or judge thereof in~~  
94 ~~vacation~~ is rendered ~~has the right to~~ may petition the  
95 Supreme Court of Appeals for a review of the decision ~~of the~~  
96 ~~circuit court or the judge thereof in vacation~~ as in other civil  
97 cases. ~~In the event that~~

98 If the county commission fails to file its petition in the  
99 office of the clerk of the circuit court, ~~as hereinbefore~~  
100 ~~provided;~~ within ten days after the removal of the  
101 commissioner, ~~such~~ the commissioner immediately resumes  
102 his or her position as a member of the civil service  
103 commission.

104 Any resident of the county ~~has the right at any time to~~  
105 may file charges against and seek the removal of any member  
106 of the civil service commission. The charges shall be filed in

107 the form of a petition in the office of the clerk of the circuit  
 108 court of the county. A copy of the petition shall be served  
 109 upon the commissioner sought to be removed. The petition  
 110 shall be ~~matured for hearing and~~ heard as a civil action by the  
 111 circuit court of the county for which the commissioner  
 112 serves. ~~as a member of the civil service commission or by the~~  
 113 ~~judge thereof in vacation.~~ The party against whom the  
 114 decision of the circuit court ~~or judge thereof in vacation~~ is  
 115 rendered ~~has the right to~~ may petition the Supreme Court of  
 116 Appeals for a review of the decision of the circuit court ~~or~~  
 117 ~~judge thereof in vacation~~ as in other civil cases.

118 ~~No commissioner may hold any other office (other than~~  
 119 ~~the office of notary public) under the United States, this state~~  
 120 ~~or any municipality, county or other political subdivision~~  
 121 ~~thereof; nor may any commissioner serve on any political~~  
 122 ~~party committee or take any active part in the management of~~  
 123 ~~any political campaign.~~

## CHAPTER 8. MUNICIPAL CORPORATIONS.

### ARTICLE 14. LAW AND ORDER; POLICE FORCE OR DEPARTMENTS; POWERS, AUTHORITY AND DUTIES OF LAW- ENFORCEMENT OFFICIALS AND POLICEMEN; POLICE MATRONS; SPECIAL SCHOOL ZONE AND PARKING LOT OR PARKING

**BUILDING POLICE OFFICERS; CIVIL SERVICE FOR CERTAIN POLICE DEPARTMENTS.**

**§8-14-7. Policemen’s civil service commission generally.**

1        ~~In every~~ A Class I and Class II city municipality having  
2 a paid police department, ~~there shall be a~~ create a  
3 “Policemen’s Civil Service Commission.” The commission  
4 ~~shall consist~~ consists of three commissioners:

5        (1) One commissioner ~~of whom shall be~~ appointed by the  
6 mayor of the city municipality;

7        (2) One commissioner ~~of whom shall be~~ appointed by the  
8 local fraternal order of police; and

9        (3) One commissioner ~~the third shall be~~ appointed by the  
10 local chamber of commerce, or if there be none, by a local  
11 businessmen’s association.

12        A commissioner may not be a relative, as defined in  
13 section three, article one, chapter sixty, to: the mayor of the  
14 municipality; the President, Chairman or similarly situated  
15 official of the local fraternal order of police or the local  
16 chamber of commerce or businessmen’s association.

17        A person is not eligible for appointment or reappointment  
18 if convicted of a felony or any misdemeanor involving moral  
19 turpitude.

20 A commissioner shall be a qualified voters voter of the  
21 city. ~~for which they are appointed; and at least two of said~~  
22 ~~commissioners shall be individuals in full sympathy with the~~  
23 ~~purposes of the civil service provisions of this article.~~

24 Only two commissioners may be of the same political  
25 party.

26 ~~Not more than two of the said commissioners, at any one~~  
27 ~~time, shall be adherents of the same political party. Of the~~  
28 ~~three original appointments in each city, the first~~  
29 ~~commissioner shall be appointed by the mayor; and shall~~  
30 ~~serve for six years from the date of his or her appointment;~~  
31 ~~the second commissioner shall be appointed by the local~~  
32 ~~fraternal order of police; and shall serve for four years from~~  
33 ~~the date of his appointment; and the third commissioner shall~~  
34 ~~be appointed by the local chamber of commerce or local~~  
35 ~~businessmen's association. and shall serve for two years from~~  
36 ~~the date of his appointment. In the event~~

37 If there is no local chamber of commerce or local  
38 businessmen's association at the time any appointment is to  
39 be made by it, ~~such~~ the appointment shall be made by the  
40 other two commissioners by mutual agreement. After the  
41 original appointments, all appointments shall be made for

42 periods of four years. ~~each by the appointing authority~~  
43 ~~hereinbefore designated. In the event that~~

44 If any commissioner of said civil service commission  
45 shall cease to be a member, ~~thereof by virtue of death, final~~  
46 ~~removal or other cause~~, a new commissioner shall be  
47 appointed to fill the unexpired term ~~of said commissioner~~  
48 within ten days. ~~after said excommissioner shall have ceased~~  
49 ~~to be a member of said commission.~~

50 ~~Such~~ The appointment shall be made by the officer or  
51 body who in the first instance appointed the commissioner.  
52 ~~who is no longer a member of the commission, except that in~~  
53 ~~the case of a vacancy in an appointment made by the~~  
54 ~~Governor, which vacancy occurs after the effective date of~~  
55 ~~this article, the appointment for the unexpired term shall be~~  
56 ~~made by the mayor.~~

57 Each year ~~the three members of the commission~~ the  
58 commissioners shall ~~together, elect one of their number to act~~  
59 ~~as a~~ president. ~~of the commission, who shall serve as~~  
60 ~~president for one year.~~

61 The mayor may, ~~at any time~~, remove any commissioner  
62 ~~or commissioners~~ for good cause, which shall be stated in  
63 writing and made a part of the records of the commission.

64 *Provided, That*

65       Once the mayor has removed any commissioner, the  
66       mayor shall within ten days thereafter file in the office of the  
67       clerk of the circuit court of the county in which the city or the  
68       major portion ~~of the territory~~ thereof is located a petition  
69       setting forth in full the reason for ~~said~~ the removal and  
70       praying requesting for the confirmation by ~~said~~ the circuit  
71       court. ~~of the action of the Mayor in so removing the said~~  
72       ~~commissioner.~~ A copy of said petition shall be served upon  
73       the commissioner so removed simultaneously with its filing  
74       in the office of the clerk of the circuit court and shall have  
75       precedence on the docket of ~~said~~ the court and shall be heard  
76       by ~~said~~ the court as soon as practicable. ~~upon the request of~~  
77       ~~the removed commissioner. or commissioners.~~ All rights  
78       herein vested in ~~said~~ circuit court may be exercised by the  
79       judge thereof in vacation. ~~In the event~~

80       If no term of the circuit court is being held at the time of  
81       the filing of ~~said~~ the petition, ~~and the judge thereof cannot be~~  
82       ~~reached in the county wherein the petition was filed,~~ ~~said~~ the  
83       petition shall be heard at the next succeeding term of ~~said~~ the  
84       circuit court, ~~whether regular or special,~~ and the  
85       commissioner ~~or commissioners~~ so removed shall remain  
86       removed until a hearing is had upon the said petition. ~~of the~~

87 ~~Mayor.~~ The court ~~or the judge thereof in vacation~~ shall hear  
88 and decide the issues presented by ~~said~~ the petition.

89 The mayor or commissioner ~~or commissioners, as the~~  
90 ~~case may be,~~ against whom the decision ~~of the court or the~~  
91 ~~judge thereof in vacation shall be~~ is rendered, shall have the  
92 right to may petition the Supreme Court of Appeals for a  
93 review of the decision of the circuit court ~~or the judge thereof~~  
94 ~~in vacation~~ as in other civil cases.

95 ~~In the event that~~ If the mayor ~~shall~~ fails to file his or her  
96 petition in the office of the clerk of the circuit court, as  
97 ~~hereinbefore provided,~~ within ten days after the removal of  
98 ~~said~~ the commissioner, ~~or commissioners, such~~ the  
99 commissioner ~~or commissioners~~ shall immediately resume  
100 his or her ~~or their~~ position. ~~or positions as a member or~~  
101 ~~members of the policemen's Civil Service Commission.~~

102 Any resident of the city ~~shall have the right at any time~~  
103 ~~to~~ may file charges against and seek the removal of any  
104 member of the policemen's civil service commission. ~~of~~  
105 ~~such city. Such~~ The charges shall be filed in the form of a  
106 petition in the office of the clerk of the circuit court of the  
107 county in which the city or the major portion ~~of the territory~~  
108 thereof is located, and a copy of ~~said~~ the petition shall be

109 served upon the commissioner ~~or commissioners~~ sought to  
110 be removed. ~~Said~~ The petition shall be ~~matured for hearing~~  
111 ~~and heard by said~~ the circuit court ~~or the judge thereof in~~  
112 ~~vacation~~ in the same manner as civil proceedings ~~in the~~  
113 ~~circuit courts of this state~~ are heard, and the party against  
114 whom the circuit court’s decision is rendered ~~shall have the~~  
115 ~~right to~~ may petition the Supreme Court of Appeals for a  
116 review of the action of the circuit court, as in other civil  
117 cases.

118 ~~No commissioner shall hold any other office (other than~~  
119 ~~the office of notary public) under the United States, this~~  
120 ~~state, or any municipality, county or other political~~  
121 ~~subdivision thereof; nor shall any commissioner serve on~~  
122 ~~any political committee or take any active part in the~~  
123 ~~management of any political campaign.~~

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

**§8-15-12. Firemen’s Civil Service Commission generally.**

1 ~~In every~~ A municipality having a paid fire department,  
2 ~~there shall~~ create ~~be~~ a “Firemen’s Civil Service  
3 Commission.” The commission shall consist of three  
4 commissioners:

5 (1) One commissioner ~~of whom shall be~~ appointed by  
6 the Mayor of the municipality;

7 (2) One commissioner ~~of whom shall be~~ appointed by  
8 the local international association of fire fighters in the event  
9 that said local exists in the municipality, or in case no such  
10 local exists in the municipality, then by the local central  
11 body of the West Virginia Federation of Labor AFL-CIO in  
12 the event that said central body exists in the municipality, or  
13 in case that no such central body exists in the municipality,  
14 then by the West Virginia Federation of Labor AFL-CIO;

15 (3) One commissioner ~~and the third shall be~~ appointed  
16 by the local chamber of commerce, or if there be none, by a  
17 local businessmen's association.

18 A commissioner may not be a relative, as defined in  
19 section three, article one, chapter sixty, to the mayor of the  
20 municipality, the president, chairman or similarly situated  
21 official of the local international association of fire fighters  
22 or the appropriate West Virginia Federation of Labor  
23 AFL-CIO as appropriate, or the local chamber of commerce  
24 or businessmen's association.

25 A commissioner may not be convicted of a felony or any  
26 misdemeanor involving moral turpitude.

27 A commissioner shall be a resident of the municipality.

28 A commissioner shall be a qualified voters voter of the  
29 municipality. ~~for which they are appointed; and at least two~~  
30 ~~of said commissioners shall be individuals in full sympathy~~  
31 ~~with the purposes of the civil service provisions of this~~  
32 ~~article.~~

33 A commissioner may not hold any other office (other  
34 than the office of notary public) under the United States, this  
35 state or any municipality, county or other political  
36 subdivision thereof; nor shall any commissioner serve on  
37 any political committee or take any active part in the  
38 management of any political campaign.

39 Only two commissioners may be of the same political  
40 party.

41 ~~Not more than two of the said commissioners, at any one~~  
42 ~~time, shall be adherents of the same political party. Of the~~  
43 ~~three original appointments in each municipality, the first~~  
44 ~~commissioner shall be appointed by the mayor and shall~~  
45 ~~serve for six years from the date of his appointment; the~~  
46 ~~second commissioner shall be appointed by the local trades~~  
47 ~~board, or in the absence of such board, by the international~~  
48 ~~association of fire fighters, and shall serve for four years~~

49 ~~from the date of his appointment; and the third~~  
50 ~~commissioner shall be appointed by the local chamber of~~  
51 ~~commerce or local businessmen's association and shall~~  
52 ~~serve for two years from the date of his appointment. In the~~  
53 ~~event~~

54 If there is no local chamber of commerce or local  
55 businessmen's association at the time any appointment is to  
56 be made by it, ~~such~~ the appointment shall be made by the  
57 other two commissioners by mutual agreement.

58 After the original appointments, all appointments shall  
59 be made for periods of four years. ~~each by the appointing~~  
60 ~~authority hereinbefore designated.~~

61 ~~In the event that~~ If any commissioner of said Civil  
62 Service Commission shall cease to be a member, thereof by  
63 ~~virtue of death, final removal or other cause;~~ a new  
64 commissioner shall be appointed to fill the unexpired term  
65 of said commissioner within ten days. ~~after said ex-~~  
66 ~~commissioner shall have ceased to be a member of said~~  
67 ~~commission.~~

68 ~~Such~~ The appointment shall be made by the officer or  
69 body who in the first instance appointed the commissioner  
70 who is no longer a member of the commission.

71 Each year the ~~three members of the commission~~ the  
72 commissioners shall ~~together~~, elect ~~one of their number to~~  
73 ~~act as a~~ president. ~~of the commission, who shall serve as~~  
74 ~~president for one year.~~

75 The mayor may, at any time, remove any commissioner  
76 ~~or commissioners~~ for good cause, which shall be stated in  
77 writing and made a part of the records of the commission.

78 ~~Provided, That~~ Once the mayor has removed any  
79 commissioner, the mayor shall within ten days ~~thereafter~~ file  
80 in the office of the clerk of the circuit court of the county in  
81 which the municipality or the major portion ~~of the territory~~  
82 thereof is located a petition setting forth in full the reason  
83 for ~~said~~ the removal and ~~praying for~~ requesting the  
84 confirmation by ~~said~~ the circuit court of the action of the  
85 mayor in so removing the ~~said~~ commissioner. A copy of  
86 ~~said~~ the petition shall be served upon the commissioner so  
87 removed simultaneously with its filing in the office of the  
88 clerk of the circuit court and shall have precedence on the  
89 docket of ~~said~~ the court and shall be heard by ~~said~~ the court  
90 as soon as practicable. ~~upon the request of the removed~~  
91 ~~commissioner or commissioners. All rights herein vested in~~  
92 ~~said circuit court may be exercised by the judge thereof in~~

93 ~~vacation. In the event that~~ If no term of the circuit court is  
94 being held at the time of the filing of ~~said~~ the petition, ~~and~~  
95 ~~the judge thereof cannot be reached in the county wherein~~  
96 ~~the petition was filed,~~ ~~said~~ the petition shall be heard at the  
97 next succeeding term of ~~said~~ the circuit court, ~~whether~~  
98 ~~regular or special,~~ and the commissioner ~~or commissioners~~  
99 so removed shall remain removed until a hearing is had  
100 upon the petition. ~~of the mayor.~~ The court ~~or the judge~~  
101 ~~thereof in vacation~~ shall hear and decide the issues presented  
102 by ~~said~~ the petition. The mayor or commissioner ~~or~~  
103 ~~commissioners, as the case may be,~~ against whom the  
104 decision ~~of the court or the judge thereof in vacation shall be~~  
105 is rendered, shall have the right to petition the Supreme  
106 Court of Appeals for a review of the decision of the circuit  
107 court. ~~or the judge thereof in vacation as in other civil cases.~~

108 ~~In the event that~~ If the mayor ~~shall fail~~ fails to file his or  
109 her petition in the office of the clerk of the circuit court, as  
110 ~~hereinbefore provided,~~ within ten days after the removal of  
111 ~~said~~ the commissioner, ~~or commissioners, such~~ the  
112 commissioner ~~or commissioners~~ shall immediately resume  
113 his or her ~~or their~~ position. ~~or positions as a member or~~  
114 ~~members of the firemen's civil service commission.~~

115 Any resident of the municipality ~~shall have the right at~~  
116 ~~any time to~~ may file charges against and seek the removal of  
117 ~~any member~~ a commissioner of the firemen's Civil Service  
118 ~~Commission~~ of such municipality. ~~Such~~ The charges shall  
119 be filed in the form of a petition in the office of the clerk of  
120 the circuit court of the county in which the municipality or  
121 the major portion of the territory thereof is located, and a  
122 copy of ~~said~~ the petition shall be served upon the  
123 commissioner ~~or commissioners~~ sought to be removed. ~~Said~~  
124 The petition shall be ~~matured for hearing and heard by said~~  
125 the circuit court ~~or the judge thereof in vacation~~ in the same  
126 manner as civil proceedings, ~~in the circuit courts of this state~~  
127 ~~are heard~~, and the party against whom the circuit court's  
128 decision is rendered ~~shall have the right to~~ may petition the  
129 Supreme Court of Appeals for a review of the action of the  
130 circuit court, as in other civil cases.

131 ~~No commissioner shall hold any other office (other than~~  
132 ~~the office of notary public) under the United States, this~~  
133 ~~state or any municipality, county or other political~~  
134 ~~subdivision thereof, nor shall any commissioner serve on~~  
135 ~~any political committee or take any active part in the~~  
136 ~~management of any political campaign.~~