

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2012



# ENROLLED

COMMITTEE SUBSTITUTE

FOR

**House Bill No. 4063**

(By Delegates Hamilton, Phillips,  
Crosier, D. Poling, D. Campbell, M. Poling,  
Iaquinta, Ireland, O'Neal, Lane and Ellem)



Passed March 9, 2012

To Take Effect From Passage

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COMMITTEE SUBSTITUTE

FOR

## H. B. 4063

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(BY DELEGATES HAMILTON, PHILLIPS,  
CROSIER, D. POLING, D. CAMPBELL, M. POLING,  
IAQUINTA, IRELAND, O'NEAL, LANE AND ELLEM)

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[Passed March 9, 2012; to take effect from passage.]

AN ACT to amend and reenact §7-14-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-14B-3 of said code; to amend and reenact §8-14-7 of said code; and to amend and reenact §8-15-12 of said code, all relating to certain county and municipal civil service commissions; continuing the commissions as previously established; composition of the commissions; removing requirement that a simple majority of members of commissions be of same political party; eligible qualifications for commissioners; appointment procedure for commissioners; terms of commissioners; grounds and procedures for removal from the commission; and procedures for replacement of vacancies.

*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 §7-14B-3 of said code 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 (a) There shall be a civil service commission for deputy  
2 sheriffs in each county, and each civil service commission for  
3 deputy sheriffs previously created is continued. The  
4 commissioners shall, unless sooner removed, continue to  
5 serve until their respective terms expire and their successors  
6 have been appointed and qualified.

7 (b) Each civil service commission for deputy sheriffs  
8 consists of the following three members:

9 (1) One commissioner appointed by the county bar  
10 association;

11 (2) One commissioner appointed by the county deputy  
12 sheriff's association; and

13 (3) One commissioner appointed by the county  
14 commission.

15 (c) The commissioners' terms are for four years and shall  
16 be staggered.

17 (d) In the event a commissioner ceases to be a member  
18 thereof by virtue of death, final removal, resignation or other  
19 cause, a new commissioner shall be appointed to fill the  
20 unexpired term within sixty days after said ex-commissioner  
21 ceased to be a member of the commission. All appointments

22 to the commission shall be made in a timely manner so as not  
23 to create a vacancy for longer than sixty days. If the county  
24 bar association or the county deputy sheriff's association fails  
25 to make an appointment within sixty days, then the county  
26 commission shall make the appointment.

27 (e) During their term of appointment, each commissioner  
28 must be a resident of this state and a qualified voter of the  
29 county where the civil service commission is located. At any  
30 one time, only two commissioners may be of the same  
31 political party.

32 (f) A person is not eligible for appointment or  
33 reappointment to the civil service commission if he or she:

34 (1) Has been convicted of a felony or any misdemeanor  
35 involving moral turpitude under the laws of any jurisdiction;

36 (2) Is a relative, as defined in section three, article one,  
37 chapter six-b, of:

38 (A) A county commissioner of the county from which the  
39 appointment is made; or

40 (B) The president, chairman or similarly situated executive  
41 official of the county deputy sheriff's association or the county  
42 bar association, from which the appointment is made;

43 (3) Holds any other office, other than the office of notary  
44 public, under the United States, this state, or any  
45 municipality, county or other political subdivision thereof;

46 (4) Serves on any political committee; or

47 (5) Takes an active part in the management of any  
48 political campaign.

49 (g) The commission shall annually elect one of its  
50 members as president who serves at the will and pleasure of  
51 the commission.

52 (h) The county commission shall remove a serving  
53 commissioner if:

54 (1) He or she is convicted of a felony or any  
55 misdemeanor involving moral turpitude under the laws of any  
56 jurisdiction;

57 (2) He or she is no longer a resident of this state; or

58 (3) He or she is no longer a qualified voter of the county  
59 in which the commission is located.

60 (i) The county commission may remove a serving  
61 commissioner for neglect of duty, incompetence, official  
62 misconduct or good cause. The reasons for removal of a  
63 commissioner shall be stated in writing and made a part of the  
64 records of the civil service commission.

65 (j) After the county commission has removed a  
66 commissioner, the county commission shall, within ten days,  
67 file a petition in the office of the clerk of the circuit court of  
68 the county where the civil service commission is located,  
69 stating:

70 (1) The reason for the removal; and

71 (2) A request for the circuit court to confirm the county  
72 commission's action.

73 (k) A copy of the petition shall be served upon the  
74 removed commissioner simultaneously with the filing of the  
75 petition in the office of the clerk of the circuit court. The

76 petition has precedence on the docket of the circuit court and  
77 shall be heard by the court as soon as practicable.

78 (l) The circuit court shall hear and decide the issues  
79 presented by the petition. The removed commissioner shall  
80 not serve in his or her capacity on the civil service  
81 commission until a hearing is had upon the petition, and the  
82 circuit court renders a decision in the matter. The county  
83 commission or the removed commissioner may appeal the  
84 decision of the circuit court to the Supreme Court of Appeals.

85 (m) If the county commission fails to file its petition in  
86 the office of the clerk of the circuit court within ten days after  
87 the removal of the commissioner, then the commissioner  
88 immediately resumes his or her position as a member of the  
89 civil service commission.

90 (n) A resident of the county may file charges against and  
91 seek the removal of any commissioner. The charges shall be  
92 filed in the form of a petition in the office of the clerk of the  
93 circuit court of the county. A copy of the petition shall be  
94 served upon the commissioner sought to be removed. The  
95 petition shall be heard as a civil action by the circuit court of  
96 the county for which the commissioner serves. The party  
97 against whom the decision of the circuit court is rendered  
98 may appeal the decision to the Supreme Court of Appeals.

## **ARTICLE 14B. CIVIL SERVICE FOR CORRECTIONAL OFFICERS.**

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

1 (a) There shall be a civil service commission for  
2 correctional officers in each county with a population of at  
3 least twenty-five thousand, and each civil service commission  
4 for correctional officers previously created is continued. The

5 commissioners shall, unless sooner removed, continue to  
6 serve until their respective terms expire and their successors  
7 have been appointed and qualified.

8 (b) Each county civil service commission for correctional  
9 officers consists of the following five members:

10 (1) Two commissioners appointed by the county bar  
11 association;

12 (2) One commissioner appointed by the county  
13 correctional officers' association; and

14 (3) Two commissioners appointed by the county  
15 commission.

16 (c) The commissioners' terms are for six years and shall  
17 be staggered.

18 (d) In the event a commissioner ceases to be a member  
19 thereof by virtue of death, final removal, resignation or other  
20 cause, a new commissioner shall be appointed to fill the  
21 unexpired term within sixty days after said ex-commissioner  
22 ceased to be a member of the commission. All appointments  
23 to the commission shall be made in a timely manner so as not  
24 to create a vacancy for longer than sixty days. If the county  
25 bar association or the county correctional officers'  
26 association fails to make an appointment within sixty days,  
27 then the county commission shall make the appointment.

28 (e) During their term of appointment, each commissioner  
29 must be a resident of this state and a qualified voter of the  
30 county where the civil service commission is located. At any  
31 one time, only three commissioners may be of the same  
32 political party.

33 (f) A person is not eligible for appointment or  
34 reappointment to the civil service commission if he or she:

35 (1) Has been convicted of a felony or any misdemeanor  
36 involving moral turpitude under the laws of any jurisdiction;

37 (2) Is a relative, as defined in section three, article one,  
38 chapter six-b, of:

39 (A) A county commissioner of the county from which the  
40 appointment is made; or

41 (B) The president, chairman or similarly situated  
42 executive official of the county correctional officers'  
43 association or the county bar association, from which the  
44 appointment is made;

45 (3) Holds any other office, other than the office of notary  
46 public, under the United States, this state, or any  
47 municipality, county or other political subdivision thereof;

48 (4) Serves on any political committee; or

49 (5) Takes an active part in the management of any  
50 political campaign.

51 (g) The civil service commission shall annually elect one  
52 of its members as president who serves at the will and  
53 pleasure of the commission.

54 (h) The county commission shall remove a serving  
55 commissioner if:

56 (1) He or she is convicted of a felony or any  
57 misdemeanor involving moral turpitude under the laws of any  
58 jurisdiction;



59 (2) He or she is no longer a resident of this state; or

60 (3) He or she is no longer a qualified voter of the county  
61 in which the commission is located.

62 (i) The county commission may remove a serving  
63 commissioner for neglect of duty, incompetence, official  
64 misconduct or good cause. The reasons for removal of a  
65 commissioner shall be stated in writing and made a part of the  
66 records of the civil service commission.

67 (j) After the county commission has removed a  
68 commissioner, the county commission shall, within ten days,  
69 file a petition in the office of the clerk of the circuit court of  
70 the county where the civil service commission is located,  
71 stating:

72 (1) The reason for the removal; and

73 (2) A request for the circuit court to confirm the county  
74 commission's action.

75 (k) A copy of the petition shall be served upon the  
76 removed commissioner simultaneously with the filing of the  
77 petition in the office of the clerk of the circuit court. The  
78 petition has precedence on the docket of the circuit court and  
79 shall be heard by the court as soon as practicable.

80 (l) The circuit court shall hear and decide the issues  
81 presented by the petition, and the circuit court renders a  
82 decision in the matter. The removed commissioner shall not  
83 serve in his or her capacity on the civil service commission  
84 until a hearing is had upon the petition. The county  
85 commission or the removed commissioner may appeal the  
86 decision of the circuit court to the Supreme Court of Appeals.

87 (m) If the county commission fails to file its petition in  
88 the office of the clerk of the circuit court within ten days after  
89 the removal of the commissioner, then the commissioner  
90 immediately resumes his or her position as a member of the  
91 civil service commission.

92 (n) A resident of the county may file charges against and  
93 seek the removal of any commissioner. The charges shall be  
94 filed in the form of a petition in the office of the clerk of the  
95 circuit court of the county. A copy of the petition shall be  
96 served upon the commissioner sought to be removed. The  
97 petition shall be heard as a civil action by the circuit court of  
98 the county for which the commissioner serves. The party  
99 against whom the decision of the circuit court is rendered  
100 may appeal the decision to the Supreme Court of Appeals.

## **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 (a) There shall be a policemen's civil service commission  
2 in each Class I and Class II municipality having a paid police  
3 department and each policemen's civil service commission  
4 previously created is continued. The commissioners shall,  
5 unless sooner removed, continue to serve until their

6 respective terms expire and their successors have been  
7 appointed and qualified.

8 (b) Each policeman's civil service commission consists  
9 of the following three members:

10 (1) One commissioner appointed by the mayor of the  
11 municipality;

12 (2) One commissioner appointed by the local fraternal  
13 order of police; and

14 (3) One commissioner appointed by the local chamber of  
15 commerce, if there is one, or a local businessmen's association.

16 (c) The commissioners' terms are for four years and shall  
17 be staggered.

18 (d) In the event a commissioner ceases to be a member  
19 thereof by virtue of death, final removal, resignation or other  
20 cause, a new commissioner shall be appointed to fill the  
21 unexpired term within sixty days after said ex-commissioner  
22 ceased to be a member of the commission. All appointments  
23 to the commission shall be made in a timely manner so as not  
24 to create a vacancy for longer than sixty days. If there is no  
25 local chamber of commerce or local businessmen's  
26 association, or the local chamber of commerce or local  
27 businessmen's association fails to make an appointment  
28 within sixty days, then the other two commissioners shall  
29 make the appointment by mutual agreement.

30 (e) During their term of appointment, each commissioner  
31 must be a resident of this state and a qualified voter of the  
32 municipality where the civil service commission is located.  
33 At any one time, only two commissioners may be of the same  
34 political party.

35 (f) A person is not eligible for appointment or  
36 reappointment to the civil service commission if he or she:

37 (1) Has been convicted of a felony or any misdemeanor  
38 involving moral turpitude under the laws of any jurisdiction;

39 (2) Is a relative, as defined in section three, article one,  
40 chapter six-b, of:

41 (A) The mayor of the municipality from which the  
42 appointment is made; or

43 (B) The president, chairman or similarly situated  
44 executive official of the local fraternal order of police, the  
45 local chamber of commerce or local businessmen's  
46 association, from which the appointment is made;

47 (3) Holds any other office, other than the office of notary  
48 public, under the United States, this state, or any  
49 municipality, county or other political subdivision thereof;

50 (4) Serves on any political committee; or

51 (5) Takes an active part in the management of any  
52 political campaign.

53 (g) The commission shall annually elect one of its  
54 members as president who serves at the will and pleasure of  
55 the commission.

56 (h) The mayor of the municipality shall remove a serving  
57 commissioner if:

58 (1) He or she is convicted of a felony or any  
59 misdemeanor involving moral turpitude under the laws of any  
60 jurisdiction;

61 (2) He or she is no longer resident of this state; or

62 (3) He or she is no longer a qualified voter of the city in  
63 which the commission is located.

64 (i) The mayor of the municipality may remove a serving  
65 commissioner for neglect of duty, incompetence, official  
66 misconduct or good cause. The reasons for removal of a  
67 commissioner shall be stated in writing and made a part of the  
68 records of the civil service commission.

69 (j) After the mayor has removed a commissioner, the  
70 mayor shall, within ten days, file a petition in the office of the  
71 clerk of the circuit court of the county in which the  
72 municipality or a major portion of the municipality where the  
73 civil service commission is located, stating:

74 (1) The reason for the removal; and

75 (2) A request for the circuit court to confirm the mayor's  
76 action.

77 (k) A copy of the petition shall be served upon the  
78 removed commissioner simultaneously with the filing of the  
79 petition in the office of the clerk of the circuit court. The  
80 petition has precedence on the docket of the circuit court and  
81 shall be heard by the court as soon as practicable.

82 (l) The circuit court shall hear and decide the issues  
83 presented by the petition. The removed commissioner shall  
84 not serve in his or her capacity on the civil service  
85 commission until a hearing is had upon the petition, and the  
86 circuit court renders a decision in the matter. The mayor or  
87 the removed commissioner may appeal the decision of the  
88 circuit court to the Supreme Court of Appeals.

89 (m) If the mayor fails to file his or her petition in the  
90 office of the clerk of the circuit court within ten days after the  
91 removal of the commissioner, then the commissioner  
92 immediately resumes his or her position as a member of the  
93 civil service commission.

94 (n) A resident of the municipality may file charges  
95 against and seek the removal of any commissioner. The  
96 charges shall be filed in the form of a petition in the office of  
97 the clerk of the circuit court of the county in which the  
98 municipality or a major portion of the municipality is located.  
99 A copy of the petition shall be served upon the commissioner  
100 sought to be removed. The petition shall be heard as a civil  
101 action by the circuit court of the county for which the  
102 commissioner serves. The party against whom the decision  
103 of the circuit court is rendered may appeal the decision to the  
104 Supreme Court of Appeals.

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

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

1 (a) There shall be a firemen's civil service commission in  
2 each municipality having a paid fire department, and each  
3 firemen's civil service commission previously created is  
4 continued. The commissioners shall, unless sooner removed,  
5 continue to serve until their respective terms expire and their  
6 successors have been appointed and qualified.

7 (b) Each firemen's civil service commission consists of  
8 the following three members:

9 (1) One commissioner appointed by the mayor of the  
10 municipality;

11 (2) One commissioner appointed by the local  
12 international association of firefighters, if there is one, or by  
13 the local central body of the West Virginia Federation of  
14 Labor AFL-CIO, if there is one, or by the West Virginia  
15 Federation of Labor AFL-CIO; and

16 (3) One commissioner appointed by the local chamber of  
17 commerce, if there is one, or a local businessmen's  
18 association.

19 (c) The commissioners' terms are for four years and shall  
20 be staggered.

21 (d) In the event a commissioner ceases to be a member  
22 thereof by virtue of death, final removal, resignation or other  
23 cause, a new commissioner shall be appointed to fill the  
24 unexpired term within sixty days after said ex-commissioner  
25 ceased to be a member of the commission. All appointments  
26 to the commission shall be made in a timely manner so as not  
27 to create a vacancy for longer than sixty days. If there is no  
28 local chamber of commerce or local businessmen's  
29 association, or the local chamber of commerce or local  
30 businessmen's association fails to make an appointment  
31 within sixty days, then the other two commissioners shall  
32 make the appointment by mutual agreement.

33 (e) During their term of appointment, each commissioner  
34 must be a resident of this state and a qualified voter of the  
35 municipality where the civil service commission is located.  
36 At any one time, only two commissioners may be of the same  
37 political party.

38 (f) A person is not eligible for appointment or  
39 reappointment to the civil service commission if he or she:

40 (1) Has been convicted of a felony or any misdemeanor  
41 involving moral turpitude under the laws of any jurisdiction;

42 (2) Is a relative, as defined in section three, article one,  
43 chapter six-b, of:

44 (A) The mayor of the municipality from which the  
45 appointment is made; or

46 (B) The president, chairman or similarly situated  
47 executive official of the local chamber of commerce or local  
48 businessmen's association, the local international association  
49 of firefighters, the local central body of the West Virginia  
50 Federation of Labor AFL-CIO, or the West Virginia  
51 Federation of Labor AFL-CIO, from which the appointment  
52 is made;

53 (3) Holds any other office, other than the office of notary  
54 public, under the United States, this state, or any  
55 municipality, county or other political subdivision thereof;

56 (4) Serves on any political committee; or

57 (5) Takes an active part in the management of any  
58 political campaign.

59 (g) The commission shall annually elect one of its  
60 members as president who serves at the will and pleasure of  
61 the commission.

62 (h) The mayor of the municipality shall remove a serving  
63 commissioner if:

64 (1) He or she is convicted of a felony or any  
65 misdemeanor involving moral turpitude under the laws of any  
66 jurisdiction;



67 (2) He or she is no longer resident of this state; or

68 (3) He or she is no longer a qualified voter of the  
69 municipality in which the commission is located.

70 (i) The mayor of the municipality may remove a serving  
71 commissioner for neglect of duty, incompetence, official  
72 misconduct or good cause. The reasons for removal of a  
73 commissioner shall be stated in writing and made a part of the  
74 records of the civil service commission.

75 (j) After the mayor has removed a commissioner, the  
76 mayor shall, within ten days, file a petition in the office of the  
77 clerk of the circuit court of the county in which the  
78 municipality or a major portion of the municipality where the  
79 civil service commission is located, stating:

80 (1) The reason for the removal; and

81 (2) A request for the circuit court to confirm the mayor's  
82 action.

83 (k) A copy of the petition shall be served upon the  
84 removed commissioner simultaneously with the filing of the  
85 petition in the office of the clerk of the circuit court. The  
86 petition has precedence on the docket of the circuit court and  
87 shall be heard by the court as soon as practicable.

88 (l) The circuit court shall hear and decide the issues  
89 presented by the petition. The removed commissioner shall  
90 not serve in his or her capacity on the civil service  
91 commission until a hearing is had upon the petition, and the  
92 circuit court renders a decision in the matter. The mayor or  
93 the removed commissioner may appeal the decision of the  
94 circuit court to the Supreme Court of Appeals.

95 (m) If the mayor fails to file his or her petition in the  
96 office of the clerk of the circuit court within ten days after the  
97 removal of the commissioner, then the commissioner  
98 immediately resumes his or her position as a member of the  
99 civil service commission.

100 (n) A resident of the municipality may file charges  
101 against and seek the removal of any commissioner. The  
102 charges shall be filed in the form of a petition in the office of  
103 the clerk of the circuit court of the county in which the  
104 municipality or a major portion of the municipality is located.  
105 A copy of the petition shall be served upon the commissioner  
106 sought to be removed. The petition shall be heard as a civil  
107 action by the circuit court of the county for which the  
108 commissioner serves. The party against whom the decision  
109 of the circuit court is rendered may appeal the decision to the  
110 Supreme Court of Appeals.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

To take effect from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

The within \_\_\_\_\_ this the \_\_\_\_\_  
day of \_\_\_\_\_, 2012.

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*Governor*