

COMMITTEE SUBSTITUTE

FOR

H. B. 4063

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

(Originating in the Committee on the Judiciary)
[February 1, 2012]

A BILL 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; 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 such civil service
3 commission for deputy sheriffs 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 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 commission.

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

16 (d) In the event a commissioner of the civil service
17 commission for deputy sheriffs 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 any active part in the management of any
48 political campaign.

49 (g) The civil service commission shall annually elect one
50 of its members as president who serves at the will and
51 pleasure of 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 misdemeanor
55 involving moral turpitude under the laws of any jurisdiction;

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

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

59 (i) The county commission may remove a serving
60 commissioner for neglect of duty, incompetence, official
61 misconduct or good cause.

62 The reasons for removal of a commissioner shall be
63 stated in writing and made a part of the records of the civil
64 service commission.

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

69 (1) The reason for the removal; and

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

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

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

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

89 (n) A resident of the county may file charges against and
90 seek the removal of any commissioner. The charges shall be
91 filed in the form of a petition in the office of the clerk of the
92 circuit court of the county. A copy of the petition shall be
93 served upon the commissioner sought to be removed. The
94 petition shall be heard as a civil action by the circuit court of
95 the county for which the commissioner serves. The party
96 against whom the decision of the circuit court is rendered
97 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 such 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 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 of the civil service
19 commission for correctional officers ceases to be a member
20 thereof by virtue of death, final removal, resignation or other
21 cause a new commissioner shall be appointed to fill the

22 unexpired term within sixty days after said ex-commissioner
23 ceased to be a member of the commission. All appointments
24 to the commission shall be made in a timely manner so as not
25 to create a vacancy for longer than sixty days. If the county
26 bar association or the county correctional officers'
27 association fails to make an appointment within sixty days,
28 then the county commission shall make the appointment.

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

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

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

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

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

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

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

49 (4) Serves on any political committee; or

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

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

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

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

65 The reasons for removal of a commissioner shall be
66 stated in writing and made a part of the records of the civil
67 service commission.

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

73 (1) The reason for the removal; and

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

76 (k) A copy of the petition shall be served upon the
77 removed commissioner simultaneously with the filing of the

78 petition in the office of the clerk of the circuit court. The
79 petition has precedence on the docket of the circuit court and
80 shall be heard by the court as soon as practicable.

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

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

93 (n) A resident of the county may file charges against and
94 seek the removal of any commissioner. The charges shall be
95 filed in the form of a petition in the office of the clerk of the
96 circuit court of the county. A copy of the petition shall be

97 served upon the commissioner sought to be removed. The
98 petition shall be heard as a civil action by the circuit court of
99 the county for which the commissioner serves. The party
100 against whom the decision of the circuit court is rendered
101 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. Each such 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 policeman's civil service commission consists
8 of the following three members:

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

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

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

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

18 (d) All appointments to the commission shall be made in
19 a timely manner so as not to create a vacancy for longer than
20 sixty days. If there is no local chamber of commerce or local
21 businessmen's association, or the local chamber of commerce
22 or local businessmen's association fails to make an
23 appointment within sixty days, then the other two
24 commissioners shall make the appointment by mutual
25 agreement.

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

31 (f) A person is not eligible for appointment or
32 reappointment to the policeman's civil service commission if
33 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) The mayor of the municipality from which the
39 appointment is made; or

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

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

47 (4) Serves on any political committee; or

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

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

53 (h) The mayor of the municipality shall remove a serving
54 commissioner if:

55 (1) He or she is convicted of a felony or any misdemeanor
56 involving moral turpitude under the laws of any 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 city in
59 which the commission is located.

60 (i) The mayor of the municipality may remove a serving
61 commissioner for neglect of duty, incompetence, official
62 misconduct or good cause.

63 The reasons for removal of a commissioner shall be
64 stated in writing and made a part of the records of the
65 policeman's civil service commission.

66 (j) After the mayor has removed a commissioner, the
67 mayor shall, within ten days, file a petition in the office of the
68 clerk of the circuit court of the county in which the
69 municipality or a major portion of the municipality is located,
70 stating:

71 (1) The reason for the removal; and

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

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

79 (l) The circuit court shall hear and decide the issues
80 presented by the petition. The removed commissioner shall
81 not serve in his or her capacity on the policeman's civil

82 service commission until a hearing is had upon the petition,
83 and the circuit court renders a decision in the matter. The
84 mayor or the removed commissioner may appeal the decision
85 of the circuit court to the Supreme Court of Appeals.

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

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

100 of the circuit court is rendered may appeal the decision to the
101 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. Each such
3 commission 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 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) All appointments to the commission shall be made in
22 a timely manner so as not to create a vacancy for longer than
23 sixty days. If there is no local chamber of commerce or local
24 businessmen's association, or the local chamber of commerce
25 or local businessmen's association fails to make an
26 appointment within sixty days, then the other two
27 commissioners shall make the appointment by mutual
28 agreement.

29 (e) During their term of appointment, each commissioner
30 must be a resident of this state and a qualified voter of the
31 municipality where the firemen's civil service commission is

32 located. At any one time, only two commissioners may be of
33 the same political party.

34 (f) A person is not eligible for appointment or
35 reappointment to the firemen's civil service commission if he
36 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 chamber of commerce or local
45 businessmen's association, the local international association
46 of firefighters, the local central body of the West Virginia
47 Federation of Labor AFL-CIO, or the West Virginia
48 Federation of Labor AFL-CIO, from which the appointment
49 is made;

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

53 (4) Serves on any political committee; or

54 (5) Takes an active part in the management of any
55 political campaign.

56 (g) The commission shall annually elect one of its
57 members as president who serves at the will and pleasure of
58 the commission.

59 (h) The mayor of the municipality shall remove a serving
60 commissioner if:

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

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

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

66 (i) The mayor of the municipality may remove a serving
67 commissioner for neglect of duty, incompetence, official
68 misconduct or good cause.

69 The reasons for removal of a commissioner shall be
70 stated in writing and made a part of the records of the
71 firemen's civil service commission.

72 (j) After the mayor has removed a commissioner, the mayor
73 shall, within ten days, file a petition in the office of the clerk of
74 the circuit court of the county in which the municipality or a
75 major portion of the municipality is located, stating:

76 (1) The reason for the removal; and

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

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

84 (l) The circuit court shall hear and decide the issues
85 presented by the petition. The removed commissioner shall
86 not serve in his or her capacity on the firemen's civil service
87 commission until a hearing is had upon the petition, and the

88 circuit court renders a decision in the matter. The mayor or
89 the removed commissioner may appeal the decision of the
90 circuit court to the Supreme Court of Appeals.

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

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