

H. B. 2888

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(By Delegates Miley, Fragale, Manchin,
Fleischauer, Longstreth and Caputo)
[Introduced March 11, 2013; referred to the
Committee on Government Organization then the Judiciary.]

10 A BILL to amend and reenact §8-14-7 of the Code of West Virginia,
11 1931, as amended, relating to policemen's civil service
12 commissions; authorizing commissioners to serve on other
13 boards and commissions.

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

15 That §8-14-7 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

17 **ARTICLE 14. LAW AND ORDER; POLICE FORCE OR DEPARTMENTS; POWERS,
18 AUTHORITY AND DUTIES OF LAW-ENFORCEMENT OFFICIALS
19 AND POLICEMEN; POLICE MATRONS; SPECIAL SCHOOL ZONE
20 AND PARKING LOT OR PARKING BUILDING POLICE
21 OFFICERS; CIVIL SERVICE FOR CERTAIN POLICE
22 DEPARTMENTS.**

23 **§8-14-7. Policemen's civil service commission generally.**

24 In every Class I and Class II city having a paid police
25 department, there shall be a "Policemen's Civil Service
26 Commission." The commission shall consist of three commissioners,
27 one of whom shall be appointed by the mayor of the city; one of

1 whom shall be appointed by the local fraternal order of police; and
2 the third shall be appointed by the local chamber of commerce, or
3 if there ~~be~~ is none, by a local businessmen's association. The
4 individuals appointed commissioners shall be qualified voters of
5 the city for which they are appointed; and at least two of ~~said~~ the
6 commissioners shall be individuals in full sympathy with the
7 purposes of the civil service provisions of this article. Not more
8 than two of the ~~said~~ commissioners, at any one time, ~~shall~~ may be
9 adherents of the same political party. Of the three original
10 appointments in each city, the first commissioner shall be
11 appointed by the mayor and ~~shall~~ serve for six years from the date
12 of his or her appointment; the second commissioner shall be
13 appointed by the local fraternal order of police and ~~shall~~ serve
14 for four years from the date of his or her appointment; and the
15 third commissioner shall be appointed by the local chamber of
16 commerce or local businessmen's association and ~~shall~~ serve for two
17 years from the date of his or her appointment. In the event there
18 is no local chamber of commerce or local businessmen's association
19 at the time any appointment is to be made by it, ~~such~~ the
20 appointment shall be made by the other two commissioners by mutual
21 agreement. After the original appointments, all appointments shall
22 be made for periods of four years each by the appointing authority
23 hereinbefore designated. In the event that any commissioner of
24 ~~said~~ the civil service commission ~~shall cease~~ ceases to be a member
25 ~~thereof~~ of the commission by virtue of death, final removal or
26 other cause, a new commissioner shall be appointed to fill the

1 unexpired term of ~~said the~~ commissioner within ten days after ~~said~~
2 ~~the~~ excommissioner ~~shall have~~ has ceased to be a member of ~~said the~~
3 commission. ~~Such~~ The appointment shall be made by the officer or
4 body who in the first instance appointed the commissioner who is no
5 longer a member of the commission, except that in the case of a
6 vacancy in an appointment made by the Governor, which vacancy
7 occurs after the effective date of this article, the appointment
8 for the unexpired term shall be made by the mayor. Each year the
9 three members of the commission shall, together, elect one of their
10 number to act as president of the commission, who ~~shall serve~~
11 serves as president for one year. The mayor may, at any time,
12 remove any commissioner or commissioners for good cause, which
13 shall be stated in writing and made a part of the records of the
14 commission: *Provided,* That once the mayor has removed any
15 commissioner, the mayor shall within ten days thereafter file in
16 the office of the clerk of the circuit court of the county in which
17 the city or the major portion of the territory thereof is located
18 a petition setting forth in full the reason for ~~said the~~ removal
19 and praying for the confirmation by ~~said the~~ circuit court of the
20 action of the mayor in so removing the ~~said~~ commissioner. A copy
21 of ~~said the~~ petition shall be served upon the commissioner ~~so~~
22 removed simultaneously with its filing in the office of the clerk
23 of the circuit court and ~~shall have~~ has precedence on the docket of
24 ~~said the~~ court and shall be heard by ~~said the~~ court as soon as
25 practicable upon the request of the removed commissioner or
26 commissioners. All rights ~~herein~~ vested in ~~said the~~ circuit court

1 by this section may be exercised by the judge ~~thereof~~ in vacation.
2 In the event that no term of the circuit court is being held at the
3 time of the filing of ~~said the~~ petition, and the judge ~~thereof~~
4 cannot be reached in the county ~~wherein~~ in which the petition was
5 filed, ~~said the~~ petition shall be heard at the next succeeding term
6 of ~~said the~~ circuit court, whether regular or special, and the
7 commissioner or commissioners ~~so removed shall remain~~ remains
8 removed until a hearing is had upon the ~~said the~~ petition of the
9 mayor. The court or the judge ~~thereof~~ in vacation shall hear and
10 decide the issues presented by ~~said the~~ petition. The mayor or
11 commissioner or commissioners, as the case may be, against whom the
12 decision of the court or the judge ~~thereof~~ in vacation ~~shall be~~ is
13 rendered, ~~shall have~~ has the right to petition the Supreme Court of
14 Appeals for a review of the decision of the circuit court or the
15 judge ~~thereof~~ in vacation as in other civil cases. ~~In the event~~
16 ~~that~~ If the mayor ~~shall fail~~ fails to file ~~his~~ a petition in the
17 office of the clerk of the circuit court ~~as hereinbefore provided~~
18 within ten days after the removal of ~~said the~~ commissioner or
19 commissioners, ~~such the~~ commissioner or commissioners shall
20 immediately resume his or her or their position or positions as a
21 member or members of the policemen's civil service commission.

22 Any resident of the city ~~shall have~~ has the right at any time
23 to file charges against and seek the removal of any member of the
24 policemen's civil service commission of ~~such the~~ city. ~~Such~~ The
25 charges shall be filed in the form of a petition in the office of
26 the clerk of the circuit court of the county in which the city or

1 the major portion of the territory ~~thereof~~ of the city is located,
2 and a copy of ~~said~~ the petition shall be served upon the
3 commissioner or commissioners sought to be removed. ~~Said~~ The
4 petition shall be matured for hearing and heard by ~~said~~ the circuit
5 court or the judge ~~thereof~~ in vacation in the same manner as civil
6 proceedings in the circuit courts of this state are heard, and the
7 party against whom the circuit court's decision is rendered ~~shall~~
8 ~~have~~ has the right to petition the Supreme Court of Appeals for a
9 review of the action of the circuit court, as in other civil cases.

10 ~~No commissioner shall hold any other office (other than the~~
11 ~~office of notary public) under the United States, this state, or~~
12 ~~any municipality, county or other political subdivision thereof;~~
13 ~~nor shall any commissioner serve on any political committee or take~~
14 ~~any active part in the management of any political campaign.~~

15 A commissioner may not hold another office under the United
16 States, this state, or any municipality, county or other political
17 subdivision thereof, nor may a commissioner serve on a political
18 committee or take an active part in the management of a political
19 campaign, except that a commissioner may serve as a notary public
20 or on another local, regional or state board or commission in a
21 part-time capacity.

NOTE: The purpose of this bill is to allow members of a policemen's civil service commission to serve on other local boards and commissions outside of the policemen's civil service commission.

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