



1 by adding thereto a new article, designated §8-15B-1, §8-15B-2,  
2 §8-15B-3, §8-15B-4 and §8-15B-5, all to read as follows:

3 **ARTICLE 15B. MEETING AND CONFERENCE RIGHTS FOR MEMBERS OF POLICE**  
4 **OR FIRE DEPARTMENTS.**

5 **§8-15B-1. Definitions.**

6 As used in this article:

7 (a) "Commission" means the policemen's or firemen's Civil  
8 Service Commission provided in article fourteen or fifteen of this  
9 chapter.

10 (b) "Employee organization" means any association,  
11 organization, federation or council composed of police officers or  
12 firefighters having as one of its purposes the representation of  
13 its members in negotiations with a political subdivision.

14 (c) "Firefighter" means any person, other than a fire chief,  
15 employed as a fireman on a full-time basis by a political  
16 subdivision if the person is covered by the civil service  
17 provisions of article fifteen of this chapter.

18 (d) "Policeman" means any person, other than a police chief,  
19 employed as a police officer on a full-time basis by a political  
20 subdivision if the person is covered by the civil service  
21 provisions of article fourteen of this chapter.

22 (e) "Political subdivision" means, and is limited to, any  
23 municipality within the state.

24 (f) "Strike" means the failure to report for duty as a result

1 of concerted action with an employee organization, the willful  
2 absence from one's position, the stoppage of work or the  
3 abstinence, in whole or in part, from the full, faithful and proper  
4 performance of the duties of employment or any manner of  
5 interference with the operation of any police or fire department of  
6 a political subdivision for the purpose of inducing, influencing or  
7 coercing a change in the conditions or compensation or the rights,  
8 privileges or obligations of employment.

9 **§8-15B-2. Right to self-organization and exclusive representation;**  
10 **dues.**

11 (a) Firefighters and policemen have, and are protected in the  
12 exercise of, the right of self-organization to form and join any  
13 employee organization, to meet and confer with their employers  
14 through representatives of their own choosing on questions of  
15 wages, hours and other conditions of employment, except to strike,  
16 for the purpose of contracting for rights, free from actual  
17 interference, restraint or coercion: *Provided*, That an employee  
18 organization duly designated to represent the firefighters or  
19 policemen employed by a political subdivision shall be the  
20 exclusive contracting agent for all firefighters or policemen so  
21 employed. The organization shall act, negotiate agreements and  
22 contract for rights for all firefighters or policemen and is  
23 responsible for representing the interests of all firefighters or  
24 policemen.

1           (b) An employee organization claiming to represent a majority  
2 of the firefighters or policemen of a political subdivision shall  
3 be recognized as the exclusive contracting agent by the political  
4 subdivision upon the presentation of a petition or other document  
5 in which a majority of the firefighters or policemen employed by  
6 the political subdivision designates the employee organization as  
7 their exclusive contracting agent. In the event that a political  
8 subdivision has a good faith doubt as to the majority status of the  
9 employee organization it shall, within thirty days of the receipt  
10 of the petition or document, request its Civil Service Commission  
11 to conduct a secret ballot election within thirty days of the  
12 receipt of the request. The commission shall certify the results  
13 of the election within three days after the election. Following  
14 recognition or certification and, upon the written authorization of  
15 any firefighter or policeman, the political subdivision shall  
16 deduct from the payroll of the firefighter or policeman the monthly  
17 amount of dues or assessments of the employee organization as  
18 certified by the secretary of the employee organization and shall  
19 deliver the same to the employee organization's treasurer no later  
20 than the last day of the month following the deduction.

21 **§8-15B-3. Board of Arbitration; duty to meet and confer with**  
22 **employees and arbitrate; procedures.**

23           (a) The political subdivision and the employee organization  
24 recognized or certified as the exclusive contracting agent shall

1 contract for all employees' rights. Representatives of the  
2 political subdivision and the employee organization shall meet at  
3 reasonable times, including meetings appropriately related to the  
4 budget making process, and shall confer in good faith with respect  
5 to wages, hours and other conditions of employment, or the  
6 negotiation of an agreement or any questions arising thereunder,  
7 and shall execute a written contract incorporating any agreement  
8 reached, and neither party may be compelled to agree to a proposal  
9 or make a concession.

10 (b) If, after a reasonable period of negotiations concerning  
11 wages, hours and other conditions of employment, a dispute exists  
12 between the political subdivision and the employee organization, or  
13 if no agreement has been reached on wages, hours and other  
14 conditions of employment sixty days prior to the final date for the  
15 setting of the budget of the political subdivision, either party or  
16 the parties jointly may request arbitration of the issue or issues  
17 in dispute by a board of arbitration. The Board of Arbitration  
18 shall be composed of three persons, one appointed by the political  
19 subdivision, one appointed by the employee organization and a third  
20 member to be agreed upon by the parties. The members of the board  
21 representing the political subdivision and the employee  
22 organization shall be named within five days from the date of the  
23 request for the appointment of the board. If, after a period of  
24 five days from the date of the appointment of the two arbitrators

1 appointed by the political subdivision and the employee  
2 organization, the third arbitrator has not been mutually agreed  
3 upon, then either arbitrator may request the federal mediation and  
4 conciliation service to furnish a list of five members from its  
5 list of arbitrators. Within five days after the receipt of the  
6 list, the representative of the political subdivision and the  
7 employee organization shall each strike two names from the list.  
8 The individual whose name remains on the list is the third  
9 arbitrator. The third arbitrator is the chairman of the Board of  
10 Arbitration.

11 (c) The chairman of the Board of Arbitration shall establish  
12 reasonable dates and places of hearing. Any hearings involved  
13 shall be conducted in accordance with the rules established for  
14 arbitration by the American Arbitration Association. The rules of  
15 evidence promulgated by the Supreme Court of Appeals do not apply.  
16 The chairman may issue subpoenas and administer oaths. Upon  
17 completion of the hearings and within fifteen days, the Board of  
18 Arbitration shall make findings of fact and render a decision. The  
19 decision is final and binding upon both parties, except as provided  
20 in subsection (d) of this section. The compensation, if any, for  
21 the appointed arbitrator will be paid by the political subdivision.  
22 The compensation and expenses of the third arbitrator, as well as  
23 all stenographic and other expenses incurred by the arbitration  
24 board in connection with arbitration proceedings, shall be paid

1 equally by the parties.

2 (d) Prior to invoking the arbitration procedure provided in  
3 this article, the political subdivision and the employee  
4 organization shall submit to each other a final settlement offer on  
5 all unresolved issues. The arbitration panel is limited, after  
6 hearing, to resolving the dispute by adopting, on an issue by issue  
7 basis, the final offer of either the political subdivision or the  
8 employee organization. In making its decision, the panel shall  
9 consider the following:

10 (1) Prior agreements, if any, between the political  
11 subdivision and the employee organization;

12 (2) Comparison of the issues submitted to final offer  
13 settlement relative to the employees in the contracting unit  
14 involved with those issues related to other public and private  
15 employees doing comparable work, giving consideration to factors  
16 peculiar to the area and classification involved;

17 (3) The interests and welfare of the public, the ability of  
18 the public employer to finance and administer the issues proposed  
19 and the effect of the adjustments on the normal standard of public  
20 service;

21 (4) The lawful authority of the public employer;

22 (5) Any stipulations of the political subdivision and the  
23 employee organization; and

24 (6) Any other factors, not confined to those listed in this

1 section, which are normally or traditionally taken into  
2 consideration in the determination of issues submitted to final  
3 offer settlement through voluntary conference, mediation,  
4 fact-finding or other impasse resolution procedures in public  
5 service or in private employment.

6 (e) Any arbitration decision as well as any written agreement  
7 between a political subdivision and an employee organization  
8 determining the terms and conditions of employment of firefighters  
9 and policemen shall contain the following notice: "It is agreed by  
10 the parties that any provision contained herein requiring  
11 legislative action to permit its implementation by amendment of law  
12 or by providing the additional funds therefor, will not become  
13 effective until the appropriate legislative body has given  
14 approval."

15 **§8-15B-4. Prohibited acts; hearings.**

16 (a) Political subdivisions are prohibited from:

17 (1) Interfering with, restraining or coercing firefighters or  
18 policemen in the exercise of their rights guaranteed by this  
19 article;

20 (2) Dominating or interfering with the formation or  
21 administration of any employee organization;

22 (3) Discharging or otherwise discriminating against a  
23 firefighter or policeman because he or she has signed or filed any  
24 petition, affidavit or complaint or given information or testimony



1 pursuant to this article;

2 (4) Refusing to meet and confer in good faith with any  
3 employee organization which has been recognized or certified as the  
4 exclusive contracting agent of the firefighters or policemen;

5 (5) Refusing to discuss grievances with the agent of the  
6 policemen or firefighters; or

7 (6) Refusing to abide by a valid arbitration decision.

8 (b) Employee organizations are prohibited from:

9 (1) Restraining or coercing a firefighter or policeman in the  
10 exercise of his or her rights guaranteed under this article;

11 (2) Causing or attempting to cause a political subdivision to  
12 discriminate against a firefighter or policeman in violation of  
13 subsection (a) of this section;

14 (3) Refusing to meet and confer in good faith with a political  
15 subdivision;

16 (4) Striking against or withholding their members' services  
17 from a political subdivision: *Provided*, That firefighters or  
18 policemen who are absent from work without permission are presumed  
19 to have engaged in a strike unless evidence of illness or other  
20 good cause is presented by each firefighter or policeman for each  
21 absence; or

22 (5) Refusing to abide by a valid arbitration decision.

23 (c) Any firefighter or policeman who engages in a concerted  
24 strike against a political subdivision or withholds services from

1 a political subdivision shall be suspended from duty for a period  
2 not to exceed six months without pay, and the employee organization  
3 to which any striking firefighter or policeman belongs shall lose  
4 its right for six months to have the monthly amount of dues  
5 withheld for all of its members' pay by the employer. The  
6 treasurer or chief financial officer of the political subdivision  
7 may not issue any warrant or check to any suspended firefighter or  
8 policeman for the payment of wages which might otherwise be payable  
9 during that period, nor may the treasurer or chief financial  
10 officer issue any warrant or check for the monthly amount of dues  
11 of members of the employee organization to that organization as  
12 required by subsection (b), section two of this article.

13 (d) Any private citizen of a political subdivision against  
14 which a prohibited act has been committed may seek a writ of  
15 mandamus or any other remedy which is authorized by law to enforce  
16 compliance with subdivision (c) by any treasurer or chief financial  
17 officer.

18 (e) (1) Any firefighter or policeman, employee organization or  
19 political subdivision which has reasonable cause to believe that a  
20 violation of this section has occurred may file a complaint with  
21 the commission and serve a copy on each person, employee  
22 organization or political subdivision involved.

23 (2) The commission may make and enter an order dismissing the  
24 complaint or may conduct an investigation or hold a hearing on the

1 complaint. The firefighter or policeman, employee organization or  
2 political subdivision so complained of have the right to file an  
3 answer to the complaint, or any amended complaints, within twenty  
4 days after the service of the complaint. If a hearing is ordered,  
5 the commission shall set the time and place for the hearing, which  
6 time and place may be changed by the commission at the request of  
7 one of the parties for good cause shown.

8 (3) The firefighter or policeman, employee organization or  
9 political subdivision may appear in person or otherwise defend  
10 against the complaint. In the discretion of the commission any  
11 other person may be allowed to intervene in the proceedings.

12 (4) The commission is not bound by the rules of evidence  
13 promulgated by the Supreme Court of Appeals and the commissioner  
14 has the power of subpoena and to administer oaths. A transcript of  
15 the testimony taken at any hearing before the commission shall be  
16 filed in the office of the commission, and be opened for inspection  
17 by either of the parties or their authorized representatives. The  
18 commission shall bear the cost of producing the transcript.

19 (f) (1) If, upon all the testimony and evidence, the commission  
20 determines that a prohibited practice has been committed, it shall  
21 state its findings of fact in writing and shall issue and cause to  
22 be served on the party committing the prohibited practice an order  
23 requiring the employee organization or the political subdivision to  
24 cease and desist from the prohibited practice. The commission may

1 take any further affirmative action as will comply with the  
2 provisions of this section, including, but not limited to, the  
3 withdrawal of certification of an employee organization established  
4 by or assisted in its establishment by any prohibited practice.

5 (2) If, upon all the testimony and evidence, the commission  
6 determines that a prohibited practice has not been or is not being  
7 committed, it shall state its findings of fact and conclusions of  
8 law and shall issue an order dismissing the complaint.

9 (g) In the event that a firefighter or policeman, employee  
10 organization or political subdivision refuses to comply with an  
11 order from the commission and fails to appeal the order as  
12 hereinafter provided, the commission shall request the Attorney  
13 General of West Virginia to seek injunctive relief in the circuit  
14 court of the county where the prohibited act was or is being  
15 committed.

16 **§8-15B-5. Judicial review.**

17 (a) Except as otherwise provided in subsection (b) of this  
18 section, any party adversely affected by an order of the commission  
19 is entitled to appeal a decision of the commission to circuit  
20 court, as provided in article five, chapter twenty-nine-a of this  
21 code.

22 (b) An action appealing a decision of the commission may only  
23 be initiated in the circuit court where the political subdivision  
24 is located. The appeal must be filed within ninety days from the

1 date of the entry by the commission of its final order. Upon an  
2 appeal being taken and docketed with the clerk of the circuit  
3 court, the circuit court shall proceed to hear the appeal upon the  
4 original record made before the commission. Any party adversely  
5 affected by a decision and final order of the circuit court has the  
6 right to petition the Supreme Court of Appeals for a review of the  
7 decision of the circuit court, as in other civil cases.

NOTE: The purpose of this bill is to provide meetings and  
conference rights for members of municipal police and fire  
departments seeking to self-organize an employee group to be  
exclusive representative agent for the employees. The bill also  
creates duties for the policemen and firefighters' Civil Service  
Commissions.

This article is new; therefore, strike-throughs and  
underscoring have been omitted.