

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2032

BY DELEGATE COWLES

[Introduced February 8, 2017; Referred
to the Committee on the Judiciary.]

1 A BILL to amend and reenact §7-14-13 and §7-14-15 of the Code of West Virginia, 1931, as
2 amended, all relating to prohibiting a chief deputy sheriff from engaging in certain political
3 activities; prohibiting the solicitation of funds within a sheriff's office; prohibiting using his
4 or her official authority for political purposes; and prohibiting him or her from coercing
5 anyone to contribute anything of value for political purposes.

Be it enacted by the Legislature of West Virginia:

1 That §7-14-13 and §7-14-15 of the Code of West Virginia, 1931, as amended, be amended
2 and reenacted, all to read as follows:

ARTICLE 14. CIVIL SERVICE FOR DEPUTY SHERIFFS.

§7-14-13. Vacancies filled by promotions; eligibility for promotion; rights of chief deputy.

1 Vacancies in positions of deputy sheriff shall be filled, so far as practicable, by promotion
2 from among persons holding positions in the next lower grade. Promotions shall be based upon
3 merit and fitness, to be ascertained by competitive examinations to be provided by the Civil
4 Service Commission, and upon the superior qualifications of the persons promoted, as shown by
5 their previous service and experience: *Provided*, That except for the chief deputy or jailer, no
6 person shall be eligible for promotion from the lower grade to the next higher grade until ~~such~~ the
7 person shall have completed at least two years' service in the next lower grade: *Provided*,
8 *however*, That notwithstanding the provisions of section one of this article, any person occupying
9 the office of chief deputy or any deputy sheriff occupying the office of jailer pursuant to the
10 provisions of section two, article eight of this chapter in any ~~such~~ county on the effective date of
11 this article, or thereafter appointed to ~~such~~ the office, shall, except as hereinafter provided in this
12 section, be and shall continue to be entitled to all of the rights and benefits of the provisions of
13 this article, except that he or she may be removed from ~~such~~ the office of chief deputy or jailer
14 without cause and the time spent by ~~such~~ the person in the office of ~~such~~ chief deputy or jailer
15 shall be added to the time, if any, served by ~~such~~ the person during the entire time he or she was

16 a deputy sheriff of ~~such~~ the county prior to his or her appointment as chief deputy or jailer, and
 17 shall in all cases of removal, except for removal for just cause, retain the regular rank within ~~said~~
 18 the sheriff's office which he or she held, if any, at the time of his or her appointment to the office
 19 of chief deputy or jailer or which he or she has attained, if any, during his or her term of service
 20 as chief deputy or jailer. The provisions of this section are construed in accordance with section
 21 fifteen of this article. The provisions of this section shall be construed to apply and to inure to the
 22 benefit of all persons who have ever been subject to the provisions of this article. The commission
 23 ~~shall have~~ has the power to determine in each instance whether an increase in salary constitutes
 24 a promotion.

§7-14-15. Political activities of members prohibited; exceptions.

1 (a) A deputy sheriff and chief deputy sheriff covered by the provisions of this article may
 2 not:

3 (1) Solicit any assessment, subscription or contribution for any political party, committee
 4 or candidate from any person who is a member or employee of the county sheriff's department
 5 by which they are employed;

6 (2) Use any official authority or influence, including, but not limited to, the wearing by a
 7 deputy sheriff of his or her uniform, for the purpose of interfering with or affecting the nomination,
 8 election or defeat of any candidate or the passage or defeat of any ballot issue: *Provided*, That
 9 this subdivision shall not be construed to prohibit any deputy sheriff from casting his or her vote
 10 at any election while wearing his or her uniform;

11 (3) Coerce or command anyone to pay, lend or contribute anything of value to a party,
 12 committee, organization, agency or person for the nomination, election or defeat of a ballot issue;
 13 or

14 (4) Be a candidate for or hold any other public office in the county in which he or she is
 15 employed: *Provided*, That any deputy sheriff ~~that is~~ subject to the provisions of 15 U.S.C. §1501,
 16 *et seq.*, may not be a candidate for elective office.

17 (b) Other types of partisan or nonpartisan political activities not inconsistent with the
18 provisions of subsection (a) of this section are permissible political activities for deputy sheriffs.

19 (c) No person may be appointed or promoted to or demoted or dismissed from any position
20 held by a deputy sheriff or in any way favored or discriminated against because of his or her
21 engagement in any political activities authorized by the provisions of this section. Any elected or
22 appointed official who violates the provisions of this subsection is guilty of a misdemeanor and,
23 upon conviction thereof, shall be punished by the penalties contained in section twenty-six, article
24 fifteen, chapter eight of this code.

25 (d) Any deputy sheriff violating the provisions of this section shall have his or her
26 appointment vacated and he or she shall be removed, in accordance with the pertinent provisions
27 of this section.

28 (e) Any three residents of the county may file their written petition with the Civil Service
29 Commission thereof setting out therein the grounds upon which a deputy sheriff of ~~such~~ the county
30 should be removed for a violation of subsection (a) of this section. Notice of the filing of ~~such~~ the
31 petition shall be given by the commission to the accused deputy, which notice shall require him
32 or her to file a written answer to the charges set out in the petition within thirty days of the date of
33 ~~such~~ the notice. The petition and answer thereto, if any, shall be entered upon the records of the
34 Civil Service Commission. If the answer is not filed within the time stated, or any extension thereof
35 for cause which in the discretion of the Civil Service Commission may be granted, an order shall
36 be entered by the commission declaring the appointment of the deputy vacated. If ~~such~~ the
37 answer is filed within the time stated, or any extension thereof for cause which in the discretion of
38 the Civil Service Commission may be granted, the accused deputy may demand within ~~such~~ the
39 period a public hearing on the charges, or the Civil Service Commission may, in its discretion and
40 without demand therefor, set a date and time for a public hearing on the charges, which hearing
41 shall be within thirty days of the filing of ~~said~~ the answer, subject, however, to any continuances
42 which may in the discretion of the Civil Service Commission be granted. A written record of all
43 testimony taken at ~~such~~ the hearing shall be kept and preserved by the Civil Service Commission,

44 which record shall be sealed and not be open to public inspection if no appeal be taken from the
45 action of the commission. The commission at the conclusion of the hearing, or as soon thereafter
46 as possible, shall enter an order sustaining, in whole or in part, the charges made or shall dismiss
47 the charges as unfounded. In the event the charges are sustained in, whole or in part, the order
48 shall also declare the appointment of ~~such~~ the deputy to be vacated and thereupon the sheriff
49 shall immediately remove the deputy from his or her office and from the payroll of the county.
50 Notice of the action of the commission shall be given by registered letter to the county court and
51 the sheriff. If the sheriff fails to immediately comply with the order of the commission, he or she
52 shall be punished for contempt, upon application of the commission to the circuit court of the
53 county.

54 (f) An appeal from the ruling of the commission may be had in the same manner and within
55 the same time as specified in section seventeen of this article for an appeal from a ruling of a
56 commission after hearing held in accordance with the provisions of said section.

NOTE: The purpose of this bill is to prohibit a chief deputy sheriff from engaging in certain political activities. The bill prohibits a chief deputy sheriff from soliciting contributions from anyone employed in a sheriff's office. The bill also prohibits the chief deputy sheriff from using official authority to influence or interfere with the nomination or election of any candidate or the passage or defeat of a ballot measure. Additionally, the bill prohibits the chief deputy sheriff from coercing anyone to pay, lend or contribute to any organization supporting a nomination, election or defeat of a ballot issue.

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