

1 COMMITTEE SUBSTITUTE

2 for

3 **H. B. 4063**

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

6
7 (Originating in the Committee on the Judiciary)

8 [February 1, 2012]

9
10 A BILL to amend and reenact §7-14-3 of the Code of West Virginia,
11 1931, as amended; to amend and reenact §7-14B-3 of said code;
12 to amend and reenact §8-14-7 of said code; and to amend and
13 reenact §8-15-12 of said code, all relating to certain county
14 and municipal civil service commissions; continuing the
15 commissions as previously established; composition of the
16 commissions; eligible qualifications for commissioners;
17 appointment procedure for commissioners; terms of
18 commissioners; grounds and procedures for removal from the
19 commission; and procedures for replacement of vacancies.

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

21 That §7-14-3 of the Code of West Virginia, 1931, as amended,
22 be amended and reenacted; that §7-14B-3 of said code be amended and
23 reenacted; that §8-14-7 of said code be amended and reenacted; and
24 that §8-15-12 of said code be amended and reenacted, all to read as

1 follows:

2 **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

3 **ARTICLE 14. CIVIL SERVICE FOR DEPUTY SHERIFFS.**

4 **§7-14-3. Civil Service Commission.**

5 (a) There shall be a civil service commission for deputy
6 sheriffs in each county, and each such civil service commission for
7 deputy sheriffs previously created is continued. The commissioners
8 shall, unless sooner removed, continue to serve until their
9 respective terms expire and their successors have been appointed
10 and qualified.

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

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

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

16 (3) One commissioner appointed by the county commission.

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

19 (d) In the event a commissioner of the civil service
20 commission for deputy sheriffs ceases to be a member thereof by
21 virtue of death, final removal, resignation or other cause a new
22 commissioner shall be appointed to fill the unexpired term within
23 sixty days after said ex-commissioner ceased to be a member of the
24 commission. All appointments to the commission shall be made in a

1 timely manner so as not to create a vacancy for longer than sixty
2 days. If the county bar association or the county deputy sheriff's
3 association fails to make an appointment within sixty days, then
4 the county commission shall make the appointment.

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

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

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

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

15 (A) A county commissioner of the county from which the
16 appointment is made; or

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

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

23 (4) Serves on any political committee; or

24 (5) Takes any active part in the management of any political

1 campaign.

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

5 (h) The county commission shall remove a serving commissioner
6 if:

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

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

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

12 (i) The county commission may remove a serving commissioner
13 for neglect of duty, incompetence, official misconduct or good
14 cause.

15 The reasons for removal of a commissioner shall be stated in
16 writing and made a part of the records of the civil service
17 commission.

18 (j) After the county commission has removed a commissioner,
19 the county commission shall, within ten days, file a petition in
20 the office of the clerk of the circuit court of the county where
21 the civil service commission is located, stating:

22 (1) The reason for the removal; and

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

1 (k) A copy of the petition shall be served upon the removed
2 commissioner simultaneously with the filing of the petition in the
3 office of the clerk of the circuit court. The petition has
4 precedence on the docket of the circuit court and shall be heard by
5 the court as soon as practicable.

6 (l) The circuit court shall hear and decide the issues
7 presented by the petition. The removed commissioner shall not
8 serve in his or her capacity on the civil service commission until
9 a hearing is had upon the petition, and the circuit court renders
10 a decision in the matter. The county commission or the removed
11 commissioner may appeal the decision of the circuit court to the
12 Supreme Court of Appeals.

13 (m) If the county commission fails to file its petition in the
14 office of the clerk of the circuit court within ten days after the
15 removal of the commissioner, then the commissioner immediately
16 resumes his or her position as a member of the civil service
17 commission.

18 (n) A resident of the county may file charges against and seek
19 the removal of any commissioner. The charges shall be filed in the
20 form of a petition in the office of the clerk of the circuit court
21 of the county. A copy of the petition shall be served upon the
22 commissioner sought to be removed. The petition shall be heard as
23 a civil action by the circuit court of the county for which the
24 commissioner serves. The party against whom the decision of the

1 circuit court is rendered may appeal the decision to the Supreme
2 Court of Appeals.

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

4 **§7-14B-3. Civil Service Commission.**

5 (a) There shall be a civil service commission for correctional
6 officers in each county with a population of at least twenty-five
7 thousand, and each such commission previously created is continued.
8 The commissioners shall, unless sooner removed, continue to serve
9 until their respective terms expire and their successors have been
10 appointed and qualified.

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

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

14 (2) One commissioner appointed by the county correctional
15 officers' association; and

16 (3) Two commissioners appointed by the county commission.

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

19 (d) In the event a commissioner of the civil service
20 commission for correctional officers ceases to be a member thereof
21 by virtue of death, final removal, resignation or other cause a new
22 commissioner shall be appointed to fill the unexpired term within
23 sixty days after said ex-commissioner ceased to be a member of the
24 commission. All appointments to the commission shall be made in a

1 timely manner so as not to create a vacancy for longer than sixty
2 days. If the county bar association or the county correctional
3 officers' association fails to make an appointment within sixty
4 days, then the county commission shall make the appointment.

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

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

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

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

15 (A) A county commissioner of the county from which the
16 appointment is made; or

17 (B) The president, chairman or similarly situated executive
18 official of the county correctional officers' association or the
19 county bar association, from which the appointment is made;

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

23 (4) Serves on any political committee; or

24 (5) Takes an active part in the management of any political

1 campaign.

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

5 (h) The county commission shall remove a serving commissioner
6 if:

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

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

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

12 (i) The county commission may remove a serving commissioner
13 for neglect of duty, incompetence, official misconduct or good
14 cause.

15 The reasons for removal of a commissioner shall be stated in
16 writing and made a part of the records of the civil service
17 commission.

18 (j) After the county commission has removed a commissioner,
19 the county commission shall, within ten days, file a petition in
20 the office of the clerk of the circuit court of the county where
21 the civil service commission is located, stating:

22 (1) The reason for the removal; and

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

1 (k) A copy of the petition shall be served upon the removed
2 commissioner simultaneously with the filing of the petition in the
3 office of the clerk of the circuit court. The petition has
4 precedence on the docket of the circuit court and shall be heard by
5 the court as soon as practicable.

6 (l) The circuit court shall hear and decide the issues
7 presented by the petition. The removed commissioner shall not
8 serve in his or her capacity on the civil service commission until
9 a hearing is had upon the petition. The county commission or the
10 removed commissioner may appeal the decision of the circuit court
11 to the Supreme Court of Appeals.

12 (m) If the county commission fails to file its petition in the
13 office of the clerk of the circuit court within ten days after the
14 removal of the commissioner, then the commissioner immediately
15 resumes his or her position as a member of the Civil Service
16 Commission.

17 (n) A resident of the county may file charges against and seek
18 the removal of any commissioner. The charges shall be filed in the
19 form of a petition in the office of the clerk of the circuit court
20 of the county. A copy of the petition shall be served upon the
21 commissioner sought to be removed. The petition shall be heard as
22 a civil action by the circuit court of the county for which the
23 commissioner serves. The party against whom the decision of the
24 circuit court is rendered may appeal the decision to the Supreme

1 Court of Appeals.

2 **CHAPTER 8. MUNICIPAL CORPORATIONS.**

3 **ARTICLE 14. LAW AND ORDER; POLICE FORCE OR DEPARTMENTS; POWERS,**
4 **AUTHORITY AND DUTIES OF LAW-ENFORCEMENT OFFICIALS**
5 **AND POLICEMEN; POLICE MATRONS; SPECIAL SCHOOL ZONE**
6 **AND PARKING LOT OR PARKING BUILDING; POLICE**
7 **OFFICERS; CIVIL SERVICE FOR CERTAIN POLICE**
8 **DEPARTMENTS.**

9 **§8-14-7. Policemen's Civil Service Commission generally.**

10 (a) There shall be a policemen's civil service commission in
11 each Class I and Class II municipality having a paid police
12 department. Each such commission previously created is continued.
13 The commissioners shall, unless sooner removed, continue to serve
14 until their respective terms expire and their successors have been
15 appointed and qualified.

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

18 (1) One commissioner appointed by the mayor of the
19 municipality;

20 (2) One commissioner appointed by the local fraternal order of
21 police; and

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

24 (c) The commissioners' terms are for four years and shall be

1 staggered.

2 (d) All appointments to the commission shall be made in a
3 timely manner so as not to create a vacancy for longer than sixty
4 days. If there is no local chamber of commerce or local
5 businessmen's association, or the local chamber of commerce or
6 local businessmen's association fails to make an appointment within
7 sixty days, then the other two commissioners shall make the
8 appointment by mutual agreement.

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

14 (f) A person is not eligible for appointment or reappointment
15 to the policeman's civil service commission if he or she:

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

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

20 (A) The mayor of the municipality from which the appointment
21 is made; or

22 (B) The president, chairman or similarly situated executive
23 official of the local fraternal order of police, the local chamber
24 of commerce or local businessmen's association, from which the

1 appointment is made;

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

5 (4) Serves on any political committee; or

6 (5) Takes an active part in the management of any political
7 campaign.

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

10 (h) The mayor of the municipality shall remove a serving
11 commissioner if:

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

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

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

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

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

23 (j) After the mayor has removed a commissioner, the mayor
24 shall, within ten days, file a petition in the office of the clerk

1 of the circuit court of the county in which the municipality or a
2 major portion of the municipality is located, stating:

3 (1) The reason for the removal; and

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

6 (k) A copy of the petition shall be served upon the removed
7 commissioner simultaneously with the filing of the petition in the
8 office of the clerk of the circuit court. The petition has
9 precedence on the docket of the circuit court and shall be heard by
10 the court as soon as practicable.

11 (l) The circuit court shall hear and decide the issues
12 presented by the petition. The removed commissioner shall not
13 serve in his or her capacity on the policeman's civil service
14 commission until a hearing is had upon the petition, and the
15 circuit court renders a decision in the matter. The mayor or the
16 removed commissioner may appeal the decision of the circuit court
17 to the Supreme Court of Appeals.

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

23 (n) A resident of the municipality may file charges against
24 and seek the removal of any commissioner. The charges shall be

1 filed in the form of a petition in the office of the clerk of the
2 circuit court of the county in which the municipality or a major
3 portion of the municipality is located. A copy of the petition
4 shall be served upon the commissioner sought to be removed. The
5 petition shall be heard as a civil action by the circuit court of
6 the county for which the commissioner serves. The party against
7 whom the decision of the circuit court is rendered may appeal the
8 decision to the Supreme Court of Appeals.

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

11 **§8-15-12. Firemen's Civil Service Commission generally.**

12 (a) There shall be a firemen's civil service commission in
13 each municipality having a paid fire department. Each such
14 commission previously created is continued. The commissioners
15 shall, unless sooner removed, continue to serve until their
16 respective terms expire and their successors have been appointed
17 and qualified.

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

20 (1) One commissioner appointed by the mayor of the
21 municipality;

22 (2) One commissioner appointed by the local international
23 association of firefighters, if there is one, or by the local
24 central body of the West Virginia Federation of Labor AFL-CIO, if

1 there is one, or by the West Virginia Federation of Labor AFL-CIO;
2 and

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

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

7 (d) All appointments to the commission shall be made in a
8 timely manner so as not to create a vacancy for longer than sixty
9 days. If there is no local chamber of commerce or local
10 businessmen's association, or the local chamber of commerce or
11 local businessmen's association fails to make an appointment within
12 sixty days, then the other two commissioners shall make the
13 appointment by mutual agreement.

14 (e) During their term of appointment, each commissioner must
15 be a resident of this state and a qualified voter of the
16 municipality where the firemen's civil service commission is
17 located. At any one time, only two commissioners may be of the
18 same political party.

19 (f) A person is not eligible for appointment or reappointment
20 to the firemen's civil service commission if he or she:

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

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

1 (A) The mayor of the municipality from which the appointment
2 is made; or

3 (B) The president, chairman or similarly situated executive
4 official of the local chamber of commerce or local businessmen's
5 association, the local international association of firefighters,
6 the local central body of the West Virginia Federation of Labor
7 AFL-CIO, or the West Virginia Federation of Labor AFL-CIO , from
8 which the appointment is made;

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

12 (4) Serves on any political committee; or

13 (5) Takes an active part in the management of any political
14 campaign.

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

17 (h) The mayor of the municipality shall remove a serving
18 commissioner if:

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

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

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

24 (i) The mayor of the municipality may remove a serving

1 commissioner for neglect of duty, incompetence, official misconduct
2 or good cause.

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

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

10 (1) The reason for the removal; and

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

13 (k) A copy of the petition shall be served upon the removed
14 commissioner simultaneously with the filing of the petition in the
15 office of the clerk of the circuit court. The petition has
16 precedence on the docket of the circuit court and shall be heard by
17 the court as soon as practicable.

18 (l) The circuit court shall hear and decide the issues
19 presented by the petition. The removed commissioner shall not
20 serve in his or her capacity on the firemen's civil service
21 commission until a hearing is had upon the petition, and the
22 circuit court renders a decision in the matter. The mayor or the
23 removed commissioner may appeal the decision of the circuit court
24 to the Supreme Court of Appeals.

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

6 (n) A resident of the municipality may file charges against
7 and seek the removal of any commissioner. The charges shall be
8 filed in the form of a petition in the office of the clerk of the
9 circuit court of the county in which the municipality or a major
10 portion of the municipality is located. A copy of the petition
11 shall be served upon the commissioner sought to be removed. The
12 petition shall be heard as a civil action by the circuit court of
13 the county for which the commissioner serves. The party against
14 whom the decision of the circuit court is rendered may appeal the
15 decision to the Supreme Court of Appeals.