

1 COMMITTEE SUBSTITUTE

2 for

3 **H. B. 3243**

4 (By Delegates Stephens, Martin, D. Poling,
5 Fleischauer, Morgan, Swartzmiller,
6 Reynolds, Moye, Butcher, Caputo and Craig)

7 (Originating in the Committee on the Judiciary)

8 [February 24, 2011]

9
10 A BILL to amend and reenact §8-15-11 of the Code of West Virginia,
11 1931, as amended, relating to appointments to the position of
12 fire chief in paid municipal fire departments not covered by
13 civil service.

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

15 That §8-15-11 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

17 **ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL**
18 **SERVICE FOR PAID FIRE DEPARTMENTS.**

19 **§8-15-11. Qualifications for appointment or promotion to positions**
20 **in paid fire departments to be ascertained by**
21 **examination; provisions exclusive as to appointments,**
22 **etc.; rights of certain chiefs; "appointing officer"**
23 **defined.**

24 (a) All appointments and promotions to all positions in all
25 paid fire departments shall be made only according to
26 qualifications and fitness to be ascertained by examinations,
27 which, so far as practicable, shall be competitive as ~~hereinafter~~
28 provided set forth below: *Provided, That as of the effective date*
29 of re-enactment of this section during the 2011 Regular Session of

1 the Legislature, appointments to the position of fire chief of a
2 paid fire department made pursuant this article, shall be made from
3 within the paid municipal department under the jurisdiction of the
4 appointing authority: *Provided further,* That if no person within
5 the paid municipal department seeks appointment to the position of
6 fire chief, the appointing authority may seek applicants from
7 outside the department.

8 (b) No individual may be appointed, promoted, reinstated,
9 removed, discharged, suspended or reduced in rank or pay as a paid
10 member of any paid fire department, regardless of rank or position,
11 in any manner or by any means other than those prescribed in this
12 article: *Provided,* That in all municipalities in which the office
13 of fire chief of a paid fire department was not covered by the
14 provisions of former article six-a of this chapter on January 1,
15 1949, the office in the municipality shall be excepted from the
16 civil service provisions of article fifteen of this chapter, until
17 the time the governing body of the municipality shall, by
18 appropriate ordinance or resolution adopted by a majority of its
19 members, elect to place the office of fire chief under the civil
20 service provisions of this article.

21 (c) Until the office of fire chief is placed under the civil
22 service provisions of this article by the governing body, the
23 member of any paid fire department now occupying such office or
24 hereafter appointed to such office shall in all cases of removal,
25 except for removal for good cause, retain the status he or she held
26 in the paid fire department at the time of his or her appointment
27 to the office of fire chief or which he or she attained during his
28 or her term as fire chief.

1 (d) The term "appointing officer" as used in this article shall
2 mean the municipal officer in whom the power of appointment of
3 members of a paid fire department is vested by charter provision or
4 ordinance of the municipality.