

H. B. 2091

(By Delegate Cowles)

[Introduced January 12, 2011; referred to the
Committee on the Judiciary.]

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

Be it enacted by the Legislature of West Virginia:

That §7-14-13 and §7-14-15 of the Code of West Virginia, 1931,
as amended, be amended 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
2 far as practicable, by promotion from among persons holding
3 positions in the next lower grade. Promotions shall be based upon
4 merit and fitness, to be ascertained by competitive examinations to
5 be provided by the Civil Service Commission, and upon the superior
6 qualifications of the persons promoted, as shown by their previous
7 service and experience: *Provided, That, except for the chief*
8 *deputy or jailer, no person shall be eligible for promotion from*
9 *the lower grade to the next higher grade until such person shall*
10 *have completed at least two years' service in the next lower grade:*
11 *Provided, however, That notwithstanding the provisions of section*
12 *one of this article, any person occupying the office of chief*
13 *deputy or any deputy sheriff occupying the office of jailer*
14 *pursuant to the provisions of section two, article eight of this*
15 *chapter in any such county on the effective date of this article,*
16 *or thereafter appointed to such office, shall, except as*
17 *hereinafter provided in this section, be and shall continue to be*
18 *entitled to all of the rights and benefits of the provisions of*
19 *this article, except that he or she may be removed from such office*
20 *of chief deputy or jailer without cause and the time spent by such*
21 *person in the office of such chief deputy or jailer shall be added*
22 *to the time, if any, served by such person during the entire time*
23 *he or she was a deputy sheriff of such county prior to his or her*
24 *appointment as chief deputy or jailer, and shall in all cases of*

1 removal, except for removal for just cause, retain the regular rank
2 within said sheriff's office which he or she held, if any, at the
3 time of his or her appointment to the office of chief deputy or
4 jailer or which he or she has attained, if any, during his or her
5 term of service as chief deputy or jailer. The provisions of this
6 section are construed in accordance with section fifteen of this
7 article. The provisions of this section shall be construed to apply
8 and to inure to the benefit of all persons who have ever been
9 subject to the provisions of this article. The commission shall
10 have the power to determine in each instance whether an increase in
11 salary constitutes a promotion.

12 **§7-14-15. Political activities of members prohibited; exceptions.**

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

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

19 (2) Use any official authority or influence, including, but
20 not limited to, the wearing by a deputy sheriff of his or her
21 uniform, for the purpose of interfering with or affecting the
22 nomination, election or defeat of any candidate or the passage or
23 defeat of any ballot issue: *Provided*, That this subdivision shall
24 not be construed to prohibit any deputy sheriff from casting his or

1 her vote at any election while wearing his or her uniform;

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

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

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

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

21 (d) Any deputy sheriff violating the provisions of this
22 section shall have his appointment vacated and he or she shall be
23 removed, in accordance with the pertinent provisions of this
24 section.

1 (e) Any three residents of the county may file their written
2 petition with the Civil Service Commission thereof setting out
3 therein the grounds upon which a deputy sheriff of such county
4 should be removed for a violation of subsection (a) of this
5 section. Notice of the filing of such petition shall be given by
6 the commission to the accused deputy, which notice shall require
7 him or her to file a written answer to the charges set out in the
8 petition within thirty days of the date of such notice. The
9 petition and answer thereto, if any, shall be entered upon the
10 records of the Civil Service Commission. If the answer is not
11 filed within the time stated, or any extension thereof for cause
12 which in the discretion of the Civil Service Commission may be
13 granted, an order shall be entered by the commission declaring the
14 appointment of the deputy vacated. If such answer is filed within
15 the time stated, or any extension thereof for cause which in the
16 discretion of the Civil Service Commission may be granted, the
17 accused deputy may demand within such period a public hearing on
18 the charges, or the Civil Service Commission may, in its discretion
19 and without demand therefor, set a date and time for a public
20 hearing on the charges, which hearing shall be within thirty days
21 of the filing of said answer, subject, however, to any continuances
22 which may in the discretion of the Civil Service Commission be
23 granted. A written record of all testimony taken at such hearing
24 shall be kept and preserved by the civil service commission, which

1 record shall be sealed and not be open to public inspection if no
2 appeal be taken from the action of the commission. The commission
3 at the conclusion of the hearing, or as soon thereafter as
4 possible, shall enter an order sustaining, in whole or in part, the
5 charges made or shall dismiss the charges as unfounded. In the
6 event the charges are sustained in whole or in part, the order
7 shall also declare the appointment of such deputy to be vacated and
8 thereupon the sheriff shall immediately remove the deputy from his
9 or her office and from the payroll of the county. Notice of the
10 action of the commission shall be given by registered letter to the
11 county court and the sheriff. If the sheriff fails to immediately
12 comply with the order of the commission, he or she shall be
13 punished for contempt, upon application of the commission to the
14 circuit court of the county.

15 (f) An appeal from the ruling of the commission may be had in
16 the same manner and within the same time as specified in section
17 seventeen of this article for an appeal from a ruling of a
18 commission after hearing held in accordance with the provisions of
19 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 the present law, and underscoring indicates new language that would be added.