

H. B. 2703

(By Delegates Hamilton, Lane, D. Campbell,
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Ellem, Sigler and D. Poling)

[Introduced January 21, 2011; referred to the
Committee on Political Subdivisions then the Judiciary.]

A BILL to amend and reenact §7-14-3 of the Code of West Virginia,
1931, as amended; to amend and reenact §8-14-7 of said code;
and to amend and reenact §8-15-12 of said code, all relating
to qualifications of members of the Policemen's Civil Service
Commission, the Firemen's Civil Service Commission and the
Civil Service Commissions of the counties.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**ARTICLE 14. CIVIL SERVICE FOR DEPUTY SHERIFFS.****§7-14-3. Civil Service Commission.**

There shall be a Civil Service Commission in each county and
the state. Each such civil service commission shall consist of
three commissioners, one of whom shall be appointed by the bar
association of such county, one of whom shall be appointed by the
deputy sheriff's association of such county, and one of whom shall

1 be appointed by the county commission of such county. In the event
2 the bar association or deputy sheriff's association fails to make
3 an appointment within the time prescribed in this section therefor,
4 then such appointment shall be made by the county commission. The
5 individuals appointed commissioners shall not be a member of the
6 immediate family of any person appointing him or her and shall not
7 have been convicted of a felony or any misdemeanor involving moral
8 turpitude and shall reside in the State of West Virginia. For the
9 purpose of this section, "immediate family" means the relationships
10 of mother, father, sister, brother, child or spouse. The persons
11 appointed commissioners shall be qualified voters of the county for
12 which they are appointed, and at least two of the commissioners
13 shall be persons in full sympathy with the purposes of this
14 article. Not more than two of the commissioners, at any one time,
15 shall be members of the same political party. The commissioners in
16 each county shall be appointed as follows: Within sixty days from
17 the effective date of this article, the authorities having the
18 power to appoint members to the Civil Service Commission shall
19 appoint the three commissioners, the first to be appointed by the
20 bar association of the county shall serve for six years from the
21 date of appointment, the second to be appointed by the deputy
22 sheriff's association of the county shall serve for four years from
23 the date of appointment, and the third to be appointed by the
24 county commission of the county shall serve for a term of two years
25 from the date of appointment. All subsequent appointments shall be
26 made for terms of four years. In the event that any commissioner

1 of the civil service commission ceases to be a member thereof by
2 virtue of death, final removal or other cause, a new commissioner
3 shall be appointed to fill the unexpired term of that commissioner
4 within ten days after said ex-commissioner ceased to be a member of
5 the commission. Such appointment shall be made by the authority
6 who appointed the commissioner who is no longer a member of the
7 commission. Each year the three members of the commission shall,
8 together, elect one of their number to act as president of the
9 commission for a term of one year. The county commission may at
10 any time remove a commissioner for good cause, which shall be
11 stated in writing and made a part of the records of the commission.
12 Once the county commission has removed any commissioner, such
13 county commission shall within ten days thereafter file in the
14 office of the clerk of the circuit court of the county a petition
15 setting forth in full the reason for the removal and praying for
16 the confirmation of the circuit court of the action of the county
17 commission in removing the said commissioner. A copy of the
18 petition shall be served upon the commissioner so removed
19 simultaneously with its filing in the office of the clerk of the
20 circuit court and has precedence on the docket of the circuit court
21 and shall be heard by the court as soon as practicable upon the
22 request of the removed commissioner. All rights hereby vested in
23 the circuit court may be exercised by the judge thereof in
24 vacation. In the event that no term of the circuit court is being
25 held at the time of the filing of the petition, and the judge
26 thereof cannot be reached in the county wherein the petition was

1 filed, the petition shall be heard at the next succeeding term of
2 the circuit court, whether regular or special, and the commissioner
3 so removed shall remain removed until a hearing is had upon the
4 petition of the county commission. The circuit court, or the judge
5 thereof in vacation, shall hear and decide the issues presented by
6 the petition. The county commission or commissioner, as the case
7 may be, against whom the decisions of the circuit court or judge
8 thereof in vacation is rendered has the right to petition the
9 Supreme Court of Appeals for a review of the decision of the
10 circuit court or the judge thereof in vacation as in other civil
11 cases. In the event that the county commission fails to file its
12 petition in the office of the clerk of the circuit court, as
13 hereinbefore provided, within ten days after the removal of the
14 commissioner, such commissioner immediately resumes his or her
15 position as a member of the civil service commission.

16 Any resident of the county has the right at any time to file
17 charges against and seek the removal of any member of the civil
18 service commission. The charges shall be filed in the form of a
19 petition in the office of the clerk of the circuit court of the
20 county. A copy of the petition shall be served upon the
21 commissioner sought to be removed. The petition shall be matured
22 for hearing and heard as a civil action by the circuit court of the
23 county for which the commissioner serves as a member of the civil
24 service commission or by the judge thereof in vacation. The party
25 against whom the decision of the circuit court or judge thereof in
26 vacation is rendered has the right to petition the Supreme Court of

1 Appeals for a review of the decision of the circuit court or judge
2 thereof in vacation as in other civil cases.

3 No commissioner may hold any other office (other than the
4 office of notary public) under the United States, this state or any
5 municipality, county or other political subdivision thereof; nor
6 may any commissioner serve on any political party committee or take
7 any active part in the management of any political campaign.

8 **CHAPTER 8. MUNICIPAL CORPORATIONS.**

9 **ARTICLE 14. LAW AND ORDER; POLICE FORCE OR DEPARTMENTS; POWERS,**
10 **AUTHORITY AND DUTIES OF LAW-ENFORCEMENT OFFICIALS**
11 **AND POLICEMEN; POLICE MATRONS; SPECIAL SCHOOL ZONE**
12 **AND PARKING LOT OR PARKING BUILDING POLICE**
13 **OFFICERS; CIVIL SERVICE FOR CERTAIN POLICE**
14 **DEPARTMENTS.**

15 **§8-14-7. Policemen's civil service commission generally.**

16 In every Class I and Class II city having a paid police
17 department, there shall be a "Policemen's Civil Service
18 Commission." The commission shall consist of three commissioners,
19 one of whom shall be appointed by the mayor of the city; one of
20 whom shall be appointed by the local fraternal order of police; and
21 the third shall be appointed by the local chamber of commerce, or
22 if there be none, by a local businessmen's association. The
23 individuals appointed commissioners shall not be a member of the
24 immediate family of any person appointing him or her and shall not
25 have been convicted of a felony or any misdemeanor involving moral
26 turpitude and shall reside in the State of West Virginia. For the

1 purpose of this section, "immediate family" means the relationships
2 of mother, father, sister, brother, child or spouse. The
3 individuals appointed commissioners shall be qualified voters of
4 the city for which they are appointed; and at least two of said
5 commissioners shall be individuals in full sympathy with the
6 purposes of the civil service provisions of this article. Not more
7 than two of the said commissioners, at any one time, shall be
8 adherents of the same political party. Of the three original
9 appointments in each city, the first commissioner shall be
10 appointed by the mayor and shall serve for six years from the date
11 of his or her appointment; the second commissioner shall be
12 appointed by the local fraternal order of police and shall serve
13 for four years from the date of his or her appointment; and the
14 third commissioner shall be appointed by the local chamber of
15 commerce or local businessmen's association and shall serve for two
16 years from the date of his or her appointment. In the event there
17 is no local chamber of commerce or local businessmen's association
18 at the time any appointment is to be made by it, such appointment
19 shall be made by the other two commissioners by mutual agreement.
20 After the original appointments, all appointments shall be made for
21 periods of four years each by the appointing authority hereinbefore
22 designated. In the event that any commissioner of said civil
23 service commission shall cease to be a member thereof by virtue of
24 death, final removal or other cause, a new commissioner shall be
25 appointed to fill the unexpired term of said commissioner within
26 ten days after said excommissioner shall have ceased to be a member

1 of said commission. Such appointment shall be made by the officer
2 or body who in the first instance appointed the commissioner who is
3 no longer a member of the commission, except that in the case of a
4 vacancy in an appointment made by the Governor, which vacancy
5 occurs after the effective date of this article, the appointment
6 for the unexpired term shall be made by the mayor. Each year the
7 three members of the commission shall, together, elect one of their
8 number to act as president of the commission, who shall serve as
9 president for one year. The mayor may, at any time, remove any
10 commissioner or commissioners for good cause, which shall be stated
11 in writing and made a part of the records of the commission:
12 *Provided*, That once the mayor has removed any commissioner, the
13 Mayor shall within ten days thereafter file in the office of the
14 clerk of the circuit court of the county in which the city or the
15 major portion of the territory thereof is located a petition
16 setting forth in full the reason for said removal and praying for
17 the confirmation by said circuit court of the action of the Mayor
18 in so removing the said commissioner. A copy of said petition
19 shall be served upon the commissioner so removed simultaneously
20 with its filing in the office of the clerk of the circuit court and
21 shall have precedence on the docket of said court and shall be
22 heard by said court as soon as practicable upon the request of the
23 removed commissioner or commissioners. All rights herein vested in
24 said circuit court may be exercised by the judge thereof in
25 vacation. In the event that no term of the circuit court is being
26 held at the time of the filing of said petition, and the judge

1 thereof cannot be reached in the county wherein the petition was
2 filed, said petition shall be heard at the next succeeding term of
3 said circuit court, whether regular or special, and the
4 commissioner or commissioners so removed shall remain removed until
5 a hearing is had upon the said petition of the Mayor. The court or
6 the judge thereof in vacation shall hear and decide the issues
7 presented by said petition. The Mayor or commissioner or
8 commissioners, as the case may be, against whom the decision of the
9 court or the judge thereof in vacation shall be rendered, shall
10 have the right to petition the Supreme Court of Appeals for a
11 review of the decision of the circuit court or the judge thereof in
12 vacation as in other civil cases. In the event that the mayor
13 shall fail to file his or her petition in the office of the clerk
14 of the circuit court, as hereinbefore provided, within ten days
15 after the removal of said commissioner or commissioners, such
16 commissioner or commissioners shall immediately resume his or her
17 or their position or positions as a member or members of the
18 policemen's Civil Service Commission.

19 Any resident of the city shall have the right at any time to
20 file charges against and seek the removal of any member of the
21 policemen's civil service commission of such city. Such charges
22 shall be filed in the form of a petition in the office of the clerk
23 of the circuit court of the county in which the city or the Major
24 portion of the territory thereof is located, and a copy of said
25 petition shall be served upon the commissioner or commissioners
26 sought to be removed. Said petition shall be matured for hearing

1 and heard by said circuit court or the judge thereof in vacation in
2 the same manner as civil proceedings in the circuit courts of this
3 state are heard, and the party against whom the circuit court's
4 decision is rendered shall have the right to petition the Supreme
5 Court of Appeals for a review of the action of the circuit court,
6 as in other civil cases.

7 No commissioner shall hold any other office (other than the
8 office of notary public) under the United States, this state, or any
9 municipality, county or other political subdivision thereof; nor
10 shall any commissioner serve on any political committee or take any
11 active part in the management of any political campaign.

12 **ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL**
13 **SERVICE FOR PAID FIRE DEPARTMENTS.**

14 **§8-15-12. Firemen's Civil Service Commission generally.**

15 In every municipality having a paid fire department, there
16 shall be a "Firemen's Civil Service Commission." The commission
17 shall consist of three commissioners, one of whom shall be appointed
18 by the Mayor of the municipality; one of whom shall be appointed by
19 the local international association of fire fighters in the event
20 that said local exists in the municipality, or in case no such local
21 exists in the municipality, then by the local central body of the
22 West Virginia Federation of Labor AFL-CIO in the event that said
23 central body exists in the municipality, or in case that no such
24 central body exists in the municipality, then by the West Virginia
25 Federation of Labor AFL-CIO; and the third shall be appointed by the
26 local chamber of commerce, or if there be none, by a local

1 businessmen's association. The individuals appointed commissioners
2 shall not be a member of the immediate family of any person
3 appointing him or her and shall not have been convicted of a felony
4 or any misdemeanor involving moral turpitude and shall reside in the
5 State of West Virginia. For the purpose of this section, "immediate
6 family" means the relationships of mother, father, sister, brother,
7 child or spouse. The individuals appointed commissioners shall be
8 qualified voters of the municipality for which they are appointed;
9 and at least two of said commissioners shall be individuals in full
10 sympathy with the purposes of the civil service provisions of this
11 article. Not more than two of the said commissioners, at any one
12 time, shall be adherents of the same political party. Of the three
13 original appointments in each municipality, the first commissioner
14 shall be appointed by the mayor and shall serve for six years from
15 the date of his or her appointment; the second commissioner shall
16 be appointed by the local trades board, or in the absence of such
17 board, by the international association of fire fighters, and shall
18 serve for four years from the date of his or her appointment; and
19 the third commissioner shall be appointed by the local chamber of
20 commerce or local businessmen's association and shall serve for two
21 years from the date of his or her appointment. In the event there
22 is no local chamber of commerce or local businessmen's association
23 at the time any appointment is to be made by it, such appointment
24 shall be made by the other two commissioners by mutual agreement.
25 After the original appointments, all appointments shall be made for
26 periods of four years each by the appointing authority hereinbefore

1 designated. In the event that any commissioner of said Civil
2 Service Commission shall cease to be a member thereof by virtue of
3 death, final removal or other cause, a new commissioner shall be
4 appointed to fill the unexpired term of said commissioner within ten
5 days after said ex-commissioner shall have ceased to be a member of
6 said commission. Such appointment shall be made by the officer or
7 body who in the first instance appointed the commissioner who is no
8 longer a member of the commission. Each year the three members of
9 the commission shall, together, elect one of their number to act as
10 president of the commission, who shall serve as president for one
11 year. The Mayor may, at any time, remove any commissioner or
12 commissioners for good cause, which shall be stated in writing and
13 made a part of the records of the commission: *Provided*, That once
14 the mayor has removed any commissioner, the mayor shall within ten
15 days thereafter file in the office of the clerk of the circuit court
16 of the county in which the municipality or the major portion of the
17 territory thereof is located a petition setting forth in full the
18 reason for said removal and praying for the confirmation by said
19 circuit court of the action of the Mayor in so removing the said
20 commissioner. A copy of said petition shall be served upon the
21 commissioner so removed simultaneously with its filing in the office
22 of the clerk of the circuit court and shall have precedence on the
23 docket of said court and shall be heard by said court as soon as
24 practicable upon the request of the removed commissioner or
25 commissioners. All rights herein vested in said circuit court may
26 be exercised by the judge thereof in vacation. In the event that

1 no term of the circuit court is being held at the time of the filing
2 of said petition, and the judge thereof cannot be reached in the
3 county wherein the petition was filed, said petition shall be heard
4 at the next succeeding term of said circuit court, whether regular
5 or special, and the commissioner or commissioners so removed shall
6 remain removed until a hearing is had upon the petition of the
7 mayor. The court or the judge thereof in vacation shall hear and
8 decide the issues presented by said petition. The Mayor or
9 commissioner or commissioners, as the case may be, against whom the
10 decision of the court or the judge thereof in vacation shall be
11 rendered, shall have the right to petition the Supreme Court of
12 Appeals for a review of the decision of the circuit court or the
13 judge thereof in vacation as in other civil cases. In the event
14 that the mayor shall fail to file his or her petition in the office
15 of the clerk of the circuit court, as hereinbefore provided, within
16 ten days after the removal of said commissioner or commissioners,
17 such commissioner or commissioners shall immediately resume his or
18 her or their position or positions as a member or members of the
19 firemen's civil service commission.

20 Any resident of the municipality shall have the right at any
21 time to file charges against and seek the removal of any member of
22 the firemen's Civil Service Commission of such municipality. Such
23 charges shall be filed in the form of a petition in the office of
24 the clerk of the circuit court of the county in which the
25 municipality or the major portion of the territory thereof is
26 located, and a copy of said petition shall be served upon the

1 commissioner or commissioners sought to be removed. Said petition
2 shall be matured for hearing and heard by said circuit court or the
3 judge thereof in vacation in the same manner as civil proceedings
4 in the circuit courts of this state are heard, and the party against
5 whom the circuit court's decision is rendered shall have the right
6 to petition the Supreme Court of Appeals for a review of the action
7 of the circuit court, as in other civil cases.

8 No commissioner shall hold any other office (other than the
9 office of notary public) under the United States, this state or any
10 municipality, county or other political subdivision thereof; nor
11 shall any commissioner serve on any political committee or take any
12 active part in the management of any political campaign.

NOTE: The purpose of this bill is to prohibit individuals appointed commissioners of the Policemen's Civil Service Commission, the Firemen's Civil Service Commission and the civil service commissions of the counties from being a member of the immediate family of any person appointing him or her to that commission. The bill also prohibits individuals who have been convicted of a felony or any misdemeanor involving moral turpitude from serving as a commissioner. The bill also requires those commissioners to reside in the State of West Virginia

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