

E N G R O S S E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2703

(BY DELEGATES HAMILTON, LANE, D. CAMPBELL, L. PHILLIPS,
CROSIER, ANDES, M. POLING, IRELAND, ELLEM, SIGLER AND
D. POLING)

(Originating in the Committee on the Judiciary)
[February 23, 2011]

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 county civil service commissions; qualifications of members of the Policemen's Civil Service Commission; qualifications of members of the Firemen's Civil Service Commission; qualifications of members of other Civil Service

Commissions of the counties; restrictions from service; and disqualifications from service.

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.

1 There shall be continued a Civil Service Commission in
2 each county. ~~and the state.~~ Each such A civil service
3 commission shall consist of three commissioners:

4 (1) One commissioner ~~of whom shall be~~ appointed by the
5 county bar association; ~~of such county~~

6 (2) One commissioner ~~of whom shall be~~ appointed by the
7 county deputy sheriff's association; ~~of such county~~; and

8 (3) One commissioner ~~of whom shall be~~ appointed by the
9 county commission. ~~of such county.~~

10 ~~In the event~~ If the bar association or deputy sheriff's
11 association fails to make an appointment within the
12 prescribed time ~~prescribed in this section therefor~~; then such

13 ~~appointment shall be made by the county commission the~~
14 county commission shall make the appointment.

15 A person may not be appointed if that person is a relative,
16 as defined in section three, article one, chapter six-B, to: a
17 county commissioner of the county from which the
18 appointment is made; the president or chairman or similarly
19 situated official of the deputy sheriff's association or the bar
20 association.

21 A person is not eligible for appointment or reappointment
22 if he or she has been convicted of a felony or any
23 misdemeanor involving moral turpitude.

24 A commissioner shall be a qualified voter of the county
25 during the appointment term.

26 A commissioner may not hold any other office (other
27 than the office of notary public) under the United States, this
28 state, or any municipality, county or other political
29 subdivision thereof; nor shall any commissioner serve on any
30 political committee or take any active part in the
31 management of any political campaign.

32 ~~The persons appointed commissioners shall be qualified~~
33 ~~voters of the county for which they are appointed, and at least~~
34 ~~two of the commissioners shall be persons in full sympathy~~

35 ~~with the purposes of this article. Not more than two of the~~
36 ~~commissioners, at any one time, shall be members of the~~
37 ~~same political party.~~

38 Only two commissioners may be of the same political
39 party.

40 ~~The commissioners in each county shall be appointed as~~
41 ~~follows: Within sixty days from the effective date of this~~
42 ~~article, the authorities having the power to appoint members~~
43 ~~to the Civil Service Commission shall appoint the three~~
44 ~~commissioners, the first to be appointed by the bar~~
45 ~~association of the county shall serve for six years from the~~
46 ~~date of appointment, the second to be appointed by the~~
47 ~~deputy sheriff's association of the county shall serve for four~~
48 ~~years from the date of appointment, and the third to be~~
49 ~~appointed by the county commission of the county shall~~
50 ~~serve for a term of two years from the date of appointment.~~
51 ~~All subsequent appointments shall be made for terms of four~~
52 ~~years.~~

53 After the original appointments, all appointments shall be
54 made for periods of four years.

55 ~~In the event that~~ If ~~any commissioner of the civil service~~
56 ~~commission ceases to be a member, thereof by virtue of~~

57 ~~death, final removal or other cause,~~ a new commissioner
58 shall be appointed to fill the unexpired term of that
59 commissioner within ten days. ~~after said ex-commissioner~~
60 ~~ceased to be a member of the commission. — Such~~ The
61 appointment shall be made by the ~~authority~~ entity who
62 appointed the commissioner who is no longer a member. ~~of~~
63 ~~the commission.~~

64 Each year ~~the three members of the commission~~
65 commissioners shall ~~together,~~ elect ~~one of their number to act~~
66 ~~as a president. of the commission for a term of one year.~~

67 The county commission may ~~at any time~~ remove a
68 commissioner for good cause, which shall be stated in
69 writing and made a part of the records of the commission.

70 Once the county commission has removed any
71 commissioner, ~~such~~ the county commission shall within ten
72 days ~~thereafter~~ file in the office of the clerk of the circuit
73 court of the county a petition setting forth in full the reason
74 for the removal and ~~praying for~~ requesting the confirmation
75 of the circuit court of the action. ~~of the county commission in~~
76 ~~removing the said commissioner.~~ A copy of the petition shall
77 be served upon the commissioner so removed simultaneously
78 with its filing in the office of the clerk of the circuit court and

79 has precedence on the docket of the circuit court and shall be
80 heard by the court as soon as practicable. ~~upon the request of~~
81 ~~the removed commissioner. All rights hereby vested in the~~
82 ~~circuit court may be exercised by the judge thereof in~~
83 ~~vacation. In the event that~~

84 If no term of the circuit court is being held at the time of
85 the filing of the petition, ~~and the judge thereof cannot be~~
86 ~~reached in the county wherein the petition was filed,~~ the
87 petition shall be heard at the next succeeding term of the
88 circuit court, ~~whether regular or special,~~ and the
89 commissioner ~~so removed~~ shall remain removed until a
90 hearing is had upon the petition. ~~of the county commission.~~
91 The circuit court ~~or the judge thereof in vacation,~~ shall hear
92 and decide the issues presented by the petition. The county
93 commission or commissioner ~~as the case may be,~~ against
94 whom the decisions of the circuit court ~~or judge thereof in~~
95 ~~vacation~~ is rendered ~~has the right to~~ may petition the
96 Supreme Court of Appeals for a review of the decision ~~of the~~
97 ~~circuit court or the judge thereof in vacation~~ as in other civil
98 cases. ~~In the event that~~

99 If the county commission fails to file its petition in the
100 office of the clerk of the circuit court, ~~as hereinbefore~~

101 ~~provided~~, within ten days after the removal of the
102 commissioner, ~~such~~ the commissioner immediately resumes
103 his or her position as a member of the civil service
104 commission.

105 Any resident of the county ~~has the right at any time to~~
106 may file charges against and seek the removal of any member
107 of the civil service commission. The charges shall be filed in
108 the form of a petition in the office of the clerk of the circuit
109 court of the county. A copy of the petition shall be served
110 upon the commissioner sought to be removed. The petition
111 shall be ~~matured for hearing and~~ heard as a civil action by the
112 circuit court of the county for which the commissioner
113 serves. ~~as a member of the civil service commission or by the~~
114 ~~judge thereof in vacation.~~ The party against whom the
115 decision of the circuit court ~~or judge thereof in vacation~~ is
116 rendered ~~has the right to~~ may petition the Supreme Court of
117 Appeals for a review of the decision of the circuit court ~~or~~
118 ~~judge thereof in vacation~~ as in other civil cases.

119 ~~No commissioner may hold any other office (other than~~
120 ~~the office of notary public) under the United States, this state~~
121 ~~or any municipality, county or other political subdivision~~
122 ~~thereof, nor may any commissioner serve on any political~~

123 party committee or take any active part in the management of
124 any political campaign.

CHAPTER 8. MUNICIPAL CORPORATIONS.

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

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

1 In every A Class I and Class II city municipality having
2 a paid police department, ~~there shall be a~~ create a
3 "Policemen's Civil Service Commission." The commission
4 ~~shall consist~~ consists of three commissioners:

5 (1) One commissioner ~~of whom shall be~~ appointed by the
6 mayor of the city municipality;

7 (2) One commissioner ~~of whom shall be~~ appointed by the
8 local fraternal order of police; and

9 (3) One commissioner ~~the third shall be~~ appointed by the
10 local chamber of commerce, or if there be none, by a local
11 businessmen's association.

12 A commissioner may not be a relative, as defined in
13 section three, article one, chapter six-B, to: the mayor of the
14 municipality; the President, Chairman or similarly situated
15 official of the local fraternal order of police or the local
16 chamber of commerce or businessmen's association.

17 A person is not eligible for appointment or reappointment
18 if convicted of a felony or any misdemeanor involving moral
19 turpitude.

20 A commissioner shall be a qualified voters voter of the
21 city. for which they are appointed; and at least two of said
22 commissioners shall be individuals in full sympathy with the
23 purposes of the civil service provisions of this article.

24 Only two commissioners may be of the same political
25 party.

26 ~~Not more than two of the said commissioners, at any one~~
27 ~~time, shall be adherents of the same political party. Of th~~
28 ~~three original appointments in each city, the first~~
29 ~~commissioner shall be appointed by the mayor; and shall~~
30 ~~serve for six years from the date of his or her appointment;~~
31 ~~the second commissioner shall be appointed by the local~~
32 ~~fraternal order of police; and shall serve for four years from~~
33 ~~the date of his appointment; and the third commissioner shall~~

34 ~~be appointed by the local chamber of commerce or local~~
35 ~~businessmen's association, and shall serve for two years from~~
36 ~~the date of his appointment. In the event~~

37 If there is no local chamber of commerce or local
38 businessmen's association at the time any appointment is to
39 be made by it, ~~such~~ the appointment shall be made by the
40 other two commissioners by mutual agreement. After the
41 original appointments, all appointments shall be made for
42 periods of four years. ~~each by the appointing authority~~
43 ~~hereinbefore designated. In the event that~~

44 If any commissioner of said civil service commission
45 shall cease to be a member, ~~thereof by virtue of death, final~~
46 ~~removal or other cause,~~ a new commissioner shall be
47 appointed to fill the unexpired term ~~of said commissioner~~
48 ~~within ten days. after said excommissioner shall have ceased~~
49 ~~to be a member of said commission. Such~~ The appointment
50 shall be made by the officer or body who in the first instance
51 appointed the commissioner. ~~who is no longer a member of~~
52 ~~the commission, except that in the case of a vacancy in an~~
53 ~~appointment made by the Governor, which vacancy occurs~~
54 ~~after the effective date of this article, the appointment for the~~
55 ~~unexpired term shall be made by the mayor.~~

56 Each year the ~~three members of the commission~~ the
57 commissioners shall ~~together,~~ elect ~~one of their number to act~~
58 as a president. ~~of the commission, who shall serve as~~
59 ~~president for one year.~~

60 The mayor may, ~~at any time,~~ remove any commissioner
61 ~~or commissioners~~ for good cause, which shall be stated in
62 writing and made a part of the records of the commission.

63 ~~Provided, That~~

64 Once the mayor has removed any commissioner, the
65 mayor shall within ten days thereafter file in the office of the
66 clerk of the circuit court of the county in which the city or the
67 major portion ~~of the territory~~ thereof is located a petition
68 setting forth in full the reason for ~~said~~ the removal and
69 ~~praying requesting for~~ the confirmation by ~~said~~ the circuit
70 court. ~~of the action of the Mayor in so removing the said~~
71 ~~commissioner.~~ A copy of said petition shall be served upon
72 the commissioner so removed simultaneously with its filing
73 in the office of the clerk of the circuit court and shall have
74 precedence on the docket of ~~said~~ the court and shall be heard
75 by ~~said~~ the court as soon as practicable. ~~upon the request of~~
76 ~~the removed commissioner, or commissioners.~~ All rights
77 herein vested in ~~said~~ circuit court may be exercised by the
78 judge thereof in vacation. In the event

79 If that no term of the circuit court is being held at the
80 time of the filing of said the petition, and the judge thereof
81 ~~cannot be reached in the county wherein the petition was~~
82 ~~filed,~~ said the petition shall be heard at the next succeeding
83 term of said the circuit court, ~~whether regular or special;~~ and
84 the commissioner ~~or commissioners~~ so removed shall remain
85 removed until a hearing is had upon the said petition. ~~of the~~
86 ~~Mayor.~~ The court ~~or the judge thereof in vacation~~ shall hear
87 and decide the issues presented by said the petition.

88 The mayor or commissioner ~~or commissioners,~~ as the
89 ~~case may be,~~ against whom the decision of the court ~~or the~~
90 ~~judge thereof in vacation shall be~~ is rendered, shall have the
91 right to may petition the Supreme Court of Appeals for a
92 review of the decision of the circuit court ~~or the judge thereof~~
93 ~~in vacation~~ as in other civil cases.

94 ~~In the event that~~ If the mayor shall fails to file his or her
95 petition in the office of the clerk of the circuit court, as
96 ~~hereinbefore provided,~~ within ten days after the removal of
97 said the commissioner, ~~or commissioners,~~ such the
98 commissioner ~~or commissioners~~ shall immediately resume
99 his or her ~~or their~~ position. ~~or positions as a member or~~
100 ~~members of the policemen's Civil Service Commission.~~

101 Any resident of the city ~~shall have the right at any time to~~
102 may file charges against and seek the removal of any member
103 of the policemen's civil service commission. ~~of such city.~~
104 ~~Such~~ The charges shall be filed in the form of a petition in
105 the office of the clerk of the circuit court of the county in
106 which the city or the major portion ~~of the territory~~ thereof is
107 located, and a copy of ~~said~~ the petition shall be served upon
108 the commissioner ~~or commissioners~~ sought to be removed.
109 ~~Said~~ The petition shall be ~~matured for hearing and~~ heard by
110 ~~said~~ the circuit court ~~or the judge thereof in vacation~~ in the
111 same manner as civil proceedings ~~in the circuit courts of this~~
112 ~~state~~ are heard, and the party against whom the circuit court's
113 decision is rendered ~~shall have the right to~~ may petition the
114 Supreme Court of Appeals for a review of the action of the
115 circuit court, as in other civil cases.

116 ~~No commissioner shall hold any other office (other than~~
117 ~~the office of notary public) under the United States, this state,~~
118 ~~or any municipality, county or other political subdivision~~
119 ~~thereof; nor shall any commissioner serve on any political~~
120 ~~committee or take any active part in the management of any~~
121 ~~political campaign.~~

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

§8-15-12. Firemen’s Civil Service Commission generally.

1 In every A municipality having a paid fire department,
2 there shall create ~~be~~ a “Firemen’s Civil Service
3 Commission.” The commission shall consist of three
4 commissioners:

5 (1) One commissioner ~~of whom shall be~~ appointed by the
6 Mayor of the municipality;

7 (2) One commissioner ~~of whom shall be~~ appointed by the
8 local international association of fire fighters in the event that
9 said local exists in the municipality, or in case no such local
10 exists in the municipality, then by the local central body of
11 the West Virginia Federation of Labor AFL-CIO in the event
12 that said central body exists in the municipality, or in case
13 that no such central body exists in the municipality, then by
14 the West Virginia Federation of Labor AFL-CIO;

15 (3) One commissioner ~~and the third shall be~~ appointed by
16 the local chamber of commerce, or if there be none, by a
17 local businessmen’s association.

18 A commissioner may not be a relative, as defined in
19 section three, article one, chapter six-B, to the mayor of the
20 municipality, the president, chairman or similarly situated
21 official of the local international association of fire fighters
22 or the appropriate West Virginia Federation of Labor
23 AFL-CIO as appropriate, or the local chamber of commerce
24 or businessmen's association.

25 A commissioner may not be convicted of a felony or any
26 misdemeanor involving moral turpitude.

27 A commissioner shall be a resident of the municipality.

28 A commissioner shall be a qualified voters voter of the
29 municipality. for which they are appointed, and at least two
30 of said commissioners shall be individuals in full sympathy
31 with the purposes of the civil service provisions of this
32 article.

33 A commissioner may not hold any other office (other
34 than the office of notary public) under the United States, this
35 state or any municipality, county or other political
36 subdivision thereof; nor shall any commissioner serve on any
37 political committee or take any active part in the management
38 of any political campaign.

39 Only two commissioners may be of the same political
40 party.

41 ~~Not more than two of the said commissioners, at any one~~
42 ~~time, shall be adherents of the same political party. Of the~~
43 ~~three original appointments in each municipality, the first~~
44 ~~commissioner shall be appointed by the mayor and shall~~
45 ~~serve for six years from the date of his appointment, the~~
46 ~~second commissioner shall be appointed by the local trades~~
47 ~~board, or in the absence of such board, by the international~~
48 ~~association of fire fighters, and shall serve for four years~~
49 ~~from the date of his appointment, and the third commissioner~~
50 ~~shall be appointed by the local chamber of commerce or local~~
51 ~~businessmen's association and shall serve for two years from~~
52 ~~the date of his appointment. In the event~~

53 If there is no local chamber of commerce or local
54 businessmen's association at the time any appointment is to
55 be made by it, ~~such~~ the appointment shall be made by the
56 other two commissioners by mutual agreement.

57 After the original appointments, all appointments shall be
58 made for periods of four years. ~~each by the appointing~~
59 ~~authority hereinbefore designated.~~

60 ~~In the event that~~ If any commissioner ~~of said Civil~~
61 ~~Service Commission~~ shall cease to be a member, ~~thereof by~~
62 ~~virtue of death, final removal or other cause,~~ a new
63 commissioner shall be appointed to fill the unexpired term of
64 said commissioner within ten days. ~~after said ex-~~
65 ~~commissioner shall have ceased to be a member of said~~
66 ~~commissioner.~~

67 ~~Such~~ The appointment shall be made by the officer or
68 body who in the first instance appointed the commissioner
69 who is no longer a member of the commission.

70 Each year ~~three members of the commission~~ the
71 commissioners shall ~~together,~~ elect ~~one of their number to act~~
72 ~~as a~~ president. ~~of the commission, who shall serve as~~
73 ~~president for one year.~~

74 The mayor may, at any time, remove any commissioner
75 ~~or commissioners~~ for good cause, which shall be stated in
76 writing and made a part of the records of the commission.

77 ~~Provided, That~~ Once the mayor has removed any
78 commissioner, the mayor shall within ten days ~~thereafter~~ file
79 in the office of the clerk of the circuit court of the county in
80 which the municipality or the major portion ~~of the territory~~
81 thereof is located a petition setting forth in full the reason for

82 ~~said~~ the removal and ~~praying for~~ requesting the confirmation
83 by ~~said~~ the circuit court of the action of the mayor in so
84 removing the ~~said~~ commissioner. A copy of ~~said~~ the petition
85 shall be served upon the commissioner so removed
86 simultaneously with its filing in the office of the clerk of the
87 circuit court and shall have precedence on the docket of ~~said~~
88 the court and shall be heard by ~~said~~ the court as soon as
89 practicable. ~~upon the request of the removed commissioner~~
90 ~~or commissioners. All rights herein vested in said circuit~~
91 ~~court may be exercised by the judge thereof in vacation. In~~
92 ~~the event that~~ If no term of the circuit court is being held at
93 the time of the filing of ~~said~~ the petition, ~~and the judge~~
94 ~~thereof cannot be reached in the county wherein the petition~~
95 ~~was filed,~~ ~~said~~ the petition shall be heard at the next
96 succeeding term of ~~said~~ the circuit court, ~~whether regular or~~
97 ~~special,~~ and the commissioner ~~or commissioners~~ so removed
98 shall remain removed until a hearing is had upon the petition.
99 ~~of the mayor.~~ The court ~~or the judge thereof in vacation~~ shall
100 hear and decide the issues presented by ~~said~~ the petition. The
101 mayor or commissioner ~~or commissioners,~~ as the case may
102 be, against whom the decision ~~of the court or the judge~~
103 ~~thereof in vacation shall be~~ is rendered, shall have the right

104 to petition the Supreme Court of Appeals for a review of the
105 decision of the circuit court. ~~or the judge thereof in vacation~~
106 ~~as in other civil cases.~~

107 ~~In the event that~~ If the mayor ~~shall fail~~ fails to file his or
108 her petition in the office of the clerk of the circuit court, ~~as~~
109 ~~hereinbefore provided,~~ within ten days after the removal of
110 ~~said~~ the commissioner ~~or commissioners,~~ such the
111 commissioner ~~or commissioners~~ shall immediately resume
112 his or her ~~or their~~ position. ~~or positions as a member or~~
113 ~~members of the firemen's civil service commission.~~

114 Any resident of the municipality ~~shall have the right at~~
115 ~~any time to~~ may file charges against and seek the removal of
116 ~~any member~~ a commissioner, of the firemen's Civil Service
117 ~~Commission~~, of such municipality. ~~Such~~ The charges shall
118 be filed in the form of a petition in the office of the clerk of
119 the circuit court of the county in which the municipality or
120 the major portion ~~of the territory~~ thereof is located, and a
121 copy of ~~said~~ the petition shall be served upon the
122 commissioner ~~or commissioners~~ sought to be removed. ~~Said~~
123 The petition shall be ~~matured for hearing and~~ heard by ~~said~~
124 the circuit court ~~or the judge thereof in vacation~~ in the same
125 manner as civil proceedings, ~~in the circuit courts of this state~~

126 ~~are heard~~, and the party against whom the circuit court's
127 decision is rendered ~~shall have the right to~~ may petition the
128 Supreme Court of Appeals for a review of the action of the
129 circuit court, as in other civil cases.

130 ~~No commissioner shall hold any other office (other than~~
131 ~~the office of notary public) under the United States, this state~~
132 ~~or any municipality, county or other political subdivision~~
133 ~~thereof, nor shall any commissioner serve on any political~~
134 ~~committee or take any active part in the management of any~~
135 ~~political campaign.~~