

1 **ENROLLED**

2 COMMITTEE SUBSTITUTE

3 for

4 **H. B. 4063**

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

7
8 [Passed March 9, 2012; in effect from passage.]
9

10 AN ACT 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; removing requirement that a simple majority of
17 members of commissions be of same political party; eligible
18 qualifications for commissioners; appointment procedure for
19 commissioners; terms of commissioners; grounds and procedures
20 for removal from the commission; and procedures for
21 replacement of vacancies.

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

23 That §7-14-3 of the Code of West Virginia, 1931, as amended,
24 be amended and reenacted; that §7-14B-3 of said code be amended and

1 reenacted; that §8-14-7 of said code be amended and reenacted; and
2 that §8-15-12 of said code be amended and reenacted, all to read as
3 follows:

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

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

6 **§7-14-3. Civil Service Commission.**

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

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

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

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

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

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

21 (d) In the event a commissioner ceases to be a member thereof
22 by virtue of death, final removal, resignation or other cause, a
23 new commissioner shall be appointed to fill the unexpired term
24 within sixty days after said ex-commissioner ceased to be a member

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

6 (e) During their term of appointment, each commissioner must
7 be a resident of this state and a qualified voter of the county
8 where the civil service commission is located.

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 an active part in the management of any political

1 campaign.

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

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

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

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

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

11 (i) The county commission may remove a serving commissioner
12 for neglect of duty, incompetence, official misconduct or good
13 cause. The reasons for removal of a commissioner shall be stated
14 in writing and made a part of the records of the civil service
15 commission.

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

20 (1) The reason for the removal; and

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

23 (k) A copy of the petition shall be served upon the removed
24 commissioner simultaneously with the filing of the petition in the

1 office of the clerk of the circuit court. The petition has
2 precedence on the docket of the circuit court and shall be heard by
3 the court as soon as practicable.

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

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

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

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

2 **§7-14B-3. Civil Service Commission.**

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

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

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

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

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

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

18 (d) In the event a commissioner ceases to be a member thereof
19 by virtue of death, final removal, resignation or other cause, a
20 new commissioner shall be appointed to fill the unexpired term
21 within sixty days after said ex-commissioner ceased to be a member
22 of the commission. All appointments to the commission shall be
23 made in a timely manner so as not to create a vacancy for longer
24 than sixty days. If the county bar association or the county

1 correctional officers' association fails to make an appointment
2 within sixty days, then the county commission shall make the
3 appointment.

4 (e) During their term of appointment, each commissioner must
5 be a resident of this state and a qualified voter of the county
6 where the civil service commission is located.

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

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

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

13 (A) A county commissioner of the county from which the
14 appointment is made; or

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

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

21 (4) Serves on any political committee; or

22 (5) Takes an active part in the management of any political
23 campaign.

24 (g) The civil service commission shall annually elect one of

1 its members as president who serves at the will and pleasure of the
2 commission.

3 (h) The county commission shall remove a serving commissioner
4 if:

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

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

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

10 (i) The county commission may remove a serving commissioner
11 for neglect of duty, incompetence, official misconduct or good
12 cause. The reasons for removal of a commissioner shall be stated
13 in writing and made a part of the records of the civil service
14 commission.

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

19 (1) The reason for the removal; and

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

22 (k) A copy of the petition shall be served upon the removed
23 commissioner simultaneously with the filing of the petition in the
24 office of the clerk of the circuit court. The petition has

1 precedence on the docket of the circuit court and shall be heard by
2 the court as soon as practicable.

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

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

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

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CHAPTER 8. MUNICIPAL CORPORATIONS.

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

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

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

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

16 (1) One commissioner appointed by the mayor of the
17 municipality;

18 (2) One commissioner appointed by the local fraternal order of
19 police; and

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

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

24 (d) In the event a commissioner ceases to be a member thereof

1 by virtue of death, final removal, resignation or other cause, a
2 new commissioner shall be appointed to fill the unexpired term
3 within sixty days after said ex-commissioner ceased to be a member
4 of the commission. All appointments to the commission shall be
5 made in a timely manner so as not to create a vacancy for longer
6 than sixty days. If there is no local chamber of commerce or local
7 businessmen's association, or the local chamber of commerce or
8 local businessmen's association fails to make an appointment within
9 sixty days, then the other two commissioners shall make the
10 appointment by mutual agreement.

11 (e) During their term of appointment, each commissioner must
12 be a resident of this state and a qualified voter of the
13 municipality where the civil service commission is located.

14 (f) A person is not eligible for appointment or reappointment
15 to the 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. The reasons for removal of a commissioner shall be
20 stated in writing and made a part of the records of the civil
21 service commission.

22 (j) After the mayor has removed a commissioner, the mayor
23 shall, within ten days, file a petition in the office of the clerk
24 of the circuit court of the county in which the municipality or a

1 major portion of the municipality where the civil service
2 commission 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 civil service commission until
14 a hearing is had upon the petition, and the circuit court renders
15 a decision in the matter. The mayor or the removed commissioner
16 may appeal the decision of the circuit court to the Supreme Court
17 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 civil service
22 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, and each firemen's
14 civil service commission previously created is continued. The
15 commissioners shall, unless sooner removed, continue to serve until
16 their respective terms expire and their successors have been
17 appointed 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) In the event a commissioner ceases to be a member thereof
8 by virtue of death, final removal, resignation or other cause, a
9 new commissioner shall be appointed to fill the unexpired term
10 within sixty days after said ex-commissioner ceased to be a member
11 of the commission. All appointments to the commission shall be
12 made in a timely manner so as not to create a vacancy for longer
13 than sixty days. If there is no local chamber of commerce or local
14 businessmen's association, or the local chamber of commerce or
15 local businessmen's association fails to make an appointment within
16 sixty days, then the other two commissioners shall make the
17 appointment by mutual agreement.

18 (e) During their term of appointment, each commissioner must
19 be a resident of this state and a qualified voter of the
20 municipality where the civil service commission is located.

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

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

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

3 (A) The mayor of the municipality from which the appointment
4 is made; or

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

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

14 (4) Serves on any political committee; or

15 (5) Takes an active part in the management of any political
16 campaign.

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

19 (h) The mayor of the municipality shall remove a serving
20 commissioner if:

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

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

24 (3) He or she is no longer a qualified voter of the

1 municipality in which the commission is located.

2 (i) The mayor of the municipality may remove a serving
3 commissioner for neglect of duty, incompetence, official misconduct
4 or good cause. The reasons for removal of a commissioner shall be
5 stated in writing and made a part of the records of the civil
6 service commission.

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

12 (1) The reason for the removal; and

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

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

20 (l) The circuit court shall hear and decide the issues
21 presented by the petition. The removed commissioner shall not
22 serve in his or her capacity on the civil service commission until
23 a hearing is had upon the petition, and the circuit court renders
24 a decision in the matter. The mayor or the removed commissioner

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

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

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