

Senate Bill No. 440

(By Senators Sypolt, Barnes, Hall and Nohe)

[Introduced January 27, 2012; referred to the Committee on Government Organization; and then to the Committee on the Judiciary.]

11 A BILL to amend and reenact §8-15-11 and §8-15-22 of the Code of
12 West Virginia, 1931, as amended, all relating to reinstating
13 former fire chiefs to previously held positions of a paid fire
14 department following an expired term as chief; and providing
15 for appointment of deputy chiefs of fire departments.

16 Be it enacted by the Legislature of West Virginia:

17 That §8-15-11 and §8-15-22 of the Code of West Virginia, 1931,
18 as amended, be amended and reenacted, all to read as follows:

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

21 §8-15-11. Qualifications for appointment or promotion to positions
22 in paid fire departments to be ascertained by
23 examination; provisions exclusive as to appointments,

1 **etc.; rights of certain chiefs; "appointing officer"**

2 **defined.**

3 (a) All appointments and promotions to all positions in all
4 paid fire departments shall be made only according to
5 qualifications and fitness to be ascertained by examinations,
6 which, so far as practicable, shall be competitive, as hereinafter
7 provided.

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

23 (c) Until the office of fire chief and deputy chief is placed
24 under the civil service provisions of this article by the governing

1 body, the member of any paid fire department now occupying such
2 office or hereafter appointed to such office shall in all cases of
3 removal, except for removal for good cause, retain the status he or
4 she held in the paid fire department at the time of his or her
5 appointment to the office of fire chief or deputy chief or which he
6 or she attained during his or her term as fire chief or deputy
7 chief.

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

12 §8-15-22. Vacancies filled by promotions; eligibility for
13 promotion.

14 Vacancies in positions in a paid fire department shall be
15 filled, so far as practicable, by promotions from among individuals
16 holding positions in the next lower grade in the department.
17 Promotions shall be based upon experience and by competitive
18 written examinations to be provided by the firemen's civil service
19 commission: *Provided*, That except for the chief or deputy chief,
20 if the position of deputy chief has been previously created by city
21 council of that city, no individual shall be eligible for promotion
22 from the lower grade to the next higher grade until such individual
23 shall have completed at least two years of continuous service in
24 the next lower grade in the department immediately prior to said

1 examination and has completed the registered apprenticeship and
2 certification program under article fifteen-a, chapter eight of
3 this code: *Provided, however,* That completion of the registered
4 apprenticeship and certification program as a requirement for
5 promotion shall apply only to those firefighters employed since
6 June 12, 1987. The commission shall have the power to determine in
7 each instance whether an increase in salary constitutes a
8 promotion.

NOTE: The purpose of this bill is to permit the reinstatement of former fire chiefs to previously held positions of a paid fire department following an expired term as chief. The bill provides for appointment of deputy chiefs of fire departments.

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