

1 COMMITTEE SUBSTITUTE

2 for

3 **H. B. 2888**

4
5 (By Delegates Miley, Fragale, Manchin, Fleischauer, Longstreth
6 and Caputo)

7 (Originating in the Committee on the Judiciary)

8 [March 26, 2013]

9
10 A BILL to amend and reenact §8-14-7 of the Code of West Virginia,
11 1931, as amended, relating to policemen's civil service
12 commissions; authorizing commissioners to serve on other
13 boards and commissions.

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

15 That §8-14-7 of the Code of West Virginia, 1931, as amended,
16 be amended and reenacted to read as follows:

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

23 **§8-14-7. Policemen's civil service commission generally.**

24 (a) In every Class I and Class II city having a paid police
25 department, there shall be a "Policemen's Civil Service
26 Commission."

27 (b) The commission shall consist of three commissioners, as

1 follows:

2 (1) One ~~of whom~~ shall be appointed by the mayor of the city;

3 (2) One ~~of whom~~ shall be appointed by the local fraternal
4 order of police; and

5 (3) ~~the third~~ One shall be appointed by the local chamber of
6 commerce, or if there ~~be~~ is none, by a local ~~businessmen's~~ business
7 association.

8 (c) ~~The individuals appointed~~ commissioners shall be qualified
9 voters of the city for which they are appointed. ~~and~~

10 (1) At least two of ~~said~~ the commissioners shall be
11 individuals in full sympathy with the purposes of the civil service
12 provisions of this article.

13 (2) Not more than two of the ~~said~~ commissioners, at any one
14 time, ~~shall~~ may be ~~adherents of~~ registered to vote as members of
15 the same political party.

16 (d) ~~Of the three original appointments in each city, the first~~
17 ~~commissioner shall be appointed by the mayor and shall serve for~~
18 ~~six years from the date of his appointment; the second commissioner~~
19 ~~shall be appointed by the local fraternal order of police and shall~~
20 ~~serve for four years from the date of his appointment; and the~~
21 ~~third commissioner shall be appointed by the local chamber of~~
22 ~~commerce or local businessmen's association and shall serve for two~~
23 ~~years from the date of his appointment.~~ In the event there is no
24 local chamber of commerce or local ~~businessmen's~~ business
25 association at the time any appointment is to be made by it, ~~such~~
26 the appointment shall be made by the other two commissioners by
27 mutual agreement.

1 (e) ~~After the original appointments, all appointments shall be~~
2 ~~made for periods of four years each by the appointing authority~~
3 ~~hereinbefore designated.~~ Members shall serve terms of four years,
4 staggered in accordance with prior enactments of this section.

5 (f) (1) ~~In the event that~~ If any commissioner of ~~said the~~
6 civil service commission ~~shall cease~~ ceases to be a member ~~thereof~~
7 of the commission by virtue of death, final removal or other cause,
8 a new commissioner shall be appointed to fill the unexpired term of
9 ~~said the~~ commissioner within ten days after ~~said the~~ excommissioner
10 ~~shall have~~ has ceased to be a member of ~~said the~~ commission.

11 (2) ~~Such~~ The appointment shall be made by the officer or body
12 who in the first instance appointed the commissioner who is no
13 longer a member of the commission, except that in the case of a
14 vacancy in an appointment made by the Governor, which vacancy
15 occurs after the effective date of this article, the appointment
16 for the unexpired term shall be made by the mayor.

17 (g) Each year the three members of the commission shall,
18 together, elect one of their number to act as president of the
19 commission, who ~~shall serve~~ serves as president for one year.

20 (h) The mayor may, at any time, remove any commissioner or
21 commissioners for good cause, which shall be stated in writing and
22 made a part of the records of the commission.

23 (1) ~~Provided, That~~ Once the mayor has removed any
24 commissioner, the mayor shall within ten days ~~thereafter~~ file in
25 the office of the clerk of the circuit court of the county in which
26 the city or the major portion of the territory ~~thereof~~ of the city
27 is located a petition setting forth in full the reason for ~~said the~~

1 removal and praying for the confirmation by ~~said the~~ circuit court
2 of the action of the mayor in so removing the ~~said~~ commissioner.

3 (2) A copy of ~~said the~~ petition shall be served upon the
4 commissioner ~~so~~ removed simultaneously with its filing in the
5 office of the clerk of the circuit court and ~~shall have~~ has
6 precedence on the docket of ~~said the~~ court and shall be heard by
7 ~~said the~~ court as soon as practicable upon the request of the
8 removed commissioner or commissioners.

9 (i) (1) All rights ~~herein~~ vested in ~~said the~~ circuit court by
10 this section may be exercised by the judge thereof in vacation.

11 (2) ~~In the event that~~ If no term of the circuit court is being
12 held at the time of the filing of ~~said the~~ petition, and the judge
13 ~~thereof~~ cannot be reached in the county ~~wherein~~ in which the
14 petition was filed, ~~said the~~ petition shall be heard at the next
15 succeeding term of ~~said the~~ circuit court, whether regular or
16 special, and the commissioner or commissioners ~~so~~ removed ~~shall~~
17 ~~remain~~ remains removed until a hearing is had upon the ~~said the~~
18 petition of the mayor.

19 (3) The court or the judge thereof in vacation shall hear and
20 decide the issues presented by ~~said the~~ petition.

21 (j) (1) The mayor or commissioner or commissioners, as the
22 case may be, against whom the decision of the court or the judge
23 thereof in vacation ~~shall be~~ is rendered, ~~shall have~~ has the right
24 to petition the Supreme Court of Appeals for a review of the
25 decision of the circuit court or the judge thereof in vacation as
26 in other civil cases.

27 (2) ~~In the event that~~ If the mayor ~~shall fail~~ fails to file

1 ~~his~~ a petition in the office of the clerk of the circuit court ~~as~~
2 ~~hereinbefore provided~~ within ten days after the removal of ~~said~~ the
3 commissioner or commissioners, ~~such~~ the commissioner or
4 commissioners shall immediately resume his or her or their position
5 or positions as a member or members of the policemen's civil
6 service commission.

7 (k) Any resident of the city ~~shall have~~ has the right at any
8 time to file charges against and seek the removal of any member of
9 the policemen's civil service commission of ~~such~~ the city.

10 (1) ~~Such~~ The charges shall be filed in the form of a petition
11 in the office of the clerk of the circuit court of the county in
12 which the city or the major portion of the territory ~~thereof~~ of the
13 city is located, and a copy of ~~said~~ the petition shall be served
14 upon the commissioner or commissioners sought to be removed.

15 (2) ~~Said~~ The petition shall be matured for hearing and heard
16 by ~~said~~ the circuit court or the judge thereof in vacation in the
17 same manner as civil proceedings in the circuit courts of this
18 state are heard, and the party against whom the circuit court's
19 decision is rendered ~~shall have~~ has the right to petition the
20 Supreme Court of Appeals for a review of the action of the circuit
21 court, as in other civil cases.

22 ~~No commissioner shall hold any other office (other than the~~
23 ~~office of notary public) under the United States, this state, or~~
24 ~~any municipality, county or other political subdivision thereof;~~
25 ~~nor shall any commissioner serve on any political committee or take~~
26 ~~any active part in the management of any political campaign.~~

27 (1) A commissioner may not hold another office under the

1 United States, this state, or any municipality, county or other
2 political subdivision thereof, nor may a commissioner serve on a
3 political committee or take an active part in the management of a
4 political campaign, except that a commissioner may serve as a
5 notary public or on another local, regional or state board or
commission in a part-time capacity.