

COMMITTEE SUBSTITUTE

For

H. B. 2888

(BY DELEGATE(S) MILEY, FRAGALE, MANCHIN,
FLEISCHAUER, LONGSTRETH AND CAPUTO)

(Originating in the Committee on the Judiciary)
[March 27, 2013]

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

Be it enacted by the Legislature of West Virginia:

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

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

4 **(b)** The commission shall consist of three commissioners, as
5 follows:

6 **(1)** ~~One of whom~~ shall be appointed by the mayor of the
7 city;

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

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

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

15 **(1)** At least two of ~~said~~ the commissioners shall be
16 individuals in full sympathy with the purposes of the civil
17 service provisions of this article.

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

21 **(d)** ~~Of the three original appointments in each city, the first~~
22 ~~commissioner shall be appointed by the mayor and shall serve~~
23 ~~for six years from the date of his appointment; the second~~
24 ~~commissioner shall be appointed by the local fraternal order of~~
25 ~~police and shall serve for four years from the date of his~~
26 ~~appointment; and the third commissioner shall be appointed by~~
27 ~~the local chamber of commerce or local businessmen's~~

28 ~~association and shall serve for two years from the date of his~~
29 ~~appointment.~~ In the event there is no local chamber of commerce
30 or local ~~businessmen's~~ business association at the time any
31 appointment is to be made by it, ~~such~~ the appointment shall be
32 made by the other two commissioners by mutual agreement.

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

38 ~~(f) (1) In the event that~~ If any commissioner of ~~said~~ the civil
39 service commission ~~shall cease~~ ceases to be a member ~~thereof~~ of
40 the commission by virtue of death, final removal or other cause,
41 a new commissioner shall be appointed to fill the unexpired term
42 of ~~said~~ the commissioner within ten days after ~~said~~ the
43 ~~excommissioner shall have~~ has ceased to be a member of ~~said~~
44 the commission.

45 ~~(2) Such~~ The appointment shall be made by the officer or
46 body who in the first instance appointed the commissioner who
47 is no longer a member of the commission, except that in the case
48 of a vacancy in an appointment made by the Governor, which
49 vacancy occurs after the effective date of this article, the
50 appointment for the unexpired term shall be made by the mayor.

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

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

57 (1) ~~Provided, That~~ Once the mayor has removed any
58 commissioner, the mayor shall within ten days ~~thereafter~~ file in
59 the office of the clerk of the circuit court of the county in which
60 the city or the major portion of the territory ~~thereof~~ of the city is
61 located a petition setting forth in full the reason for ~~said the~~
62 removal and praying for the confirmation by ~~said the~~ the circuit
63 court of the action of the mayor in so removing the ~~said~~
64 commissioner.

65 (2) A copy of ~~said the~~ the petition shall be served upon the
66 commissioner ~~so~~ removed simultaneously with its filing in the
67 office of the clerk of the circuit court and ~~shall have~~ has
68 precedence on the docket of ~~said the~~ the court and shall be heard by
69 ~~said the~~ the court as soon as practicable upon the request of the
70 removed commissioner or commissioners.

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

73 (2) ~~In the event that~~ If no term of the circuit court is being
74 held at the time of the filing of ~~said the~~ the petition, and the judge

75 ~~thereof~~ cannot be reached in the county ~~wherein~~ in which the
76 petition was filed, ~~said~~ the petition shall be heard at the next
77 succeeding term of ~~said~~ the circuit court, whether regular or
78 special, and the commissioner or commissioners ~~so~~ removed
79 ~~shall remain~~ remains removed until a hearing is had upon the
80 ~~said~~ petition of the mayor.

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

83 (i)(1) The mayor or commissioner or commissioners, as the
84 case may be, against whom the decision of the court or the judge
85 thereof in vacation ~~shall be~~ is rendered, ~~shall have~~ has the right
86 to petition the Supreme Court of Appeals for a review of the
87 decision of the circuit court or the judge thereof in vacation as in
88 other civil cases.

89 (2) ~~In the event that~~ If the mayor ~~shall fail~~ fails to file ~~his a~~
90 petition in the office of the clerk of the circuit court ~~as~~
91 ~~hereinbefore provided~~ within ten days after the removal of ~~said~~
92 the commissioner or commissioners, ~~such~~ the commissioner or
93 commissioners shall immediately resume his or her or their
94 position or positions as a member or members of the
95 policemen's civil service commission.

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

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

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

111 ~~No commissioner shall hold any other office (other than the~~
112 ~~office of notary public) under the United States, this state, or any~~
113 ~~municipality, county or other political subdivision thereof; nor~~
114 ~~shall any commissioner serve on any political committee or take~~
115 ~~any active part in the management of any political campaign.~~

116 (1) A commissioner may not hold another office under the
117 United States, this state, or any municipality, county or other
118 political subdivision thereof, nor may a commissioner serve on
119 a political committee or take an active part in the management
120 of a political campaign, except that a commissioner may serve
121 as a notary public or on another local, regional or state board or
122 commission in a part-time capacity.

