

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**ENROLLED**

## **House Bill 4324**

BY DELEGATES HOWELL, STATLER, HILL, MARTIN, BUTLER, SHOTT,

MOORE, CRISS, PAYNTER, FOSTER AND PACK

[Passed March 10, 2018; in effect ninety days from passage.]



1 AN ACT to amend and reenact §8-15-17 and §8-15-20 of the Code of West Virginia, 1931, as  
2 amended, all relating to the employment of individuals by municipal paid fire departments  
3 under civil service; providing that an applicant need not be a resident of the municipality  
4 or the county in which he or she seeks to become a member of the paid fire department;  
5 and that if there are not enough eligible applicants to certify a list of three, then the  
6 appointing officer may appoint a qualified individual to fill the position.

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

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

**§8-15-17. Form of application; age and residency requirements; exceptions.**

1 (a) The Firemen's Civil Service Commission in each municipality shall require individuals  
2 applying for admission to any competitive examination provided for under the civil service  
3 provisions of this article or under the rules of the commission to file in its office, within a reasonable  
4 time prior to the proposed examination, a formal application in which the applicant shall state  
5 under oath or affirmation:

- 6 (1) His or her full name, residence, and post-office address;
- 7 (2) His or her United States citizenship, age, and the place and date of his or her birth;
- 8 (3) His or her state of health, and his or her physical capacity for the public service;
- 9 (4) His or her business and employments and residences for at least three previous years;

10 and

11 (5) Any other information reasonably required, touching upon the applicant's qualifications  
12 and fitness for the public service.

13 (b) Blank forms for the applications shall be furnished by the commission, without charge,  
14 to all individuals requesting the same.

15 (c) The commission may require, in connection with the application, certificates of citizens,  
16 physicians, and others, having pertinent knowledge concerning the applicant, as the good of the  
17 service requires.

18 (d) Except as provided in subsections (e) and (f) of this section, the commission may not  
19 accept an application for original appointment if the individual applying is less than 18 years of  
20 age or more than 35 years of age at the date of his or her application.

21 (e) If any applicant formerly served upon the paid fire department of the municipality to  
22 which he or she makes application for a period of more than one year, and resigned from the  
23 department at a time when there were no charges of misconduct or other misfeasance pending  
24 against the applicant within a period of two years next preceding the date of his or her application,  
25 and at the time of his or her application resides within the corporate limits of the municipality in  
26 which the paid fire department to which he or she seeks appointment by reinstatement is located,  
27 then the individual is eligible for appointment by reinstatement in the discretion of the Firemen's  
28 Civil Service Commission, even though the applicant is over the age of 35 years, and the  
29 applicant, providing his or her former term of service so justifies, may be appointed by  
30 reinstatement to the paid fire department without a competitive examination. The applicant shall  
31 undergo a medical examination; and if the individual is so appointed by reinstatement to the paid  
32 fire department, he or she shall be the lowest in rank in the department next above the  
33 probationers of the department and may not be entitled to seniority considerations.

34 (f) If an individual is presently employed by one paid fire department and is over the age  
35 of 35, he or she may make an application to another paid fire department if:

36 (1) The paid fire department to which he or she is applying is serving a municipality that  
37 has elected to participate in the West Virginia Municipal Police Officers and Firefighters  
38 Retirement System created in §8-22A-1 *et seq.* of this code: *Provided*, That any individual  
39 applying pursuant to this subdivision is to be classified as a new employee for retirement purposes  
40 and prior employment service may not be transferred to the West Virginia Municipal Police  
41 Officers and Firefighters Retirement System; or

42 (2) The paid fire department to which he or she is applying is serving a municipality that  
43 has elected to participate in the West Virginia Public Employees Retirement System created in

44 §5-10-1 *et seq.* of this code: *Provided*, That any individual applying pursuant to this subdivision is  
45 to be classified as a new employee for retirement purposes and prior employment service may  
46 not be transferred to the West Virginia Public Employees Retirement System, except for  
47 individuals and their prior employment service already credited to them in the West Virginia Public  
48 Employees Retirement System pursuant to §5-10-1 *et seq.* of this code.

49 (g) Individuals who are authorized to apply to a paid fire department pursuant to  
50 subsection (f) of this section shall be in the lowest rank of the department and are not entitled to  
51 seniority considerations.

52 (h) Notwithstanding charter provisions to the contrary, any applicant for original  
53 appointment need not be a resident of the municipality or the county in which he or she seeks to  
54 become a member of the paid fire department.

**§8-15-20. Appointments from list of eligible applicants; special examinations for electricians or mechanics.**

1 (a) Every position, unless filled by promotion, reinstatement, or reduction, shall be filled  
2 only in the manner specified in this section. The appointing officer shall notify the Firemen's Civil  
3 Service Commission of any vacancy in a position which he or she desires to fill, and shall request  
4 the certification of eligible applicants. The commission shall immediately certify, from the eligible  
5 list, the names of the three individuals on the eligible list who received the highest averages at  
6 preceding competitive examinations held under the civil service provisions of this article within a  
7 period of three years next preceding the date of the prospective appointment. The appointing  
8 officer shall, with sole reference to the relative merit and fitness of the candidates, make an  
9 appointment from the three certified names: *Provided*, That if the appointing officer objects, to the  
10 commission, to one or more of these individuals, for any of the reasons stated in §8-15-19 of this  
11 code, and the objection is sustained by the commission, after a public hearing along the lines of  
12 the hearing provided for in §8-15-19 of this code, if a hearing is requested, the commission shall  
13 strike the name of the individual from the eligible list, and certify the next highest name for each

14 individual stricken. As each subsequent vacancy occurs, in the same or another position,  
15 precisely the same procedure shall be followed: *Provided, however,* That after any name has  
16 been rejected three times for the same or another position in favor of a name or names below it  
17 on the same list, the name shall be stricken from the list. When there are a number of positions  
18 of the same kind to be filled at the same time, each appointment shall, nevertheless, be made  
19 separately and in accordance with the provisions of this section. When an appointment is made  
20 under the provisions of this section it shall be, in the first instance, for the probationary period of  
21 six months, as provided in §8-15-16 of this code: *Provided further,* That in the event any position  
22 as an electrician or mechanic is to be filled in any paid fire department, then the examinations to  
23 be given to applicants for either position shall be drawn to test only the qualifications of the  
24 applicants in regard to their ability as electricians or mechanics, the examinations to be special  
25 examinations.

26 (b) If there are not enough eligible applicants to certify a list of three, then the appointing  
27 officer may appoint a qualified individual to fill the position.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2018.

.....  
*Governor*