

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

House Bill 4324

BY DELEGATES HOWELL, STATLER, HILL, MARTIN,
BUTLER, SHOTT, MOORE, CRISS, PAYNTER, FOSTER AND
PACK

[Introduced January 26, 2018; Referred
to the Committee on Fire Departments and
Emergency Medical Services then the Judiciary.]

1 A BILL 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 as may reasonably be required, touching upon the applicant's
12 qualifications 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 may require.

18 (d) Except as provided in subsections (e) and (f) of this section, no application for original
19 appointment shall be received if the individual applying is less than 18 years of age or more than
20 35 years of age at the date of his or her application.

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

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

37 (1) The paid fire department to which he or she is applying is serving a municipality that
38 has elected to participate in the West Virginia Municipal Police Officers and Firefighters
39 Retirement System created in §8-22A-1 *et seq.* of this code: *Provided*, That any individual
40 applying pursuant to this subdivision is to be classified as a new employee for retirement purposes
41 and no prior employment service can be transferred to the West Virginia Municipal Police Officers
42 and Firefighters Retirement System; or

43 (2) The paid fire department to which he or she is applying is serving a municipality that
44 has elected to participate in the West Virginia Public Employees Retirement System created in
45 §5-10-1 *et seq.* of this code: *Provided*, That any individual applying pursuant to this subdivision is
46 to be classified as a new employee for retirement purposes and no prior employment service can
47 be transferred to the West Virginia Public Employees Retirement System, except for individuals
48 and their prior employment service already credited to them in the West Virginia Public Employees
49 Retirement System pursuant to §5-10-1 *et seq.* of this code.

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

53 (h) Any applicant for original appointment ~~must have been a resident for one year, during~~
54 ~~some period of time prior to the date of his or her application~~ need not be a resident of the
55 municipality or the county in which he or she seeks to become a member of the paid fire
56 department. ~~*Provided*, That if the commission determines it necessary it may consider for original~~
57 ~~appointment applicants who are not residents of the municipality but who have been residents of~~
58 ~~the county in which the municipality or any portion of the territory thereof is located for a period of~~
59 ~~at least one year~~

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

1 Every position, unless filled by promotion, reinstatement or reduction, shall be filled only
2 in the manner specified in this section. The appointing officer shall notify the firemen's civil service
3 commission of any vacancy in a position which he or she desires to fill, and shall request the
4 certification of eligible applicants from the eligible list, the name of the three individuals thereon
5 who received the highest averages at preceding competitive examinations held under the civil
6 service provisions of this article within a period of three years next preceding the date of the
7 prospective appointment. The appointing officer shall, thereupon, with sole reference to the

8 relative merit and fitness of the candidates, make an appointment from the three names so
9 certified: *Provided*, That should ~~he~~ the appointing officer make objection, to the commission, to
10 one or more of these individuals, for any of the reasons stated in section nineteen of this article,
11 and should such objection be sustained by the commission, after a public hearing along the lines
12 of the hearing provided for in §8-15-19 of this code, if any such hearing is requested, the
13 commission shall thereupon strike the name of any such individual from the eligible list, and certify
14 the next highest name for each individual so stricken. As each subsequent vacancy occurs, in the
15 same or another position, precisely the same procedure shall be followed: *Provided, however*,
16 That after any name has been three times rejected for the same or another position in favor of a
17 name or names below it on the same list, the said name shall be stricken from the list. When there
18 are a number of positions of the same kind to be filled at the same time, each appointment shall,
19 nevertheless, be made separately and in accordance with the foregoing provisions. When an
20 appointment is made under the provisions of this section it shall be, in the first instance, for the
21 probationary period of six months, as provided in §8-15-16 of this code: *Provided further*, That in
22 the event any position as an electrician or mechanic is to be filled in any paid fire department,
23 then the examinations to be given to applicants for either position shall be so drawn as to test
24 only the qualifications of such applicants in regard to their ability as electricians or mechanics,
25 such examinations to be special examinations.

26 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.

NOTE: The purpose of this bill is to provide that the employment of individuals by municipal paid fire departments under civil service need not be a resident of the municipality or the county in which he or she seeks to become a member of the paid fire department; and that if there are not enough eligible applicants to certify a list of three, then the appointing officer may appoint a qualified individual to fill the position.

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