

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 2297

BY DELEGATE FOSTER

[Introduced February 11, 2021; Referred to the
Committee on Political Subdivisions then Government
Organization]

1 A BILL to amend and reenact §7-11-3 of the Code of West Virginia, 1931, as amended; to amend
 2 and reenact §7-12-3 and §7-12-3a of said code; and to amend and reenact §8A-2-3 of
 3 said code, all relating to limiting the maximum number of appointees to certain county and
 4 municipal bodies; and imposing quorum requirements on certain county and municipal
 5 bodies.

Be it enacted by the Legislature of West Virginia:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 11. COUNTY PARKS AND RECREATION COMMISSIONS.

§7-11-3. Number of members; quorum; qualifications; appointment; term; disqualifications.

1 The commission shall consist of ~~eleven~~ at least five but not more than nine members, a
 2 majority of whom shall constitute a quorum for the transaction of business: Provided, That the
 3 commission may not transact any business unless a majority of members are contemporaneously
 4 present at a commission meeting. Each member of ~~said~~ the commission shall be a bona fide
 5 resident of the county and shall own real estate within ~~such~~ that county. The term of the
 6 commission members shall be for three years and until their successors have been appointed
 7 and have qualified: ~~Provided, That the county court in appointing the members of the first~~
 8 ~~commission shall appoint three members for a term of one year; four members for a term of two~~
 9 ~~years and four members for a term of three years~~ Provided, That the county court shall have until
 10 January 1, 2022, to reduce the number of members to between five and nine members. The order
 11 of the county court shall fix the date on which the term of ~~such~~ the commission members shall
 12 begin. The members of any board of park and recreation commissioners heretofore created under
 13 the former provisions of this article shall continue in office as members of the parks and recreation
 14 commission of ~~such~~ the county until their terms expire and their successors have been appointed
 15 and have qualified. Any member of the commission who shall cease to be a bona fide resident of

16 the county or a freeholder thereof, shall thereby be disqualified as a member of ~~such~~ the said
17 commission and his or her office shall become vacant. When a vacancy occurs on ~~said~~ the
18 commission by reason of death, resignation, change of residence from the county, failure to
19 remain a freeholder of the county, or expiration of term, the county court shall appoint a successor
20 or successors to fill out the unexpired term of the member of the commission whose term has
21 been vacated.

ARTICLE 12. COUNTY AND MUNICIPAL DEVELOPMENT AUTHORITIES.

§7-12-3. Management and control of county authority vested in board; appointment and terms of members; vacancies; removal of members; quorum requirements.

1 The management and control of a county authority, its property, operations, business, and
2 affairs shall be lodged in a board of not fewer than ~~twelve nor more than twenty-one~~ five nor more
3 than nine persons who shall be appointed by the county commission and be known as members
4 of the authority: Provided, That members appointed to the board prior to July 1, 2017, shall be
5 permitted to complete their term of appointment even if the board's membership exceeds nine
6 members. The county commission shall appoint one member to represent the county commission
7 on the board and, for each municipality located within the county, the county commission shall
8 appoint one member to represent the municipality. The city and town council of each municipality
9 located within the county shall submit to the county commission the names of three persons, one
10 of whom the county commission shall appoint to be the municipality's representative on the board.
11 Other members of the board shall be appointed by the county commission and shall include
12 representatives of business, industry, and labor. The members of the authority first appointed
13 shall serve respectively for terms of one year, two years and three years, divided equally or as
14 nearly equal as possible between these terms. Thereafter, members shall be appointed for terms
15 of three years each. A member may be reappointed for such additional term or terms as the
16 county commission may ~~deem~~ consider proper. If a member resigns, is removed or for any other
17 reason his or her membership terminates during his or her term of office, a successor shall be

18 appointed by the county commission to fill out the remainder of his or her term. Members in office
 19 at the expiration of their respective terms shall continue to serve until their successors have been
 20 appointed and have qualified. The county commission may at any time remove any member of
 21 the board by an order duly entered of record and may appoint a successor member for any
 22 member so removed.

23 Other persons, firms, unincorporated associations, and corporations, who reside, maintain
 24 offices, or have economic interests ~~as the case may be~~ in the county, shall be eligible to participate
 25 in and request the county commission to appoint members to the development authority as the
 26 said authority shall by its bylaws provide.

27 County boards authorized under this section may not transact any business unless a
 28 majority of members are contemporaneously present at a board meeting. This quorum
 29 requirement may not be amended by the board's bylaws.

**§7-12-3a. Management and control of municipal authority vested in board; appointment
 and terms of members; vacancies; removal of members; quorum requirements.**

1 The management and control of a municipal authority, its property, operations, business,
 2 and affairs shall be lodged in a board of not fewer than ~~twelve nor more than twenty-one~~ five nor
 3 more than nine persons who shall be appointed by the governing body and be known as members
 4 of the authority: Provided, That members appointed to the board prior to July 1, 2020, shall be
 5 permitted to complete their term of appointment even if the board's membership exceeds nine
 6 members. One member of the authority shall also be a member of the governing body appointed
 7 to represent it on the board. Other members shall be appointed by the governing body and shall
 8 include representatives of business, industry, and labor. The members of the authority first
 9 appointed shall serve respectively for terms of one year, two years and three years, divided
 10 equally or as nearly equal as possible between these terms. Thereafter, members shall be
 11 appointed for terms of three years each. A member may be reappointed for such additional term
 12 or terms as the appointing agency may deem proper. If a member resigns, is removed or for any

13 other reason his or her membership terminates during his or her term of office, a successor shall
 14 be appointed by the appointing agency to fill out the remainder of his or her term. Members in
 15 office at the expiration of their respective terms shall continue to serve until their successors have
 16 been appointed and have qualified. The appointing agency may at any time remove its appointed
 17 member of the authority by an order duly entered of record or by other action appropriate for such
 18 appointing agency and may appoint a successor member for any member so removed.

19 In addition to the appointing agencies hereinbefore named, such other persons, firms,
 20 unincorporated associations, and corporations, who reside, maintain offices, or have economic
 21 interests, ~~as the case may be,~~ in the municipality, are eligible to participate in and request the
 22 governing body to appoint members to the development authority as the ~~said~~ authority by its
 23 bylaws provides.

24 Municipal boards authorized under this section may not transact any business unless a
 25 majority of members are contemporaneously present at a board meeting. This quorum
 26 requirement may not be amended by the board's bylaws.

CHAPTER 8A. LAND USE PLANNING.

ARTICLE 2. PLANNING COMMISSIONS.

§8A-2-3. Municipal planning commission.

1 (a) A municipal planning commission in a Class I, II or III city shall have not less than five
 2 nor more than ~~fifteen~~ nine members, the exact number to be specified in the ordinance creating
 3 the planning commission. A municipal planning commission in a Class IV town or village shall
 4 have not less than three nor more than nine members, the exact number to be specified in the
 5 ordinance creating the planning commission.

6 (b) The members of a municipal planning commission ~~must~~ shall be:

7 (1) Residents of the municipality; and

8 (2) Qualified by knowledge and experience in matters pertaining to the development of the

9 municipality.

10 (c) At least three fifths of all of the members ~~must~~ shall have been residents of the
11 municipality for at least three years prior to nomination or appointment and confirmation.

12 (d) The members of a municipal planning commission ~~must~~ shall fairly represent different
13 areas of interest, knowledge, and expertise, including, but not limited to, business, industry, labor,
14 government, and other relevant disciplines. One member ~~must~~ shall be a member of the municipal
15 governing body or a designee and one member ~~must~~ shall be a member of the administrative
16 department of the municipality or a designee. The term of membership for these two members is
17 the same as their term of office.

18 (e) The Legislature finds that there are persons willing to serve on planning commissions
19 who may also own interests in businesses that regularly conduct business in front of or with
20 planning commission staff. ~~Such~~ These persons may have experience and expertise which would
21 be valuable assets to a planning commission. For those reasons, notwithstanding any other
22 provisions in this code to the contrary, any person employed by, owning an interest in or otherwise
23 associated with a business that regularly conducts business in front of or with planning
24 commission staff may also serve as a member of a planning commission and ~~shall~~ may not be
25 disqualified from serving as a member because of a conflict of interest as defined in §61-10-15 of
26 this code and ~~shall~~ may be subject to prosecution under provisions of that chapter when the
27 violation is created solely as a result of his or her relationship with the business. This member
28 ~~must~~ shall recuse himself or herself from any vote, discussion, participation, or other activity
29 regarding the conflicting issue.

30 (f) The Legislature finds that there are persons willing to serve on planning commissions
31 who may also own interests in businesses who regularly conduct business in front of or with
32 planning commission staff. ~~Such~~ These persons may have experience and expertise which would
33 be valuable assets to a planning commission. For those reasons, notwithstanding any other
34 provisions in this code to the contrary, any person employed by, owning an interest in or otherwise

35 associated with a business that regularly conducts business in front of or with planning
36 commission staff may also serve as a member of a planning commission and ~~shall~~ may be in
37 violation of subsection §6B-2-5(g) of this code if the member recuses himself or herself from any
38 vote, discussion, participation or other activity regarding the conflicting issue: *Provided*, That such
39 these members do not constitute a majority of the members of the planning commission at the
40 same time.

41 (g) The remaining members of the municipal planning commission first selected shall
42 serve respectively for terms of one year, two years and three years, divided equally or as nearly
43 equally as possible between these terms. Thereafter, members shall serve three-year terms.
44 Vacancies shall be filled for the unexpired term and made in the same manner as original
45 selections were made: *Provided*, That members appointed to the commission prior to July 1,
46 2020, shall be permitted to complete their term of appointment even if the commission's
47 membership exceeds nine members.

48 (h) The members of a municipal planning commission shall serve without compensation,
49 but shall be reimbursed for all reasonable and necessary expenses actually incurred in the
50 performance of their official duties.

51 (i) Nominations for municipal planning commission membership shall be made by the
52 administrative authority and confirmed by the governing body when the administrative authority
53 and the governing body are separate, or appointed and confirmed by the governing body where
54 the administrative authority and governing body are the same.

55 (j) An individual may serve as a member of a municipal planning commission, a county
56 planning commission, a multicounty planning commission, a regional planning commission or a
57 joint planning commission, at the same time.

58 (k) The governing body of the municipality may establish procedures for the removal of
59 members of the planning commission for inactivity, neglect of duty or malfeasance. The
60 procedures ~~must~~ shall contain provisions requiring that the person to be removed be provided

61 with a written statement of the reasons for removal and an opportunity to be heard on the matter.
62 (l) The planning commission may not transact any business unless a majority of members
63 are contemporaneously present at a commission meeting. This quorum requirement may not be
64 amended by the commission's bylaws.

NOTE: The purpose of this bill is to impose limits on the number of appointees to certain county and municipal bodies; and impose quorum requirements on certain county and municipal bodies.

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