
WEST VIRGINIA CODE CHAPTER 7
ARTICLE 14

WV Legislature

§7-14-1. Appointments and promotions of deputy sheriffs.

Notwithstanding the provisions of article three, chapter six, and article seven, chapter seven of this code, all appointments and promotions of full-time deputy sheriffs shall be made only according to qualifications and fitness to be ascertained by examinations, which, so far as practicable, shall be competitive, as hereinafter provided. On and after the effective date of this article, no person except the chief deputy shall be appointed, promoted, reinstated, removed, discharged, suspended or reduced in rank or pay as a full-time deputy sheriff, as defined in said section two, of any county in the State of West Virginia subject to the provisions hereof, in any manner or by any means other than those prescribed in this article.

§7-14-2. Definitions; population.

(a) For the purpose of this article:

(1) "Appointing officer" or "appointing sheriff" shall mean the sheriff of the county in which the appointment of a deputy sheriff shall be made pursuant to this article; and

(2) "Deputy sheriffs" or "deputies" shall mean persons appointed by a sheriff as his deputies whose primary duties as such deputies are within the scope of active, general law enforcement and as such are authorized to carry deadly weapons, patrol the highways, perform police functions, make arrests or safeguard prisoners. This definition shall not be construed to include any person or persons whose sole duties shall be the service of civil process and subpoenas as provided in section fourteen, article one, chapter fifty of this code, but such exclusion shall not preclude the service of civil process or subpoenas by deputy sheriffs covered by the provisions of this article.

(b) For the purpose of this article, population shall be determined by reference to the last preceding census taken under the authority of the United States or of the Legislature of West Virginia.

§7-14-3. Civil service commission.

There shall be a civil service commission in each county and the state. Each such civil service commission shall consist of three commissioners, one of whom shall be appointed by the bar association of such county, one of whom shall be appointed by the deputy sheriff's association of such county, and one of whom shall be appointed by the county commission of such county. In the event the bar association or deputy sheriff's association fails to make an appointment within the time prescribed in this section therefor, then such appointment shall be made by the county commission. The persons appointed commissioners shall be qualified voters of the county for which they are appointed, and at least two of the commissioners shall be persons in full sympathy with the purposes of this article. Not more than two of the commissioners, at any one time, shall be members of the same political party. The commissioners in each county shall be appointed as follows: Within sixty days from the effective date of this article, the authorities having the power to appoint members to the civil service commission shall appoint the three commissioners, the first to be appointed by the bar association of the county shall serve for six years from the date of appointment, the second to be appointed by the deputy sheriff's association of the county shall serve for four years from the date of appointment, and the third to be appointed by the county commission of the county shall serve for a term of two years from the date of appointment. All subsequent appointments shall be made for terms of four years. In the event that any commissioner of the civil service commission ceases to be a member thereof by virtue of death, final removal or other cause, a new commissioner shall be appointed to fill the unexpired term of that commissioner within ten days after said ex-commissioner ceased to be a member of the commission. Such appointment shall be made by the authority who appointed the commissioner who is no longer a member of the commission. Each year the three members of the commission shall, together, elect one of their number to act as president of the commission for a term of one year. The county commission may at any time remove a commissioner for good cause, which shall be stated in writing and made a part of the records of the commission. Once the county commission has removed any commissioner, such county commission shall within ten days thereafter file in the office of the clerk of the circuit court of the county a petition setting forth in full the reason for the removal and praying for the confirmation of the circuit court of the action of the county commission in removing the said commissioner. A copy of the petition shall be served upon the commissioner so removed simultaneously with its filing in the office of the clerk of the circuit court and has precedence on the docket of the circuit court and shall be heard by the court as soon as practicable upon the request of the removed commissioner. All rights hereby vested in the circuit court may be exercised by the judge thereof in vacation. In the event that no term of the circuit court is being held at the time of the filing of the petition, and the judge thereof cannot be reached in the county wherein the petition was filed, the petition shall be heard at the next succeeding term of the circuit court, whether regular or special, and the commissioner so removed shall remain removed until a hearing is had upon the petition of the county commission. The circuit court, or the judge thereof in vacation, shall hear and decide the issues presented by the petition. The county commission or commissioner, as the case may be, against whom the decisions of the circuit court or judge

thereof in vacation is rendered has the right to petition the supreme court of appeals for a review of the decision of the circuit court or the judge thereof in vacation as in other civil cases. In the event that the county commission fails to file its petition in the office of the clerk of the circuit court, as hereinbefore provided, within ten days after the removal of the commissioner, such commissioner immediately resumes his position as a member of the civil service commission.

Any resident of the county has the right at any time to file charges against and seek the removal of any member of the civil service commission. The charges shall be filed in the form of a petition in the office of the clerk of the circuit court of the county. A copy of the petition shall be served upon the commissioner sought to be removed. The petition shall be matured for hearing and heard as a civil action by the circuit court of the county for which the commissioner serves as a member of the civil service commission or by the judge thereof in vacation. The party against whom the decision of the circuit court or judge thereof in vacation is rendered has the right to petition the supreme court of appeals for a review of the decision of the circuit court or judge thereof in vacation as in other civil cases.

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

§7-14-4. Clerk of the commission.

The clerk of the county court shall be ex officio clerk of the civil service commission and shall supply to the commission all necessary clerical and stenographic services for the work of the civil service commission.

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§7-14-5. Office and supplies for commission; appropriations required.

It shall be the duty of the county court of every such county to cause suitable and convenient rooms and accommodations to be assigned and provided, furnished, heated and lighted for carrying on the work and examinations of the civil service commission. The civil service commission may order from the proper authorities the necessary stationery, postage stamps, official seal and other articles to be supplied, and the necessary printing to be done, for its official use. It shall be the duty of the county court and other county officials of every such county to aid the civil service commission in all proper ways in carrying out the provisions of this article, and to allow the reasonable use of public buildings, and to heat and light the same, for holding examinations and investigations and in all proper ways to facilitate the same.

The county court of each such county is hereby required to appropriate sufficient funds for the purpose of carrying out the provisions of this article.

§7-14-6. Powers and duties of commission.

The civil service commission in each such county shall:

(1) Prescribe and enforce rules and regulations for carrying into effect the provisions of this article. All rules and regulations so prescribed may, from time to time, be added to, amended or rescinded.

(2) Keep minutes of its own proceedings and records of its examinations and other official actions. All recommendations of applicants for the position of deputy sheriff received by the commission or by the sheriff shall be kept and preserved for a period of ten years, and all such records, recommendations of former employees excepted, and all written causes of removal, filed with the commission, shall, subject to reasonable rule and regulation, be open to public inspection.

(3) Make investigations, either sitting as a body or through a single commissioner, concerning all matters touching the enforcement and effect of the provisions of this article and the rules and regulations prescribed hereunder or concerning the action of any examiner or subordinate of the commission or any person in the public service with respect to the execution of this article; and, in the course of such investigations, each commissioner shall have the power to administer oaths and affirmations and to take testimony.

(4) Have power to subpoena and require the attendance of witnesses and the production of books and papers pertinent to the investigations and inquiries herein authorized, and examine them and such public records as it shall require, in relation to any matter which it has the authority to investigate. The fee of such witnesses for attendance and travel shall be the same as for witnesses before the circuit courts of this state and shall be paid from the appropriation for the incidental expenses of the commission. All officers in the public service and their deputies, clerks, subordinates and employees shall attend and testify when required to do so by the commission. Any disobedience to, or neglect of, any subpoena issued by the commissioners, or any one of them, to any person, shall be held a contempt of court, and shall be punished by the circuit court of the county in which the civil service commission is located, or the judge thereof in vacation, as if such subpoena had been issued by the court. The judge of the circuit court shall, upon the application of any one commissioner, in any such case, cause the process of that court to issue to compel any person or persons, disobeying or neglecting any such subpoena to appear and to give testimony and produce evidence before the commissioners, or any one of them, and shall have power to punish any such contempt.

(5) Prepare a position classification and promotion plan.

(6) Make an annual report to the county court and sheriff showing its own actions, its rules and regulations, including all exceptions thereto in force, and the practical effects thereof, and any suggestions it may have for the more effectual accomplishment of the purposes of this article. Such report shall be available for public inspection five days after it shall have

been delivered to the county court and sheriff.

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§7-14-7. Rules and regulations of commission; notice and distribution thereof; probationary period for appointees.

The civil service commission in each such county shall make rules and regulations providing for both competitive and medical examinations for the position of deputy sheriff in each such county subject to the provisions of this article, for appointments to the position of deputy sheriff and for promotions and for such other matters as are necessary to carry out the purposes of this article. Any such commission has the power and authority to require by rules and regulations a physical fitness examination as part of its competitive examination or as a part of its medical examination. Due notice of the contents of all rules and regulations and of any modifications thereof shall be given, by mail, in due season to the appointing officer; and said rules and regulations and any modifications thereof shall also be printed for public distribution. All original appointments on and after the effective date of this article to any position of deputy sheriff in any county subject to the provisions of this article shall be for a probationary period of twelve months: Provided, That at any time during the probationary period the probationer may be discharged for just cause, in the manner provided in section seventeen of this article. If, at the close of this probationary period, the conduct or capacity of the probationer has not been satisfactory to the appointing sheriff, the probationer shall be notified, in writing, that he will not receive absolute appointment, whereupon his employment shall cease; otherwise, his retention in the position of deputy sheriff beyond the probationary term shall be equivalent to his absolute appointment.

§7-14-8. Form of application; age requirements; exceptions.

(a) The civil service commission in each county shall require persons applying for admission to any competitive examination provided for under this article or under the rules and regulations of the commission to file in its office, within a reasonable time prior to the proposed competitive examination, a formal application in which the applicant shall state under oath or affirmation:

- (1) His or her full name, residence and post-office address;
- (2) His or her United States citizenship, age and the place and date of his or her birth;
- (3) His or her health and his or her physical capacity for the position of deputy sheriff;
- (4) His or her business, employments and residences for at least three previous years; and
- (5) Such other information as may reasonably be required, relative to the applicant's qualifications and fitness for the position of deputy sheriff.

(b) Blank forms for the applications shall be furnished by the commission, without charge, to all persons requesting applications. The commission may require, in connection with the application, such certificates of citizens, physicians or others, having pertinent knowledge concerning the applicant, as the good of the service may require.

(c) No application for original appointment shall be received on and after the effective date of this article, if the person applying is less than eighteen years of age at the date of his or her application. There shall be no other age-based restrictions on applications for original appointments.

(d) Any applicant who formerly served as a deputy sheriff for more than six months before resignation is eligible for reinstatement by appointment if:

- (1) No charges of misconduct or other misfeasance are pending against the applicant;
- (2) The applicant seeks reinstatement within two years of resignation as a deputy sheriff;
- (3) The applicant resides in the same county as the original appointment; and
- (4) The applicant completes a medical and psychological examination to certify the applicant can perform the duties of a deputy sheriff.

The commission may reinstate the applicant without a competitive examination in the commission's discretion.

(e) If an applicant is successfully reinstated as a deputy sheriff pursuant to subsection (d), the applicant shall be the lowest in rank in the sheriff's office next above the probationers of

the office.

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§7-14-9. Character and notice of competitive examinations; qualifications of applicants; competitive examinations to be prescribed by state civil service commission; press representatives; posting eligible list; medical examinations; exceptions as to and training of deputies serving on effective date of article.

All competitive examinations for appointments or promotions to all positions of deputy sheriff shall be practical in their character, and shall relate to such matters, and include such inquiries, as will fairly and fully test the comparative merit and fitness of the person or persons examined to discharge the duties of the position sought by or them. The state civil service commission shall prepare and prescribe, from time to time, the competitive examination to be given by the civil service commission of each such county. All competitive examinations shall be open to all applicants who have fulfilled the preliminary requirements specified in other sections of this article.

Adequate public notice of the date, time and place of every competitive examination held under the provisions of this article, together with information as to the position to be filled, shall be given at least two weeks prior to such competitive examination. The commission shall adopt reasonable rules and regulations for permitting the presence of representatives of the press at any such competitive examination. The commission shall post, in a public place at its office, the eligible list, containing the names and grades of those who have passed such competitive examinations for positions as deputy sheriffs, under this article, and shall indicate thereon such appointments as may be made from said list.

All applicants for appointment or promotion to any position as a deputy sheriff in any such county who have passed the competitive examination specified above shall, before being appointed or promoted, undergo a medical examination which shall be conducted under the supervision of a board composed of two doctors of medicine appointed for such purpose by the sheriff of the county. Such board must certify that an applicant is free from any bodily or mental defects, deformity or diseases which might incapacitate from the performance of the duties of the position desired and is physically fit to perform such duties before said applicant shall be appointed or promoted to any position. Notwithstanding the first sentence of this paragraph, in the event the commission deems it expedient, the medical examination may be given prior to the competitive examination, and if the medical examination is not passed as aforesaid, the applicant shall not be admitted to the competitive examination.

All deputies who are employed as deputies on the effective date of this article shall be considered to have been appointed under the provisions of this article, without regard to their age, provided they are not on said date sixty-five years of age or older, and without competitive examination or medical examination, and shall hold their positions in accordance therewith for one year from the effective date of this article. The civil service commission shall, however, establish or prescribe a training program for deputies who are employed as such on the effective date of this article, giving due consideration to available training personnel and programs. Such deputies must complete such training program and must score a minimum of sixty points on a written examination in which one hundred points would be the highest possible score. The examination shall be given in accordance with rules

and regulations to be promulgated by the civil service commission of the county. A deputy failing to qualify under the provisions of this paragraph may be continued in his position at the discretion of the sheriff but in no event for a period of more than one year. Such person may be reexamined at the discretion of the civil service commission of the county and may qualify as provided in this paragraph.

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§7-14-10. Refusal to examine or certify; review thereof.

The commission may refuse to examine an applicant, or after examination to certify as eligible one, who is found to lack any of the established preliminary requirements for the examination or position of deputy sheriff for which he applies; or who is physically so disabled as to be rendered unfit for the performance of the duties of the position of deputy sheriff desired; or who is addicted to the habitual use of intoxicating liquors or drugs; or who has been convicted of a felony; or who has been guilty of infamous or notoriously disgraceful conduct; or who has been dismissed from public service for delinquency or misconduct; or who has made a false statement of any material fact, or practiced or attempted to practice any deception or fraud in his application, in any such examination, or in securing his eligibility; or who refuses to comply with the rules and regulations of the commission.

If any applicant feels aggrieved by the action of the commission in refusing to examine him, or after examination in refusing to certify him as eligible, the commission shall, at the request of such applicant, appoint a date, time and place for a public hearing, at which time the applicant may appear, by himself or by counsel or in person and with counsel, and the commission shall then review its refusal to make such examination or certification, and testimony shall be taken. The commission shall subpoena, at the expense of the applicant, any competent witnesses requested by him. After such review, the commission shall file in its records the testimony taken and shall again make a decision, which decision shall be final and not subject to judicial review, but under no circumstances shall the provisions of this article be construed, in the case of a refusal to examine an applicant for promotion or to certify an applicant as eligible for promotion, as depriving such applicant of his right to seek a writ of mandamus, if the application for such writ is made within twenty days from the date of the decision (made after hearing as aforesaid) refusing to examine or to certify him as eligible for promotion.

§7-14-11. Appointments from eligible list.

On and after the effective date of this article, every position of deputy sheriff, unless filled by promotion, reinstatement or reduction, shall be filled only in the manner specified in this section. The appointing sheriff shall notify the civil service commission of any vacancy in a position of deputy sheriff which he desires to fill, and shall request the certification of eligibles. The commission shall forthwith certify, from the eligible list, the names of the three persons thereon who received the highest averages at preceding competitive examinations held under the provisions of this article within a period of three years next preceding the date of the prospective appointment. The appointing sheriff shall, thereupon, with sole reference to the relative merit and fitness of the candidates, make an appointment from the three names so certified: Provided, That should he make objection to the commission to one or more of these persons for any of the reasons stated in section ten of this article, and should such objection be sustained by the commission after a public hearing along the lines of the hearing provided for in said section ten, if any such hearing is requested, the commission shall thereupon strike the name of that person from the eligible list, and certify the next highest name for each person so stricken. As each subsequent vacancy occurs, in the same or another position, precisely the same procedure shall be followed: Provided, however, That after any name has been three times rejected for the same or another position in favor of a name or names below it on the same list, the name shall be stricken from the list. When there are a number of positions of the same kind to be filled at the same time, each appointment shall, nevertheless, be made separately and in accordance with the foregoing provisions. When an appointment is made under the provisions of this section, it shall be, in the first instance, for the probationary period of six months, as provided in section seven of this article.

§7-14-12. Noncompetitive examination for filling vacancy; provisional appointment.

Whenever there are urgent reasons for filling a vacancy in any position of deputy sheriff and there is no list of persons eligible for appointment after a competitive examination, the appointing sheriff may nominate a person to the civil service commission for noncompetitive examination; and if such nominee shall be certified by the commission as qualified, after such noncompetitive examination and a medical examination, he may be appointed provisionally to fill such vacancy until a selection and appointment can be made after competitive examination in the manner prescribed in section eleven of this article; but the provisional appointment shall not continue for a longer period than three months, nor shall successive provisional appointments be made to the same position, under the provisions of this section.

§7-14-13. Vacancies filled by promotions; eligibility for promotion; rights of chief deputy.

Vacancies in positions of deputy sheriff shall be filled, so far as practicable, by promotion from among persons holding positions in the next lower grade. Promotions shall be based upon merit and fitness, to be ascertained by competitive examinations to be provided by the civil service commission, and upon the superior qualifications of the persons promoted, as shown by their previous service and experience: Provided, That, except for the chief deputy or jailer, no person shall be eligible for promotion from the lower grade to the next higher grade until such person shall have completed at least two years' service in the next lower grade: Provided, however, That notwithstanding the provisions of section one of this article, any person occupying the office of chief deputy or any deputy sheriff occupying the office of jailer pursuant to the provisions of section two, article eight of this chapter in any such county on the effective date of this article, or thereafter appointed to such office, shall, except as hereinafter provided in this section, be and shall continue to be entitled to all of the rights and benefits of the provisions of this article, except that he or she may be removed from such office of chief deputy or jailer without cause and the time spent by such person in the office of such chief deputy or jailer shall be added to the time, if any, served by such person during the entire time he or she was a deputy sheriff of such county prior to his or her appointment as chief deputy or jailer, and shall in all cases of removal, except for removal for just cause, retain the regular rank within said sheriff's office which he or she held, if any, at the time of his or her appointment to the office of chief deputy or jailer or which he or she has attained, if any, during his or her term of service as chief deputy or jailer. The provisions of this section shall be construed to apply and to inure to the benefit of all persons who have ever been subject to the provisions of this article. The commission shall have the power to determine in each instance whether an increase in salary constitutes a promotion.

§7-14-14. No inquiry shall be made concerning political or religious opinions or affiliations of applicants, etc.

No question in any form of application or in or during any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant; nor shall inquiry be made concerning such opinions or affiliations; and all disclosures thereof shall be discountenanced. No discrimination shall be exercised, threatened, or promised by any person in the sheriff's office against, or in favor of, an applicant, eligible or deputy in the office of any sheriff of any county subject to the provisions of this article because of his political or religious opinions or affiliations.

§7-14-15. Political activities of members prohibited; exceptions.

(a) A deputy sheriff covered by the provisions of this article

may not:

(1) Solicit any assessment, subscription or contribution for any political party, committee or candidate from any person who is a member or employee of the county sheriff's department by which they are employed;

(2) Use any official authority or influence, including, but not limited to, the wearing by a deputy sheriff of his or her uniform, for the purpose of interfering with or affecting the nomination, election or defeat of any candidate or the passage or defeat of any ballot issue: Provided, That this subdivision shall not be construed to prohibit any deputy sheriff from casting his or her vote at any election while wearing his or her uniform;

(3) Coerce or command anyone to pay, lend or contribute anything of value to a party, committee, organization, agency or person for the nomination, election or defeat of a ballot issue; or

(4) Be a candidate for or hold any other public office in the county in which he or she is employed: Provided, That any deputy sheriff that is subject to the provisions of 5 U.S.C. §1501, et seq., may not be a candidate for elective office.

(b) Other types of partisan or nonpartisan political activities not inconsistent with the provisions of subsection (a) of this section are permissible political activities for deputy sheriffs.

(c) No person may be appointed or promoted to or demoted or dismissed from any position held by a deputy sheriff or in any way favored or discriminated against because of his or her engagement in any political activities authorized by the provisions of this section. Any elected or appointed official who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be punished by the penalties contained in section twenty-six, article fifteen, chapter eight of this code.

(d) Any deputy sheriff violating the provisions of this section shall have his appointment vacated and shall be removed, in accordance with the pertinent provisions of this section.

(e) Any three residents of the county may file their written petition with the civil service commission thereof setting out therein the grounds upon which a deputy sheriff of such county should be removed for a violation of subsection (a) of this section. Notice of the filing of such petition shall be given by the commission to the accused deputy, which notice shall require to file a written answer to the charges set out in the petition within thirty days of the date of such notice. The petition and answer thereto, if any, shall be entered upon the records of the civil service commission. If the answer is not filed within the time stated, or any extension thereof for cause which in the discretion of the civil service commission may

be granted, an order shall be entered by the commission declaring the appointment of the deputy vacated. If such answer is filed within the time stated, or any extension thereof for cause which in the discretion of the civil service commission may be granted, the accused deputy may demand within such period a public hearing on the charges, or the civil service commission may, in its discretion and without demand therefor, set a date and time for a public hearing on the charges, which hearing shall be within thirty days of the filing of said answer, subject, however, to any continuances which may in the discretion of the civil service commission be granted. A written record of all testimony taken at such hearing shall be kept and preserved by the civil service commission, which record shall be sealed and not be open to public inspection if no appeal be taken from the action of the commission. The commission at the conclusion of the hearing, or as soon thereafter as possible, shall enter an order sustaining, in whole or in part, the charges made or shall dismiss the charges as unfounded. In the event the charges are sustained in whole or in part, the order shall also declare the appointment of such deputy to be vacated and thereupon the sheriff shall immediately remove the deputy from his office and from the payroll of the county. Notice of the action of the commission shall be given by registered letter to the county court and the sheriff. If the sheriff fails to immediately comply with the order of the commission, shall be punished for contempt, upon application of the commission to the circuit court of the county.

(f) An appeal from the ruling of the commission may be had in the same manner and within the same time as specified in section seventeen of this article for an appeal from a ruling of a commission after hearing held in accordance with the provisions of said section.

§7-14-15a. Additional part-time police work permitted.

Deputy sheriffs shall be allowed to engage in police work for pay in addition to their regular work as a deputy sheriff. However, they may not engage in such police work for any party engaged in or involved in any labor trouble or dispute between employer and employee.

The deputy sheriffs civil service commission shall prescribe and enforce rules and regulations fixing the terms and conditions under which deputy sheriffs may engage in police work in addition to their normal duties as deputy sheriffs. These rules and regulations must prohibit discrimination, as far as practicable, between deputy sheriffs with regard to the allocation of additional police work. No sheriff may have a direct or indirect pecuniary interest in any outside employment. A deputy sheriff performing additional police work shall wear an identifying armband to indicate special duty.

§7-14-16. Training and retraining programs for all deputies required.

(a) The civil service commission of any such county shall establish or prescribe a training program which every deputy first appointed a deputy of such county on or after the effective date of this article, must satisfactorily complete during his probationary period.

(b) The civil service commission of any such county shall also establish or prescribe retraining programs which every deputy, whether first appointed such deputy before or after the effective date of this article, must satisfactorily complete from time to time after the effective date of this article, in order to continue as a deputy sheriff of such county or to be eligible for promotion. Any training or retraining program established or prescribed by the civil service commission of any such county shall meet the minimum standards prescribed by the Governor's committee on crime, delinquency and correction established by Executive Order 7-A66, dated September 1, 1966.

§7-14-17. Removal, discharge, suspension or reduction in rank or pay; hearing; attorney fees; appeal; reduction in force; mandatory retirement age.

(a) No deputy sheriff of any county subject to the provisions of this article may be removed, discharged, suspended or reduced in rank or pay except for just cause, which may not be religious or political, except as provided in section fifteen of this article; and no such deputy may be removed, discharged, suspended or reduced in rank or pay except as provided in this article and in no event until the deputy has been furnished with a written statement of the reasons for the action. In every case of such removal, discharge, suspension or reduction, a copy of the statement of reasons therefor and of the written answer thereto, if the deputy desires to file such written answer, shall be furnished to the civil service commission and entered upon its records. If the deputy demands it, the civil service commission shall grant a public hearing, which hearing shall be held within a period of ten days from the filing of the charges in writing or the written answer thereto, whichever shall last occur. At the hearing, the burden shall be upon the sheriff to justify his or her action, and in the event the sheriff fails to justify the action before the commission, then the deputy shall be reinstated with full pay, forthwith and without any additional order, for the entire period during which the deputy may have been prevented from performing his or her usual employment, and no charges may be officially recorded against the deputy's record. The deputy, if reinstated or exonerated, shall, if represented by legal counsel, be awarded reasonable attorney fees to be determined by the commission and paid by the sheriff from county funds. A written record of all testimony taken at the hearing shall be kept and preserved by the civil service commission, which record shall be sealed and not be open to public inspection unless an appeal is taken from the action of the commission.

(b) In the event the civil service commission sustains the action of the sheriff, the deputy has an immediate right of appeal to the circuit court of the county. In the event that the commission reinstates the deputy, the sheriff has an immediate right of appeal to the circuit court. In the event either the sheriff or the deputy objects to the amount of the attorney fees awarded to the deputy, the objecting party has an immediate right of appeal to the circuit court. Any appeal must be taken within ninety days from the date of entry by the civil service commission of its final order. Upon an appeal being taken and docketed with the clerk of the circuit court of the county, the circuit court shall proceed to hear the appeal upon the original record made before the commission and no additional proof may be permitted to be introduced. The circuit court's decision is final, but the deputy or sheriff, as the case may be, against whom the decision of the circuit court is rendered has the right to petition the Supreme Court of Appeals for a review of the circuit court's decision as in other civil cases. The deputy or sheriff also has the right, where appropriate, to seek, in lieu of an appeal, a writ of mandamus. The deputy, if reinstated or exonerated by the circuit court or by the Supreme Court of Appeals, shall, if represented by legal counsel, be awarded reasonable attorney fees as approved by the court and the fees shall be paid by the sheriff from county funds.

(c) The removing sheriff and the deputy shall at all times, both before the civil service

commission and upon appeal, be given the right to employ counsel to represent them.

(d) If for reasons of economy or other reasons it is deemed necessary by any appointing sheriff to reduce the number of his or her deputies, the sheriff shall follow the procedure set forth in this subsection. The reduction in the numbers of the deputy sheriffs of the county shall be effected by suspending the last person or persons, including probationers, who have been appointed as deputies. The removal shall be accomplished by suspending the number desired in the inverse order of their appointment: Provided, That in the event the number of deputies is increased in numbers to the strength existing prior to the reduction of deputies, the deputies suspended under the terms of this subsection shall be reinstated in the inverse order of their suspension before any new appointments of deputy sheriffs in the county are made.

(e) Notwithstanding any other provision of this article to the contrary, no deputy sheriff in any county subject to the provisions of this article may serve as a deputy sheriff in any county subject to the provisions of this article after attaining the age of sixty-five years.

§7-14-17a. Vacations for deputy sheriffs.

The county commission of each county shall allow the sheriff's deputies in its employ, vacation time accrued in the following manner: For deputies with less than five years of service, vacation time shall be accrued at the rate of one and one-quarter days for each calendar month of service; for deputies with five to ten years of service, vacation time shall be accrued at the rate of one and one-half days for each calendar month of service; for deputies with ten to fifteen years of service, vacation time shall be accrued at the rate of one and three-quarter days for each calendar month of service; for deputies with fifteen or more years of service, vacation time shall be accrued at the rate of two days for each calendar month of service.

Each deputy sheriff shall only receive vacation time for each month in which he shall have worked one hour more than one half the normal working hours in a given month as prescribed by the sheriff.

No more than thirty days of accrued vacation time may be carried forward from one calendar year to the next.

§7-14-17b. Sick leave for deputy sheriffs.

(a) The county commission of each county shall allow the sheriff's deputies sick leave with pay to be computed as follows: Full-time deputies are entitled to one and one-half days sick leave for each calendar month worked, or greater part thereof; part-time deputies are entitled to sick leave at the same rate and in the same proportion that hours actually worked bears to hours regularly scheduled for full-time deputies.

(b) Sick leave may be granted only when illness on the part of or injury to the deputy incapacitates him or her for duty: Provided, That the sheriff of the county in which the deputy is employed has the authority to require the deputy to produce a statement from an attending physician for each day of sick leave beyond two days. This statement shall include dates of treatment and also state that the deputy was unable to work. In the absence of the physician's statement, if required, annual leave shall be charged for the entire period.

(c) In the event of illness, a full-time deputy may take without limit emergency sick leave without pay after all accrued sick leave, annual leave and compensatory time available to the full-time deputy has been exhausted.

§7-14-17c. Annual monetary supplement.

- (a) A deputy sheriff shall receive an annual monetary supplement in the sum of \$5 multiplied by each month of service. Any incremental monetary supplement in effect prior to the effective date of this section that is more favorable to the deputy sheriffs entitled to such increase shall remain in full force and effect to the exclusion of the provisions of this section.
- (b) The annual monetary supplement shall be calculated and payable on the date when the deputy sheriff completes a year of service: *Provided*, That a deputy sheriff who does not complete one year of service is not eligible for the annual monetary supplement or a portion thereof provided in this section.
- (c) For each additional year of service that a deputy sheriff completes following his or her first year of service, the annual monetary supplement shall be calculated and payable on the date when the deputy sheriff completes the additional year of service.
- (d) The annual monetary supplement shall be considered for purposes of calculating a deputy sheriff's benefits, including, but not limited to, retirement benefits.

§7-14-17d. Right to receive complete standard uniform; and right to acquire badge.

A deputy sheriff, upon honorable retirement, shall be authorized to maintain at his or her own cost a complete standard uniform from the law-enforcement agency of which he or she was a member, and shall be issued an identification card indicating his or her honorable retirement from the law-enforcement agency. The uniform may be worn by the officer in retirement only on the following occasions: Police Officer's Memorial Day, Law Enforcement Appreciation Day, at the funeral of a law-enforcement officer or during any other police ceremony. The honorably retired officer is authorized to acquire a badge of the law-enforcement agency from which he or she is retired with the word "retired" placed on it.

§7-14-17e. Deputy sheriffs who are required to work during holidays; how compensated.

From the effective date of this section, if any deputy sheriff is required to work during a legal holiday as specified in section one, article two, chapter two of this code, or if a legal holiday falls on the deputy sheriff's regular scheduled day off, the sheriff shall decide either that, the deputy sheriff shall be allowed equal time off at a time approved by the sheriff under whom the deputy sheriff serves, or in the alternative, shall be paid at a rate not less than one and one-half times the deputy sheriff's regular rate of pay.

§7-14-18. Offenses and penalties.

Any person who makes an appointment or promotion to any position, or selects a person for employment, contrary to the provisions of this article, or wilfully refuses or neglects otherwise to comply with, or to conform to, any of the provisions of this article, or violates any of such provisions, shall be deemed guilty of a misdemeanor.

Any commissioner or examiner, or any other person, who shall wilfully, by himself or in cooperation with one or more persons, defeat, deceive or obstruct any person with respect to his right of examination or registration according to this article, or to any rules and regulations prescribed pursuant thereto, or who shall wilfully or corruptly, falsely mark, grade, estimate or report upon such examination or proper standing of any person so examined, registered, or certified, pursuant to the provisions of this article, or aid in so doing, or who shall wilfully or corruptly furnish to any person any special or secret information, for the purpose of either improving or injuring the prospects or chances of appointment or promotion to any position of any person so examined, registered or certified, or to be so examined, registered, or certified; or who shall impersonate any other person, or permit or aid in any manner any other person to impersonate him in connection with any examination or registration, or application or request to be examined or registered, shall, for each offense, be deemed guilty of a misdemeanor.

Any person convicted of any such misdemeanor offense shall be fined not less than \$50 nor more than \$1,000, or imprisoned in the county jail not more than one year, or both fined and imprisoned, in the discretion of the court.

§7-14-19.

Repealed.

Acts, 1991 Reg. Sess., Ch. 44.

WV Legislature

§7-14-19a. Additional police work for deputy sheriffs in noncivil service counties.

The sheriff of any county with a population of less than twelve thousand five hundred which has not adopted civil service for deputy sheriffs pursuant to the provisions of section nineteen, article fourteen, chapter seven, may allow his deputy sheriffs to do additional police work in addition to their normal duties as a deputy sheriff. However, they may not be allowed to engage in such police work for any party engaged in or involved in any labor trouble or dispute between employer and employee. Before such sheriff shall be allowed to grant such additional police work to his deputy sheriffs, he must prepare a plan setting forth the terms and conditions under which his deputy sheriffs may engage in additional police work. Such terms and conditions must prohibit discrimination between deputies with regard to the allocation of additional police work. Such plans shall be submitted to the county commission of such county and shall be subject to the approval of said county commission. No sheriff may have a direct or indirect pecuniary interest in any outside employment. A deputy sheriff performing additional police work shall wear an identifying armband to indicate special duty.

§7-14-20. Inconsistent acts repealed; once established civil service remains mandatory.

All acts and parts of acts of the Legislature, whether general, special or local, in relation to deputy sheriffs inconsistent with the provisions of this article are hereby repealed to the extent of such inconsistency.

WV Legislature

§7-14-21. Severability.

If any provision of this article or its application to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of this article, and to this end the provisions of this article are hereby declared to be severable.

WV Legislature