

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1971

ENROLLED

COMMITTEE SUBSTITUTE FOR

HOUSE BILL No. 676

ORIGINATING IN THE COMMITTEE ON POLITICAL SUBDIVISIONS

(By Mr. _____)

PASSED MARCH 9, 1971

In Effect JULY 1, 1971 Passage



FILED IN THE OFFICE
JOHN B. BOGGS, IV
SECRETARY OF STATE
THIS DATE 4-2-71

676

ENROLLED
COMMITTEE SUBSTITUTE
FOR
House Bill No. 676

(Originating in the Committee on Political Subdivisions)

[Passed March 9, 1971; in effect July 1, 1971.]

AN ACT to amend chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article fourteen, relating to mandatory civil service coverage for certain deputy sheriffs in certain counties and permissive civil service coverage for certain deputy sheriffs in other counties on or after the effective date of said article fourteen; relating to appointment, promotion, reinstatement, removal, discharge, suspension and reduction of deputy sheriffs covered by civil service; relating to chief deputy in

any county covered by civil service for deputy sheriffs; providing definitions; relating to population determination; relating to a county civil service commission for civil service for deputy sheriffs, the appointment of its members and the removal of such members; relating to the clerk of an office and supplies for any such civil service commission; requiring appropriations to carry out provisions of said article fourteen; relating to the powers and duties of any such civil service commission; relating to rules and regulations of any such civil service commission and notice and distribution of such rules and regulations; providing for probationary appointments of deputy sheriffs covered by civil service; relating to application for competitive examination, age requirements and exceptions; relating to competitive and medical examinations for appointment or promotion as a deputy sheriff, and notice of competitive examinations; requiring the state civil service commission to prepare and prescribe competitive examinations for deputy sheriffs; specifying circumstances under which competitive and medical examination shall not be required; relating to training, examination and age of persons em-

ployed as deputy sheriffs on the effective date of said article fourteen; relating to the refusal to examine or certify and review of such refusal; relating to eligible lists from which appointments are made; specifying procedures for appointments from an eligible list and procedures for objecting to and removing any name from any such list; relating to filling a vacancy when there is no eligible list; relating to filling vacancies by promotion, and eligibility for promotion; relating to the rights of a chief deputy who was a member of the civil service system for deputy sheriffs at the time he became chief deputy; prohibiting any inquiry as to political or religious opinion or affiliation and prohibiting discrimination on the basis thereof; prohibiting certain political activity of deputy sheriffs and authorizing a petition for vacating an appointment because of political activity; relating to action on such petition and judicial review with respect thereto; requiring training and retraining programs for and satisfactory completion thereof by deputy sheriffs; relating to the removal, discharge, suspension or reduction in rank or pay of deputy sheriffs and judicial review with respect thereto;

relating to reduction in number of deputy sheriffs; specifying that deputy sheriffs subject to said article fourteen may not serve as deputy sheriffs after attaining age sixty; establishing various criminal offenses and providing criminal penalties; establishing procedures for optional civil service coverage of deputy sheriffs; providing a repealer clause; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article fourteen, to read as follows:

ARTICLE 14. CIVIL SERVICE FOR DEPUTY SHERIFFS.

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

RC Blankenship 1 "Notwithstanding the provisions of article three, chapter
2 six, and article seven, chapter seven of this code, all
3 appointments and promotions of full-time deputy sheriffs,
4 as defined in section two of this article, in the offices of
5 sheriffs of counties of twenty-five thousand population or
6 more, shall be made only according to qualifications and
7 fitness to be ascertained by examinations, which, so

8 far as practicable, shall be competitive, as hereinafter
9 provided. On and after the effective date of this article,
10 no person except the chief deputy shall be appointed,
11 promoted, reinstated, removed, discharged, suspended or
12 reduced in rank or pay as a full-time deputy sheriff, as
13 defined in said section two, of any county in the state
14 of West Virginia subject to the provisions hereof, in
15 any manner or by any means other than those prescribed
16 in this article.

§7-14-2. Definitions; population.

1 (a) For the purpose of this article:

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

6 (2) "Deputy sheriffs" or "deputies" shall mean per-
7 sons appointed by a sheriff as his deputies whose sole
8 duties as such deputies are within the scope of active,
9 general law enforcement and as such are authorized to
10 carry deadly weapons, patrol the highways, perform
11 police functions, make arrests or safeguard prisoners.

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

§7-14-3. Civil service commission.

1 There shall be a civil service commission in each county
2 having a population of twenty-five thousand or more.
3 Each such civil service commission shall consist of three
4 commissioners, one of whom shall be appointed by the
5 bar association of such county, one of whom shall be
6 appointed by the deputy sheriff's association of such
7 county, and one of whom shall be appointed by the
8 county court of such county. In the event the bar as-
9 sociation or deputy sheriff's association shall fail to make
10 an appointment within the time prescribed in this sec-
11 tion therefor, then such appointment shall be made by
12 the county court. The persons appointed commissioners
13 shall be qualified voters of the county for which they are
14 appointed, and at least two of the commissioners shall
15 be persons in full sympathy with the purposes of this
16 article. Not more than two of the commissioners, at any

17 one time, shall be members of the same political party.
18 The commissioners in each county shall be appointed as
19 follows: Within sixty days from the effective date of this
20 article, the authorities having the power to appoint mem-
21 bers to the civil service commission shall appoint the
22 three commissioners, the first to be appointed by the
23 bar association of the county shall serve for six years
24 from the date of his appointment, the second to be ap-
25 pointed by the deputy sheriff's association of the county
26 shall serve for four years from the date of his appoint-
27 ment, and the third to be appointed by the county court
28 of the county shall serve for a term of two years from
29 the date of his appointment. All subsequent appoint-
30 ments shall be made for terms of four years. In the
31 event that any commissioner of the civil service com-
32 mission shall cease to be a member thereof by virtue
33 of death, final removal or other cause, a new commis-
34 sioner shall be appointed to fill the unexpired term of
35 that commissioner within ten days after said ex-com-
36 missioner shall have ceased to be a member of the com-
37 mission. Such appointment shall be made by the authority

38 who appointed the commissioner who is no longer a
39 member of the commission. Each year the three mem-
40 bers of the commission shall, together, elect one of their
41 number to act as president of the commission for a term
42 of one year. The county court may at any time remove a
43 commissioner for good cause, which shall be stated in
44 writing and made a part of the records of the commission:
45 *Provided*, That once the county court has removed any
46 commissioner, such county court shall within ten days
47 thereafter file in the office of the clerk of the circuit
48 court of the county a petition setting forth in full the
49 reason for the removal and praying for the confirmation
50 of the circuit court of the action of the county court in
51 removing the said commissioner. A copy of the petition
52 shall be served upon the commissioner so removed
53 simultaneously with its filing in the office of the clerk of
54 the circuit court and shall have precedence on the docket
55 of the circuit court and shall be heard by the court as
56 soon as practicable upon the request of the removed com-
57 missioner. All rights hereby vested in the circuit court
58 may be exercised by the judge thereof in vacation. In the

59 event that no term of the circuit court is being held at
60 the time of the filing of the petition, and the judge thereof
61 cannot be reached in the county wherein the petition was
62 filed, the petition shall be heard at the next succeeding
63 term of the circuit court, whether regular or special, and
64 the commissioner so removed shall remain removed until
65 a hearing is had upon the petition of the county court.
66 The circuit court, or the judge thereof in vacation, shall
67 hear and decide the issues presented by the petition. The
68 county court or commissioner, as the case may be, against
69 whom the decision of the circuit court or judge thereof
70 in vacation shall be rendered shall have the right to
71 petition the supreme court of appeals for a review of
72 the decision of the circuit court or the judge thereof in
73 vacation as in other civil cases. In the event that the
74 county court shall fail to file its petition in the office of
75 the clerk of the circuit court, as hereinbefore provided,
76 within ten days after the removal of the commissioner,
77 such commissioner shall immediately resume his position
78 as a member of the civil service commission.
79 Any resident of the county shall have the right at any

80 time to file charges against and seek the removal of any
81 member of the civil service commission. The charges shall
82 be filed in the form of a petition in the office of the clerk
83 of the circuit court of the county. A copy of the petition
84 shall be served upon the commissioner sought to be re-
85 moved. The petition shall be matured for hearing and
86 heard as a civil action by the circuit court of the county
87 for which the commissioner serves as a member of the
88 civil service commission or by the judge thereof in vaca-
89 tion. The party against whom the decision of the circuit
90 court or judge thereof in vacation shall be rendered shall
91 have the right to petition the supreme court of appeals
92 for a review of the decision of the circuit court or judge
93 thereof in vacation as in other civil cases.

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

§7-14-4. Clerk of the commission.

1 The clerk of the county court shall be ex officio clerk
2 of the civil service commission and shall supply to the
3 commission all necessary clerical and stenographic serv-
4 ices for the work of the civil service commission.

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

1 It shall be the duty of the county court of every such
2 county to cause suitable and convenient rooms and ac-
3 commodations to be assigned and provided, furnished,
4 heated and lighted for carrying on the work and examina-
5 tions of the civil service commission. The civil service
6 commission may order from the proper authorities the
7 necessary stationery, postage stamps, official seal and
8 other articles to be supplied, and the necessary printing
9 to be done, for its official use. It shall be the duty of the
10 county court and other county officials of every such
11 county to aid the civil service commission in all proper
12 ways in carrying out the provisions of this article, and
13 to allow the reasonable use of public buildings, and to
14 heat and light the same, for holding examinations and

15 investigations and in all proper ways to facilitate the
16 same.

17 The county court of each such county is hereby re-
18 quired to appropriate sufficient funds for the purpose of
19 carrying out the provisions of this article.

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

1 The civil service commission in each such county shall:

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

6 (2) Keep minutes of its own proceedings and records
7 of its examinations and other official actions. All rec-
8 ommendations of applicants for the position of deputy
9 sheriff received by the commission or by the sheriff
10 shall be kept and preserved for a period of ten years,
11 and all such records, recommendations of former em-
12 ployees excepted, and all written causes of removal, filed
13 with the commission, shall, subject to reasonable rule
14 and regulation, be open to public inspection.

15 (3) Make investigations, either sitting as a body or

16 through a single commissioner, concerning all matters
17 touching the enforcement and effect of the provisions
18 of this article and the rules and regulations prescribed
19 hereunder or concerning the action of any examiner or
20 subordinate of the commission or any person in the
21 public service with respect to the execution of this article;
22 and, in the course of such investigations, each commis-
23 sioner shall have the power to administer oaths and
24 affirmations and to take testimony.

25 (4) Have power to subpoena and require the attend-
26 ance of witnesses and the production of books and papers
27 pertinent to the investigations and inquiries herein au-
28 thorized, and examine them and such public records as
29 it shall require, in relation to any matter which it has
30 the authority to investigate. The fee of such witnesses
31 for attendance and travel shall be the same as for wit-
32 nesses before the circuit courts of this state and shall
33 be paid from the appropriation for the incidental ex-
34 penses of the commission. All officers in the public
35 service and their deputies, clerks, subordinates and em-
36 ployees shall attend and testify when required to do

37 so by the commission. Any disobedience to, or neglect
38 of, any subpoena issued by the commissioners, or any
39 one of them, to any person, shall be held a contempt
40 of court, and shall be punished by the circuit court of
41 the county in which the civil service commission is
42 located, or the judge thereof in vacation, as if such sub-
43 poena had been issued by the court. The judge of the
44 circuit court shall, upon the application of any one com-
45 missioner, in any such case, cause the process of that
46 court to issue to compel any person or persons, disobeying
47 or neglecting any such subpoena to appear and to give
48 testimony and produce evidence before the commis-
49 sioners, or any one of them, and shall have power to
50 punish any such contempt.

51 (5) Prepare a position classification and promotion
52 plan.

53 (6) Make an annual report to the county court and
54 sheriff showing its own actions, its rules and regulations,
55 including all exceptions thereto in force, and the prac-
56 tical effects thereof, and any suggestions it may have
57 for the more effectual accomplishment of the purposes

58 of this article. Such report shall be available for public
59 inspection five days after it shall have been delivered to
60 the county court and sheriff.

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

1 The civil service commission in each such county shall
2 make rules and regulations providing for both competi-
3 tive and medical examinations for the position of deputy
4 sheriff in each such county subject to the provisions of
5 this article, for appointments to the position of deputy
6 sheriff and for promotions and for such other matters as
7 are necessary to carry out the purposes of this article.
8 Any such commission shall have the power and authority
9 to require by rules and regulations a physical fitness
10 examination as a part of its competitive examination or
11 as a part of its medical examination. Due notice of the
12 contents of all rules and regulations and of any modifica-
13 tions thereof shall be given, by mail, in due season to the
14 appointing officer; and said rules and regulations and
15 any modifications thereof shall also be printed for public
16 distribution. All original appointments on and after the

17 effective date of this article, to any position of deputy
18 sheriff in any county subject to the provisions of this
19 article shall be for a probationary period of six months:
20 *Provided*, That at any time during the probationary
21 period the probationer may be discharged for just cause,
22 in the manner provided in section seventeen of this
23 article. If, at the close of this probationary period, the
24 conduct or capacity of the probationer has not been
25 satisfactory to the appointing sheriff, the probationer
26 shall be notified, in writing, that he will not receive
27 absolute appointment, whereupon his employment shall
28 cease; otherwise, his retention in the position of deputy
29 sheriff beyond the probationary term shall be equivalent
30 to his absolute appointment.

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

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

- 8 (1) His full name, residence and post-office address;
- 9 (2) His United States citizenship, age and the place
10 and date of his birth;
- 11 (3) His health and his physical capacity for the posi-
12 tion of deputy sheriff;
- 13 (4) His business, employments and residencies for at
14 least three previous years; and
- 15 (5) Such other information as may reasonably be re-
16 quired, relative to the applicant's qualifications and fitness
17 for the position of deputy sheriff.

18 Blank forms for such applications shall be furnished by
19 the commission, without charge, to all persons requesting
20 the same. The commission may require, in connection with
21 the application, such certificates of citizens, physicians or
22 others, having pertinent knowledge concerning the ap-
23 plicant, as the good of the service may require.

24 No application for original appointment shall be re-
25 ceived on and after the effective date of this article,
26 if the person applying is less than twenty-one years
27 of age or more than forty-five years of age at the
28 date of his application: *Provided*, That in the event

29 any applicant formerly served as a deputy sheriff for a
30 period of more than six months in the county to which
31 he makes application, and resigned as a deputy sheriff at
32 a time when there were no charges of misconduct or other
33 misfeasance pending against him, within a period of
34 two years next preceding the date of his application, and
35 at the time of his application resides within the county
36 in which he seeks appointment by reinstatement, then
37 such applicant shall be eligible for appointment by rein-
38 statement in the discretion of the civil service commis-
39 sion, even though such applicant shall be over the age
40 of forty-five years, provided he is not sixty years of age
41 or over, and such applicant, providing his former term
42 of service as a deputy sheriff so justifies, may be re-
43 appointed by reinstatement without a competitive ex-
44 amination, but such applicant shall undergo a medical
45 examination; and if such applicant shall be so appointed
46 by reinstatement as aforesaid, he shall be the lowest in
47 rank in the sheriff's office next above the probationers of
48 the office.

§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.

1 All competitive examinations for appointments or pro-
2 motions to all positions of deputy sheriff shall be prac-
3 tical in their character, and shall relate to such matters,
4 and include such inquiries, as will fairly and fully test
5 the comparative merit and fitness of the person or per-
6 sons examined to discharge the duties of the position
7 sought by him or them. The state civil service commis-
8 sion shall prepare and prescribe, from time to time, the
9 competitive examination to be given by the civil service
10 commission of each such county. All competitive ex-
11 aminations shall be open to all applicants who have ful-
12 filled the preliminary requirements specified in other
13 sections of this article.

14 Adequate public notice of the date, time and place
15 of every competitive examination held under the pro-
16 visions of this article, together with information as to
17 the position to be filled, shall be given at least two weeks

18 prior to such competitive examination. The commission
19 shall adopt reasonable rules and regulations for permit-
20 ting the presence of representatives of the press at any
21 such competitive examination. The commission shall
22 post, in a public place at its office, the eligible list, con-
23 taining the names and grades of those who have passed
24 such competitive examinations for positions as deputy
25 sheriffs, under this article, and shall indicate thereon such
26 appointments as may be made from said list.

27 All applicants for appointment or promotion to any
28 position as a deputy sheriff in any such county who
29 have passed the competitive examination specified above
30 shall, before being appointed or promoted, undergo a
31 medical examination which shall be conducted under the
32 supervision of a board composed of two doctors of medi-
33 cine appointed for such purpose by the sheriff of the
34 county. Such board must certify that an applicant is
35 free from any bodily or mental defects, deformity or
36 diseases which might incapacitate him from the per-
37 formance of the duties of the position desired and is
38 physically fit to perform such duties before said appli-

39 cant shall be appointed or promoted to any position. Not-
40 withstanding the first sentence of this paragraph, in the
41 event the commission deems it expedient, the medical
42 examination may be given prior to the competitive ex-
43 amination, and if the medical examination is not passed
44 as aforesaid, the applicant shall not be admitted to the
45 competitive examination.

46 All deputies who are employed as deputies on the
47 effective date of this article shall be considered to have
48 been appointed under the provisions of this article, with-
49 out regard to their age, provided they are not on said
50 date sixty years of age or older, and without competitive
51 examination or medical examination, and shall hold their
52 positions in accordance therewith for one year from the
53 effective date of this article. The civil service commis-
54 sion shall, however, establish or prescribe a training pro-
55 gram for deputies who are employed as such on the
56 effective date of this article, giving due consideration to
57 available training personnel and programs. Such depu-
58 ties must complete such training program and must
59 score a minimum of sixty points on a written examina-

60 tion in which one hundred points would be the highest
61 possible score. The examination shall be given in ac-
62 cordance with rules and regulations to be promulgated
63 by the civil service commission of the county. A deputy
64 failing to qualify under the provisions of this paragraph
65 may be continued in his position at the discretion of
66 the sheriff but in no event for a period of more than
67 one year. Such person may be reexamined at the dis-
68 cretion of the civil service commission of the county and
69 may qualify as provided in this paragraph.

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

1 The commission may refuse to examine an applicant,
2 or after examination to certify as eligible one, who is
3 found to lack any of the established preliminary require-
4 ments for the examination or position of deputy sheriff
5 for which he applies; or who is physically so disabled as
6 to be rendered unfit for the performance of the duties of
7 the position of deputy sheriff desired; or who is addicted
8 to the habitual use of intoxicating liquors or drugs; or
9 who has been convicted of a felony; or who has been
10 guilty of infamous or notoriously disgraceful conduct;

11 or who has been dismissed from public service for de-
12 linquency or misconduct; or who has made a false state-
13 ment of any material fact, or practiced or attempted to
14 practice any deception or fraud in his application, in
15 any such examination, or in securing his eligibility; or
16 who refuses to comply with the rules and regulations
17 of the commission.

18 If any applicant feels aggrieved by the action of the
19 commission in refusing to examine him, or after examina-
20 tion in refusing to certify him as eligible, the commission
21 shall, at the request of such applicant, appoint a date,
22 time and place for a public hearing, at which time the
23 applicant may appear, by himself or by counsel or in
24 person and with counsel, and the commission shall then
25 review its refusal to make such examination or certifica-
26 tion, and testimony shall be taken. The commission shall
27 subpoena, at the expense of the applicant, any competent
28 witnesses requested by him. After such review, the com-
29 mission shall file in its records the testimony taken and
30 shall again make a decision, which decision shall be final
31 and not subject to judicial review, but under no circum-

32 stances shall the provisions of this article be construed,
33 in the case of a refusal to examine an applicant for pro-
34 motion or to certify an applicant as eligible for promotion,
35 as depriving such applicant of his right to seek a writ of
36 mandamus, if the application for such writ is made with-
37 in twenty days from the date of the decision (made
38 after hearing as aforesaid) refusing to examine or to
39 certify him as eligible for promotion.

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

1 On and after the effective date of this article, every
2 position of deputy sheriff, unless filled by promotion,
3 reinstatement or reduction, shall be filled only in the
4 manner specified in this section. The appointing sheriff
5 shall notify the civil service commission of any vacancy
6 in a position of deputy sheriff which he desires to
7 fill, and shall request the certification of eligibles. The
8 commission shall forthwith certify, from the eligible list,
9 the names of the three persons thereon who received the
10 highest averages at preceding competitive examinations
11 held under the provisions of this article within a period
12 of three years next preceding the date of the prospective

OC Blankenship

13 appointment. The appointing sheriff shall, thereupon,
14 with sole reference to the relative merit and fitness of the
15 candidates, make an appointment from the three names
16 so certified: *Provided*, That should he make objection to
17 the commission to one or more of these persons for any
18 of the reasons stated in section ten of this article, and
19 should such objection be sustained by the commission
20 after a public hearing along the lines of the hearing
21 provided for in said section ten, if any such hearing is
22 requested, the commission shall thereupon strike the
23 name of that person from the eligible list, and certify the
24 next highest name for each person so stricken. As each
25 subsequent vacancy occurs, in the same or another posi-
26 tion, precisely the same procedure shall be followed:
27 *Provided, however*, That after any name has been three
28 times rejected for the same or another position in favor
29 of a name or names below it on the same list, the name
30 shall be stricken from the list. When there are a number
31 of positions of the same kind to be filled at the same
32 time, each appointment shall, nevertheless, be made
33 separately and in accordance with the foregoing pro-

34 visions. When an appointment is made under the pro-
35 visions of this section, it shall be, in the first instance, for
36 the probationary period of six months, as provided in
37 section seven of this article.

**§7-14-12. Noncompetitive examination for filling vacancy; pro-
visional appointment.**

1 Whenever there are urgent reasons for filling a vacancy
2 in any position of deputy sheriff and there is no list of
3 persons eligible for appointment after a competitive ex-
4 amination, the appointing sheriff may nominate a person
5 to the civil service commission for noncompetitive ex-
6 amination; and if such nominee shall be certified by the
7 commission as qualified, after such noncompetitive ex-
8 amination and a medical examination, he may be appoint-
9 ed provisionally to fill such vacancy until a selection and
10 appointment can be made after competitive examination
11 in the manner prescribed in section eleven of this
12 article; but the provisional appointment shall not con-
13 tinue for a longer period than three months, nor shall
14 successive provisional appointments be made to the same
15 position, under the provisions of this section.

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

1 Vacancies in positions of deputy sheriff on and after
2 the effective date of this article, shall be filled, so far
3 as practicable, by promotion from among persons hold-
4 ing positions in the next lower grade. Promotions shall
5 be based upon merit and fitness to be ascertained by
6 competitive examinations to be provided by the civil
7 service commission and upon the superior qualifications
8 of the persons promoted, as shown by their previous
9 service and experience: *Provided*, That, except for the
10 chief deputy, no person shall be eligible for promotion
11 from the lower grade to the next higher grade until
12 such person shall have completed at least two years'
13 service in the next lower grade: *Provided, however*,
14 That notwithstanding the provisions of section one of
15 this article, any person occupying the office of chief
16 deputy in any such county on the effective date of this
17 article, or thereafter appointed to such office, shall, except
18 as hereinafter provided in this section, be and shall con-
19 tinue to be entitled to all of the rights and benefits of
20 the provisions of this article, except that he may be re-

21 moved from such office of chief deputy without cause
22 and the time spent by such person in the office of such
23 chief deputy shall be added to the time, if any, served
24 by such person during the entire time he was a deputy
25 sheriff of such county prior to his appointment as chief
26 deputy, and shall in all cases of removal, except for
27 removal for just cause, retain the regular rank within
28 said sheriff's office which he held, if any, at the time
29 of his appointment to the office of chief deputy or which
30 he has attained, if any, during his term of service as chief
31 deputy. The provisions of this section shall be construed
32 to apply and to inure to the benefit of all persons who
33 have ever been subject to the provisions of this article.
34 The commission shall have the power to determine in
35 each instance whether an increase in salary constitutes
36 a promotion.

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

1 No question in any form of application or in or during
2 any examination shall be so framed as to elicit informa-
3 tion concerning the political or religious opinions or

4 affiliations of any applicant; nor shall inquiry be made
5 concerning such opinions or affiliations; and all disclosures
6 thereof shall be discountenanced. No discrimination shall
7 be exercised, threatened, or promised by any person in
8 the sheriff's office against, or in favor of, an applicant,
9 eligible or deputy in the office of any sheriff of any county
10 subject to the provisions of this article because of his
11 political or religious opinions or affiliations.

§7-14-15. Political activity of deputy sheriffs prohibited; petition for vacating appointment; action on petition; appeal.

1 (a) On and after the effective date of this article, no
2 deputy sheriff covered by the provisions of this article
3 shall engage in any political activity of any kind, character
4 or nature whatsoever, except to cast his vote at any elec-
5 tion or shall act as an election official in any municipal,
6 county or state election. Any deputy sheriff violating the
7 provisions of this section shall have his appointment va-
8 cated and he shall be removed, in accordance with the
9 pertinent provisions of this section.

10 (b) Any three residents of the county may file their
11 written petition with the civil service commission there-

12 of setting out therein the grounds upon which a deputy
13 sheriff of such county should be removed for a violation
14 of subsection (a) of this section. Notice of the filing
15 of such petition shall be given by the commission to
16 the accused deputy, which notice shall require him to
17 file a written answer to the charges set out in the peti-
18 tion within thirty days of the date of such notice. The
19 petition and answer thereto, if any, shall be entered
20 upon the records of the civil service commission. If the
21 answer is not filed within the time stated, or any ex-
22 tension thereof for cause which in the discretion of
23 the civil service commission may be granted, an order
24 shall be entered by the commission declaring the ap-
25 pointment of the deputy vacated. If such answer is filed
26 within the time stated, or any extension thereof for
27 cause which in the discretion of the civil service com-
28 mission may be granted, the accused deputy may demand
29 within such period a public hearing on the charges, or
30 the civil service commission may, in its discretion and
31 without demand therefor, set a date and time for a pub-
32 lic hearing on the charges, which hearing shall be

33 within thirty days of the filing of said answer, subject,
34 however, to any continuances which may in the dis-
35 cretion of the civil service commission be granted. A
36 written record of all testimony taken at such hearing
37 shall be kept and preserved by the civil service com-
38 mission, which record shall be sealed and not be open
39 to public inspection if no appeal be taken from the
40 action of the commission. The commission at the con-
41 clusion of the hearing, or as soon thereafter as possible,
42 shall enter an order sustaining in whole or in part the
43 charges made, or shall dismiss the charges as unfounded.
44 In the event the charges are sustained in whole or in
45 part, the order shall also declare the appointment of
46 such deputy to be vacated and thereupon the sheriff shall
47 immediately remove the deputy from his office and from
48 the payroll of the county. Notice of the action of the
49 commission shall be given by registered letter to the
50 county court and the sheriff. If the sheriff fails to im-
51 mediately comply with the order of the commission, he
52 shall be punished for contempt, upon application of the
53 commission to the circuit court of the county.

54 (c) An appeal from the ruling of the commission may
55 be had in the same manner and within the same time
56 as specified in section seventeen of this article for an
57 appeal from a ruling of a commission after hearing held
58 in accordance with the provisions of said section seven-
59 teen.

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

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

6 (b) The civil service commission of any such county
7 shall also establish or prescribe retraining programs
8 which every deputy, whether first appointed such deputy
9 before or after the effective date of this article, must satis-
10 factorily complete from time to time after the effective
11 date of this article, in order to continue as a deputy
12 sheriff of such county or to be eligible for promotion.
13 Any training or retraining program established or pre-

14 scribed by the civil service commission of any such
15 county shall meet the minimum standards prescribed by
16 the governor's committee on crime, delinquency and
17 correction established by Executive Order 7-A66, dated
18 September one, one thousand nine hundred sixty-six.

**§7-14-17. Removal, discharge, suspension or reduction in rank
or pay; appeal; reduction in number of deputies;
no person subject to article may serve as deputy
after age sixty.**

1 (a) On and after the effective date of this article,
2 no deputy sheriff of any county subject to the provisions
3 of this article shall be removed, discharged, suspended
4 or reduced in rank or pay except for just cause, which
5 shall not be religious or political, except as provided in
6 section fifteen of this article; and no such deputy shall
7 on and after the effective date of this article, be removed,
8 discharged, suspended or reduced except as provided
9 in this article and in no event until he shall have been
10 furnished with a written statement of the reasons for such
11 action. For the purpose of the remainder of this subsec-
12 tion and subsections (b) and (c) of this section, the term
13 "suspension" shall mean only (1) a suspension in excess of
14 fifteen days, or (2) a suspension in any calendar year

15 which when added to any previous suspension or sus-
16 pensions within the same calendar year results in a total
17 period of suspension in excess of fifteen days within such
18 same calendar year, and for the purpose of the remainder
19 of this subsection and said subsections (b) and (c), a
20 member shall not be considered to be suspended or sought
21 to be suspended unless his suspension meets the foregoing
22 definition of said term. In every case of such removal, dis-
23 charge, suspension or reduction, a copy of the statement of
24 reasons therefor and of the written answer thereto, if the
25 deputy sought to be removed, discharged, suspended or re-
26 duced desires to file such written answer, shall be furnish-
27 ed to the civil service commission and entered upon its
28 records. If the deputy sought to be removed, discharged,
29 suspended or reduced shall demand it, the civil service
30 commission shall grant him a public hearing, which hear-
31 ing shall be held within a period of ten days from the filing
32 of the charges in writing or the written answer thereto,
33 whichever shall last occur. At such hearing the burden
34 shall be upon the removing, discharging, suspending or re-
35 ducing sheriff, hereinafter in this section referred to as

36 "removing sheriff," to justify his action, and in the event
37 the removing sheriff fails to justify his action before the
38 commission, then the deputy removed, discharged, sus-
39 pended or reduced shall be reinstated with full pay, forth-
40 with and without any additional order, for the entire
41 period during which he may have been prevented from
42 performing his usual employment, and no charges shall be
43 officially recorded against his record. A written record
44 of all testimony taken at such hearing shall be kept and
45 preserved by the civil service commission, which record
46 shall be sealed and not be open to public inspection, if no
47 appeal be taken from the action of the commission.

48 (b) In the event that the civil service commission shall
49 sustain the action of the removing sheriff, the deputy
50 removed, discharged, suspended or reduced on or after
51 the effective date of this article, shall have an im-
52 mediate right of appeal to the circuit court of the
53 county. In the event that the commission shall reinstate
54 the deputy removed, discharged, suspended or reduced,
55 the removing sheriff shall have an immediate right of
56 appeal to said circuit court. Any appeal must be taken

57 within ninety days from the date of entry by the civil
58 service commission of its final order. Upon an appeal
59 being taken and docketed with the clerk of the circuit
60 court of said county, the circuit court shall proceed to
61 hear the appeal upon the original record made before
62 the commission and no additional proof shall be permitted
63 to be introduced. The circuit court's decision shall be
64 final, but the deputy or removing sheriff, as the case may
65 be, against whom the decision of the circuit court is
66 rendered shall have the right to petition the supreme
67 court of appeals for a review of the circuit court's decision
68 as in other civil cases. Such deputy or removing sheriff
69 shall also have the right, where appropriate, to seek in
70 lieu of an appeal, a writ of mandamus.

71 (c) The removing sheriff and the deputy sought to
72 be removed, discharged, suspended or reduced shall at
73 all times, both before the civil service commission and
74 upon appeal, be given the right to employ counsel to
75 represent them.

76 (d) If for reasons of economy or other reasons it
77 shall, on and after the effective date of this article,

78 be deemed necessary by any appointing sheriff to re-
79 duce the number of his deputies, he shall follow the
80 procedure set forth in this subsection (d). The reduction
81 in the numbers of the deputy sheriff's of the county shall
82 be effected by suspending the last man or men, including
83 probationers, who have been appointed as deputies.
84 Such removal shall be accomplished by suspending the
85 number desired in the inverse order of their appointment:
86 *Provided*, That in the event the number of deputies
87 shall again be increased in numbers to the strength
88 existing prior to such reduction of deputies, the deputies
89 suspended under the terms of this subsection (d) shall
90 be reinstated in the inverse order of their suspension
91 before any new appointments of deputy sheriffs in the
92 county shall be made.

93 (e) Notwithstanding any other provision of this ar-
94 ticle, no deputy sheriff in any county subject to the pro-
95 visions of this article shall, on or after the effective date
96 of this article, serve as a deputy sheriff in any county sub-
97 ject to the provisions of this article after he attains the
98 age of sixty.

§7-14-18. Offenses and penalties.

1 Any person who makes an appointment or promotion
2 to any position, or selects a person for employment, con-
3 trary to the provisions of this article, or willfully refuses
4 or neglects otherwise to comply with, or to conform to,
5 any of the provisions of this article, or violates any of
6 such provisions, shall be deemed guilty of a misdemeanor.

7 Any commissioner or examiner, or any other person,
8 who shall willfully, by himself or in cooperation with
9 one or more persons, defeat, deceive or obstruct any per-
10 son with respect to his right of examination or registra-
11 tion according to this article, or to any rules and regula-
12 tions prescribed pursuant thereto, or who shall willfully
13 or corruptly, falsely mark, grade, estimate or report
14 upon such examination or proper standing of any person
15 so examined, registered, or certified, pursuant to the
16 provisions of this article, or aid in so doing, or who shall
17 willfully or corruptly furnished to any person any special
18 or secret information, for the purpose of either improving
19 or injuring the prospects or chances of appointment or
20 promotion to any position of any person so examined,

21 registered or certified, or to be so examined, registered, or
22 certified; or who shall impersonate any other person, or
23 permit or aid in any manner any other person to im-
24 personate him, in connection with any examination or
25 registration, or application or request to be examined or
26 registered, shall, for each offense, be deemed guilty of a
27 misdemeanor.

28 Any person convicted of any such misdemeanor offense
29 shall be fined not less than fifty nor more than one
30 thousand dollars, or imprisoned in the county jail not
31 more than one year, or both fined and imprisoned, in the
32 discretion of the court.

§7-14-19. County courts of counties with a population of less than twenty-five thousand may place deputy sheriffs under civil service; protest and election with respect thereto.

1 The county court of any county having a population
2 of less than twenty-five thousand may by order entered of
3 record provide that the provisions of this article pro-
4 viding civil service for deputy sheriffs shall apply to
5 such county on and after the effective date of this article.
6 A copy of such order, together with a notice advising
7 the qualified voters of such county of their right to

8 protest the placing of deputy sheriffs of such county
9 under civil service, shall be published as a class II-0
10 legal advertisement in compliance with the provisions
11 of article three, chapter fifty-nine of this code and the
12 publication area for such publication shall be the county.

13 In the event fifteen percent of the qualified voters of
14 such county protest such order, by petition duly signed
15 by them in their own handwriting (which petition may
16 be signed in any number of counterparts) and filed with
17 the county clerk of such county within sixty days after
18 publication of such copy and notice, such order shall not
19 become effective unless and until it is ratified by a
20 majority of the legal votes cast with respect to the ques-
21 tion of civil service coverage for the deputy sheriffs of
22 such county by the qualified voters of such county at
23 a regular or special election. Any such election shall
24 be conducted and superintended and the results thereof
25 ascertained as provided by law for regular or special
26 elections, as the case may be.

27 Whenever the deputy sheriffs of any county are placed

28 under civil service pursuant to the provisions of this
29 section, such civil service system for the deputy sheriffs
30 of such county shall thereupon become mandatory and
31 all of the provisions of this article shall apply to the
32 deputy sheriffs of such county with like effect as if said
33 county had a population of twenty-five thousand or more.

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

1 All acts and parts of acts of the Legislature, whether
2 general, special or local, in relation to deputy sheriffs in-
3 consistent with the provisions of this article shall be,
4 and the same are, hereby repealed to the extent of such
5 inconsistency.

6 Any civil service system for deputy sheriffs in any
7 county with a population of twenty-five thousand or more
8 shall remain mandatory and shall be governed by the
9 provisions of this article even if the population of such
10 county shall at any time decrease below twenty-five thou-
11 sand.

§7-14-21. Severability.

1 If any provision of this article or its application to any
2 person or circumstance is held unconstitutional or in-
3 valid, such unconstitutionality or invalidity shall not
4 affect other provisions or applications of this article, and
5 to this end the provisions of this article are hereby
6 declared to be severable.

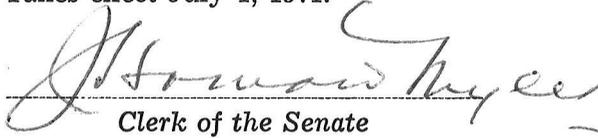
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


Chairman Senate Committee

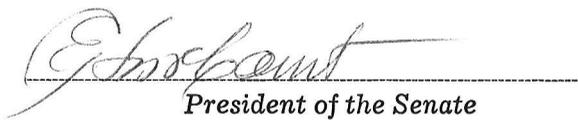

Chairman House Committee

Originated in the House.

Takes effect July 1, 1971.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker House of Delegates

The within approved this the 31st
day of March, 1971.


Governor



PRESENTED TO THE
GOVERNOR

Date 3/13/71
Time 3:45 p.m.

RECEIVED

APR 2 11 51 PM '71

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA