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

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

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, as defined in section two of this article, in the offices of sheriffs of counties of twenty-five thousand population or more, shall be made only according to qualifications and fitness to be ascertained by examinations, which, so
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 per-
sons appointed by a sheriff as his deputies whose sole
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.
(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 having a population of twenty-five thousand or more. 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 court of such county. In the event the bar association or deputy sheriff’s association shall fail to make an appointment within the time prescribed in this section therefor, then such appointment shall be made by the county court. 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 his appointment, the second to be appointed by the deputy sheriff's association of the county shall serve for four years from the date of his appointment, and the third to be appointed by the county court of the county shall serve for a term of two years from the date of his appointment. All subsequent appointments shall be made for terms of four years. In the event that any commissioner of the civil service commission shall cease 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 shall have 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 court 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:

Provided, That once the county court has removed any commissioner, such county court 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 court 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 shall have 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
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 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
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 re-
moved. 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 vaca-
tion. The party against whom the decision of the circuit
court or judge thereof in vacation shall be rendered shall
have 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 shall 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 shall 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.**

1 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.

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

1 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.

1 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 commis-
sioner shall have the power to administer oaths and
affirmations and to take testimony.

(4) Have power to subpoena and require the attend-
ance of witnesses and the production of books and papers
pertinent to the investigations and inquiries herein au-
thorized, 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 wit-
nesses before the circuit courts of this state and shall
be paid from the appropriation for the incidental ex-
penses of the commission. All officers in the public
service and their deputies, clerks, subordinates and em-
ployees 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
§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 competitive and medical examinations for the position of deputy
3 sheriff in each such county subject to the provisions of
4 this article, for appointments to the position of deputy
5 sheriff and for promotions and for such other matters as
6 are necessary to carry out the purposes of this article.
7 Any such commission shall have the power and authority
8 to require by rules and regulations a physical fitness
9 examination as a part of its competitive examination or
10 as a part of its medical examination. Due notice of the
11 contents of all rules and regulations and of any modifications thereof shall be given, by mail, in due season to the
12 appointing officer; and said rules and regulations and
13 any modifications thereof shall also be printed for public
14 distribution. All original appointments on and after the
15
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 six 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.

The civil service commission in each such 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 full name, residence and post-office address;

(2) His United States citizenship, age and the place and date of his birth;

(3) His health and his physical capacity for the position of deputy sheriff;

(4) His business, employments and residencies 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.

Blank forms for such applications shall be furnished by the commission, without charge, to all persons requesting the same. 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.

No application for original appointment shall be received on and after the effective date of this article, if the person applying is less than twenty-one years of age or more than forty-five years of age at the date of his application: Provided, That in the event
any applicant formerly served as a deputy sheriff for a period of more than six months in the county to which he makes application, and resigned as a deputy sheriff at a time when there were no charges of misconduct or other misfeasance pending against him, within a period of two years next preceding the date of his application, and at the time of his application resides within the county in which he seeks appointment by reinstatement, then such applicant shall be eligible for appointment by reinstatement in the discretion of the civil service commission, even though such applicant shall be over the age of forty-five years, provided he is not sixty years of age or over, and such applicant, providing his former term of service as a deputy sheriff so justifies, may be reappointed by reinstatement without a competitive examination, but such applicant shall undergo a medical examination; and if such applicant shall be so appointed by reinstatement as aforesaid, he shall be the lowest in rank in the sheriff's office next above the probationers of 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.

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 him 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 permit-
ting 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, con-
taining 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 medi-
cine 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 him from the per-
formance of the duties of the position desired and is
physically fit to perform such duties before said appli-
cant 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 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 examina-
tion 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.

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

1 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 circum-
stances shall the provisions of this article be construed,
in the case of a refusal to examine an applicant for promo-
motion 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 with-
in 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.

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
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 pro-
visions. 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.

1 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.

1 Vacancies in positions of deputy sheriff on and after the effective date of this article, 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, 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 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 may be re-
moved from such office of chief deputy without cause
and the time spent by such person in the office of such
chief deputy shall be added to the time, if any, served
by such person during the entire time he was a deputy
sheriff of such county prior to his appointment as chief
deputy, and shall in all cases of removal, except for
removal for just cause, retain the regular rank within
said sheriff's office which he held, if any, at the time
of his appointment to the office of chief deputy or which
he has attained, if any, during his term of service as chief
deputy. 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 informa-
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; peti­
1 tion 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-
of 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 him to
file a written answer to the charges set out in the peti-
tion 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 ex-
tension 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 ap-
pointment 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 com-
mission 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 pub-
lic 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 dis-
cretion 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 com-
mission, 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 con-
cclusion 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 im-
mediately comply with the order of the commission, he
shall be punished for contempt, upon application of the
commission to the circuit court of the county.
(c) 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 seventeen.

§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 pre-
scribed 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 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.

(a) On and after the effective date of this article, no deputy sheriff of any county subject to the provisions of this article shall be removed, discharged, suspended or reduced in rank or pay except for just cause, which shall not be religious or political, except as provided in section fifteen of this article; and no such deputy shall on and after the effective date of this article, be removed, discharged, suspended or reduced except as provided in this article and in no event until he shall have been furnished with a written statement of the reasons for such action. For the purpose of the remainder of this subsection and subsections (b) and (c) of this section, the term “suspension” shall mean only (1) a suspension in excess of fifteen days, or (2) a suspension in any calendar year
which when added to any previous suspension or suspensions within the same calendar year results in a total period of suspension in excess of fifteen days within such same calendar year, and for the purpose of the remainder of this subsection and said subsections (b) and (c), a member shall not be considered to be suspended or sought to be suspended unless his suspension meets the foregoing definition of said term. 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 sought to be removed, discharged, suspended or reduced desires to file such written answer, shall be furnished to the civil service commission and entered upon its records. If the deputy sought to be removed, discharged, suspended or reduced shall demand it, the civil service commission shall grant him 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 such hearing the burden shall be upon the removing, discharging, suspending or reducing sheriff, hereinafter in this section referred to as
“removing sheriff,” to justify his action, and in the event
the removing sheriff fails to justify his action before the
commission, then the deputy removed, discharged, sus-
pended or reduced shall be reinstated with full pay, forth-
with and without any additional order, for the entire
period during which he may have been prevented from
performing his usual employment, and no charges shall be
officially recorded against his record. 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.

(b) In the event that the civil service commission shall
sustain the action of the removing sheriff, the deputy
removed, discharged, suspended or reduced on or after
the effective date of this article, shall have an im-
mediate right of appeal to the circuit court of the
county. In the event that the commission shall reinstate
the deputy removed, discharged, suspended or reduced,
the removing sheriff shall have an immediate right of
appeal to said 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 said county, the circuit court shall proceed to
hear the appeal upon the original record made before
the commission and no additional proof shall be permitted
to be introduced. The circuit court’s decision shall be
final, but the deputy or removing sheriff, as the case may
be, against whom the decision of the circuit court is
rendered shall have the right to petition the supreme
court of appeals for a review of the circuit court’s decision
as in other civil cases. Such deputy or removing sheriff
shall also have the right, where appropriate, to seek in
lieu of an appeal, a writ of mandamus.

(c) The removing sheriff and the deputy sought to
be removed, discharged, suspended or reduced 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
shall, on and after the effective date of this article,
be deemed necessary by any appointing sheriff to re-
duce the number of his deputies, he shall follow the
procedure set forth in this subsection (d). The reduction
in the numbers of the deputy sheriff's of the county shall
be effected by suspending the last man or men, including
probationers, who have been appointed as deputies.
Such 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
shall again be increased in numbers to the strength
existing prior to such reduction of deputies, the deputies
suspended under the terms of this subsection (d) shall
be reinstated in the inverse order of their suspension
before any new appointments of deputy sheriffs in the
county shall be made.
(e) Notwithstanding any other provision of this ar-
ticle, no deputy sheriff in any county subject to the pro-
visions of this article shall, on or after the effective date
of this article, serve as a deputy sheriff in any county sub-
ject to the provisions of this article after he attains the
age of sixty.
§7-14-18. Offenses and penalties.

1 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 willfully 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.

2 Any commissioner or examiner, or any other person, who shall willfully, 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 willfully 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 willfully or corruptly furnished 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 im-
personate 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 fifty nor more than one
thousand dollars, 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. 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.

The county court of any county having a population
of less than twenty-five thousand may by order entered of
record provide that the provisions of this article pro-
viding civil service for deputy sheriffs shall apply to
such county on and after the effective date of this article.
A copy of such order, together with a notice advising
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
under civil service pursuant to the provisions of this
section, such civil service system for the deputy sheriffs
of such county shall thereupon become mandatory and
all of the provisions of this article shall apply to the
deputy sheriffs of such county with like effect as if said
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
general, special or local, in relation to deputy sheriffs in-
consistent with the provisions of this article shall be,
and the same are, hereby repealed to the extent of such
inconsistency.

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

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the House.

Takes effect July 1, 1971.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

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

[Signature]
Governor
PRESENTED TO THE
GOVERNOR

Date _____3/13/71_____
Time _____3:45 p.m._____

RECEIVED
APR 2 1971
1 PM
SECRETARY OF STATE
STATE OF WEST VIRGINIA