

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972

ENROLLED

HOUSE BILL No. 517

(By Mr. SCOTT)

PASSED MARCH 6, 1972

In Effect FROM Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE

THIS DATE 3-29-72

517

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House Bill No. 517
(By MR. SCOTT)

[Passed March 6, 1972; in effect from passage.]

AN ACT to amend and reenact sections eight, nine and seventeen, article fourteen, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to civil service coverage for certain deputy sheriffs in certain counties; increasing from sixty to sixty-five years of age the maximum age of one who may be reinstated as a deputy sheriff in a county having civil service for deputy sheriffs; increasing from sixty to sixty-five years of age the maximum age of any person serving as a deputy sheriff in any such county who may be considered as having been appointed under said article; and increasing from sixty to sixty-five years of age the maximum age of any deputy sheriff in any such county.

Be it enacted by the Legislature of West Virginia:

That sections eight, nine and seventeen, article fourteen, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 14. CIVIL SERVICE FOR DEPUTY SHERIFFS.

§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 of-
- 5 fice, within a reasonable time prior to the proposed com-
- 6 petitive examination, a formal application in which the
- 7 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 po-
12 sition of deputy sheriff;

13 (4) His business, employments and residences 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 fit-
17 ness 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
21 with the application, such certificates of citizens, phy-
22 sicians or others, having pertinent knowledge concerning
23 the applicant, 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, if
26 the person applying is less than twenty-one years of age
27 or more than forty-five years of age at the date of his
28 application: *Provided*, That in the event any applicant
29 formerly served as a deputy sheriff for a period of more
30 than six months in the county to which he makes appli-
31 cation, and resigned as a deputy sheriff at a time when
32 there were no charges of misconduct or other misfeasance
33 pending against him, within a period of two years next
34 preceding the date of his application, and at the time of
35 his application resides within the county in which he
36 seeks appointment by reinstatement, then such applicant
37 shall be eligible for appointment by reinstatement in
38 the discretion of the civil service commission, even
39 though such applicant shall be over the age of forty-five
40 years, provided he is not sixty-five years of age or over,
41 and such applicant, providing his former term of service
42 as deputy sheriff so justifies, may be reappointed by rein-
43 statement without a competitive examination, but such
44 applicant shall undergo a medical examination; and if
45 such applicant shall be so appointed by reinstatement as
46 aforesaid, he shall be the lowest in rank in the sheriff's
47 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.

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 persons
6 examined to discharge the duties of the position sought
7 by him or them. The state civil service commission shall
8 prepare and prescribe, from time to time, the competitive
9 examination to be given by the civil service commission
10 of each such county. All competitive examinations shall
11 be open to all applicants who have fulfilled the prelimi-
12 nary requirements specified in other sections of this ar-
13 ticle.

14 Adequate public notice of the date, time and place of
15 every competitive examination held under the provisions
16 of this article, together with information as to the position
17 to be filled, shall be given at least two weeks prior to such
18 competitive examination. The commission shall adopt
19 reasonable rules and regulations for permitting the pres-
20 ence of representatives of the press at any such com-
21 petitive examination. The commission shall post, in a
22 public place at its office, the eligible list, containing the
23 names and grades of those who have passed such com-
24 petitive examinations for positions as deputy sheriffs,
25 under this article, and shall indicate thereon such ap-
26 pointments 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 have
29 passed the competitive examination specified above shall,
30 before being appointed or promoted, undergo a medical
31 examination which shall be conducted under the super-
32 vision of a board composed of two doctors of medicine
33 appointed for such purpose by the sheriff of the county.
34 Such board must certify that an applicant is free from
35 any bodily or mental defects, deformity or diseases which

36 might incapacitate him from the performance of the
37 duties of the position desired and is physically fit to per-
38 form such duties before said applicant shall be appointed
39 or promoted to any position. Notwithstanding the first
40 sentence of this paragraph, in the event the commission
41 deems it expedient, the medical examination may be
42 given prior to the competitive examination, and if the
43 medical examination is not passed as aforesaid, the ap-
44 plicant shall not be admitted to the competitive examina-
45 tion.

46 All deputies who are employed as deputies on the effec-
47 tive date of this article shall be considered to have been
48 appointed under the provisions of this article, without
49 regard to their age, provided they are not on said date
50 sixty-five 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 commission
54 shall, however, establish or prescribe a training program
55 for deputies who are employed as such on the effective
56 date of this article, giving due consideration to available
57 training personnel and programs. Such deputies must
58 complete such training program and must score a mini-
59 mum of sixty points on a written examination in which
60 one hundred points would be the highest possible score.
61 The examination shall be given in accordance with rules
62 and regulations to be promulgated by the civil service
63 commission of the county. A deputy failing to qualify
64 under the provisions of this paragraph may be continued
65 in his position at the discretion of the sheriff but in no
66 event for a period of more than one year. Such person
67 may be reexamined at the discretion of the civil service
68 commission of the county and may qualify as provided
69 in this paragraph.

**§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-five.**

- 1 (a) On and after the effective date of this article, no
- 2 deputy sheriff of any county subject to the provisions of
- 3 this article shall be removed, discharged, suspended or

4 reduced in rank or pay except for just cause, which shall
5 not be religious or political, except as provided in section
6 fifteen of this article; and no such deputy shall on and
7 after the effective date of this article, be removed, dis-
8 charged, suspended or reduced except as provided in this
9 article and in no event until he shall have been furnished
10 with a written statement of the reasons for such action.
11 For the purpose of the remainder of this subsection and
12 subsections (b) and (c) of this section, the term "suspension" shall mean only (1) a suspension in excess of fifteen
13 days, or (2) a suspension in any calendar year which
14 when added to any previous suspension or suspensions
15 within the same calendar year results in a total period
16 of suspension in excess of fifteen days within such same
17 calendar year, and for the purpose of the remainder of
18 this subsection and said subsections (b) and (c), a mem-
19 ber shall not be considered to be suspended or sought
20 to be suspended unless his suspension meets the fore-
21 going definition of said term. In every case of such re-
22 moval, discharge, suspension or reduction, a copy of the
23 statement of reasons therefor and of the written answer
24 thereto, if the deputy sought to be removed, discharged,
25 suspended or reduced desires to file such written answer,
26 shall be furnished to the civil service commission and
27 entered upon its records. If the deputy sought to be re-
28 moved, discharged, suspended or reduced shall demand
29 it, the civil service commission shall grant him a public
30 hearing, which hearing shall be held within a period of
31 ten days from the filing of the charges in writing or the
32 written answer thereto, whichever shall last occur. At
33 such hearing the burden shall be upon the removing,
34 discharging, suspending or reducing sheriff, hereinafter
35 in this section referred to as "removing sheriff," to justify
36 his action, and in the event the removing sheriff fails
37 to justify his action before the commission, then the
38 deputy removed, discharged, suspended or reduced shall
39 be reinstated with full pay, forthwith and without any
40 additional order, for the entire period during which he
41 may have been prevented from performing his usual em-
42 ployment, and no charges shall be officially recorded
43 against his record. A written record of all testimony
44

45 taken at such hearing shall be kept and preserved by
46 the civil service commission, which record shall be sealed
47 and not be open to public inspection, if no appeal be
48 taken from the action of the commission.

49 (b) In the event that the civil service commission
50 shall sustain the action of the removing sheriff, the deputy
51 removed, discharged, suspended or reduced on or after
52 the effective date of this article, shall have an immediate
53 right of appeal to the circuit court of the county. In the
54 event that the commission shall reinstate the deputy
55 removed, discharged, suspended or reduced, the remov-
56 ing sheriff shall have an immediate right of appeal to
57 said circuit court. Any appeal must be taken within
58 ninety days from the date of entry by the civil service
59 commission of its final order. Upon an appeal being taken
60 and docketed with the clerk of the circuit court of said
61 county, the circuit court shall proceed to hear the ap-
62 peal upon the original record made before the commis-
63 sion and no additional proof shall be permitted to be
64 introduced. The circuit court's decision shall be final, but
65 the deputy or removing sheriff, as the case may be,
66 against whom the decision of the circuit court is rendered
67 shall have the right to petition the supreme court of ap-
68 peals for a review of the circuit court's decision as in
69 other civil cases. Such deputy or removing sheriff shall
70 also have the right, where appropriate, to seek in lieu of
71 an appeal, a writ of mandamus.

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

77 (d) If for reasons of economy or other reasons it shall,
78 on and after the effective date of this article, be deemed
79 necessary by any appointing sheriff to reduce the num-
80 ber of his deputies, he shall follow the procedure set
81 forth in this subsection (d). The reduction in the numbers
82 of the deputy sheriffs of the county shall be effected by
83 suspending the last man or men, including probationers,
84 who have been appointed as deputies. Such removal
85 shall be accomplished by suspending the number desired

86 in the inverse order of their appointment: *Provided,*
87 That in the event the number of deputies shall again
88 be increased in numbers to the strength existing prior
89 to such reduction of deputies, the deputies suspended
90 under the terms of this subsection (d) shall be reinstated
91 in the inverse order of their suspension before any new
92 appointments of deputy sheriffs in the county shall be
93 made.

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

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

Russell S. Beane
Chairman Senate Committee

Phyllis J. Rietledge
Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard B. Benson
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

E. H. Schmitt
President of the Senate

Lewis H. H. Hanner
Speaker House of Delegates

The within *approved* this the *21th*
day of *March*, 1972.

Arthur A. Shouse Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 3/10/72

Time 5:20 p.m.

MAR 29 9 27 AM '72

OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA