WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1972

ENROLLED

HOUSE BILL No. 517

(By Mr. Scott)

PASSED MARCH 6, 1972

In Effect FROM Passage

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FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3.29.72
ENROLLED

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.

§7-14-3. 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:
(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 residences for at least three previous years; and
(5) Such other information as may reasonably be required, relative to the applicant's qualifications and fitness for the position of deputy sheriff.

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-five years of age or over, and such applicant, providing his former term of service as 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 permitting the presence of representatives of the press at any such competitive examination. The commission shall post, in a public place at its office, the eligible list, containing the names and grades of those who have passed such competitive examinations for positions as deputy sheriffs, under this article, and shall indicate thereon such appointments as may be made from said list.

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

All deputies who are employed as deputies on the effective date of this article shall be considered to have been appointed under the provisions of this article, without regard to their age, provided they are not on said date sixty-five years of age or older, and without competitive examination or medical examination, and shall hold their positions in accordance therewith for one year from the effective date of this article. The civil service commission shall, however, establish or prescribe a training program for deputies who are employed as such on the effective date of this article, giving due consideration to available training personnel and programs. Such deputies must complete such training program and must score a minimum of sixty points on a written examination in which one hundred points would be the highest possible score. The examination shall be given in accordance with rules and regulations to be promulgated by the civil service commission of the county. A deputy failing to qualify under the provisions of this paragraph may be continued in his position at the discretion of the sheriff but in no event for a period of more than one year. Such person may be reexamined at the discretion of the civil service commission of the county and may qualify as provided in this paragraph.

§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.

(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, suspended or reduced shall be reinstated with full pay, forthwith 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 immediate
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 remov-
ing 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 ap-
peal upon the original record made before the commis-
sion 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 ap-
peals 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 reduce the num-
ber of his deputies, he shall follow the procedure set
forth in this subsection (d). The reduction in the numbers
of the deputy sheriffs 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 article, no deputy sheriff in any county subject to the provisions of this article shall, on or after the effective date of this article, serve as a deputy sheriff in any county subject to the provisions of this article after he attains the age of sixty-five.
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 from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within...the 21st day of...1972.

Governor