

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-28-81

Time _____

No: 779

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981



ENROLLED

HOUSE BILL No. 779

(By Mr. Stephens)



Passed April 11, 1981

In Effect Ninety Days From Passage



ENROLLED

H. B. 779

(By MR. STEPHENS)

[Passed April 11, 1981; in effect ninety days from passage.]

AN ACT to amend and reenact section seventeen, article fourteen, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to removal, discharge, suspension or reduction in rank or pay of a deputy sheriff; reduction in number of deputies; age requirements; payment of attorney fees.

Be it enacted by the Legislature of West Virginia:

That section 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.

§7-14-17. 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 re-
4 duced 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 In every case of such removal, discharge, suspension or
12 reduction, a copy of the statement of reasons therefor and
13 of the written answer thereto, if the deputy sought to be
14 removed, discharged, suspended or reduced desires to file
15 such written answer, shall be furnished to the civil service
16 commission and entered upon its records. If the deputy
17 sought to be removed, discharged, suspended or reduced shall
18 demand it, the civil service commission shall grant him a
19 public hearing, which hearing shall be held within a period
20 of ten days from the filing of the charges in writing or the
21 written answer thereto, whichever shall last occur. At such
22 hearing the burden shall be upon the removing, discharging,
23 suspending or reducing sheriff, hereinafter in this section
24 referred to as "removing sheriff," to justify his action, and
25 in the event the removing sheriff fails to justify his action
26 before the commission, then the deputy removed, discharged,
27 suspended or reduced shall be reinstated with full pay,
28 forthwith and without any additional order, for the entire
29 period during which he may have been prevented from per-
30 forming his usual employment, and no charges shall be
31 officially recorded against his record. The deputy if reinstated
32 or exonerated, shall, if represented by legal counsel, be award-
33 ed an attorney fee of no more than two hundred fifty dollars
34 and such fee shall be determined by the commission and paid
35 by the removing sheriff from county funds. A written record of
36 all testimony taken at such hearing shall be kept and preserved
37 by the civil service commission, which record shall be sealed
38 and not be open to public inspection, if no appeal be taken
39 from the action of the commission.

40 (b) In the event that the civil service commission shall
41 sustain the action of the removing sheriff, the deputy re-
42 moved, discharged, suspended or reduced on or after the
43 effective date of this article, shall have an immediate right
44 of appeal to the circuit court of the county. In the event
45 that the commission shall reinstate the deputy removed, dis-
46 charged, suspended or reduced, the removing sheriff shall
47 have an immediate right of appeal to said circuit court.
48 Any appeal must be taken within ninety days from the date
49 of entry by the civil service commission of its final order.

50 Upon an appeal being taken and docketed with the clerk
51 of the circuit court of said county, the circuit court shall
52 proceed to hear the appeal upon the the original record made
53 before the commission and no additional proof shall be
54 permitted to be introduced. The circuit court's decision shall
55 be final, but the deputy or removing sheriff, as the case may
56 be, against whom the decision of the circuit court is rendered
57 shall have the right to petition the supreme court of appeals
58 for a review of the circuit court's decision as in other civil
59 cases. Such deputy or removing sheriff shall also have the
60 right, where appropriate, to seek in lieu of an appeal, a writ
61 of mandamus. The deputy, if reinstated or exonerated by the
62 circuit court shall, if represented by legal counsel, be awarded
63 an attorney fee not to exceed five hundred dollars, and if
64 reinstated or exonerated by the supreme court of appeals, shall
65 be awarded an attorney fee not to exceed five hundred dollars,
66 and such fees shall be paid by the removing sheriff from
67 county funds: *Provided*, That the aggregate amount of attorney
68 fees awarded by the commission, the circuit court and the
69 supreme court of appeals, shall not exceed one thousand
70 dollars for any member litigant.

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

75 (d) If for reasons of economy or other reasons it shall,
76 on and after the effective date of this article. be deemed
77 necessary by any appointing sheriff to reduce the number of
78 his deputies, he shall follow the procedure set forth in
79 this subsection (d). The reduction in the numbers of the
80 deputy sheriffs of the county shall be effected by suspending
81 the last man or men, including probationers, who have been
82 appointed as deputies. Such removal shall be accomplished
83 by suspending the number desired in the inverse order of
84 their appointment: *Provided*, That in the event the number
85 of deputies shall again be increased in numbers to the
86 strength existing prior to such reduction of deputies, the
87 deputies suspended under the terms of this subsection (d)
88 shall be reinstated in the inverse order of their suspension

89 before any new appointments of deputy sheriffs in the county
90 shall be made.

91 (e) Notwithstanding any other provision of this article,
92 no deputy sheriff in any county subject to the provisions of
93 this article shall, on or after the effective date of this article,
94 serve as a deputy sheriff in any county subject to the pro-
95 visions 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.

R. P. Bayler
Chairman Senate Committee

Foney E. Whitlow
Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

Sodd C. Willis
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates
Waverly W. Shaw
President of the Senate

John H. Lee, Jr.
Speaker House of Delegates

The within is approved this the 28
day of April, 1981.

J. J. [Signature]
Governor

RECEIVED

APR 27 12:01 PM '81

OFFICE OF THE GOVERNOR

RECEIVED

81 APR 29 11:24

OFFICE
SECY. OF STATE