WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987

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ENROLLED

HOUSE BILL No. 2789

(By Delegate Rogers)

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Passed MARCH 13, 1987

In Effect Ninety Days from Passage

900856 C-841
ENROLLED

H. B. 2789
(By Delegate Rogers)

[Passed March 13, 1987; in effect ninety days from passage.]

AN ACT to amend and reenact section twelve, article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the appointment of commissioners to municipal firemen's civil service commissions.

Be it enacted by the Legislature of West Virginia:

That section twelve, article fifteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

PART IV. CIVIL SERVICE FOR PAID FIRE DEPARTMENT.


1 In every municipality having a paid fire department, there shall be a “Firemen's Civil Service Commission.”
2 The commission shall consist of three commissioners, one of whom shall be appointed by the mayor of the municipality; one of whom shall be appointed by the local international association of fire fighters in the event that said local exists in the municipality, or in case no such local exists in the municipality, then by the local central body of the West Virginia Federation of Labor AFL-CIO in the event that said central body exists in
the municipality, or in case that no such central body
exists in the municipality, then by the West Virginia
Federation of Labor AFL-CIO; and the third shall be
appointed by the local chamber of commerce, or if there
be none, by a local businessmen's association. The
individuals appointed commissioners shall be qualified
voters of the municipality for which they are appointed;
and at least two of said commissioners shall be individ-
uals in full sympathy with the purposes of the civil
service provisions of this article. Not more than two of
the said commissioners, at any one time, shall be
adherents of the same political party. Of the three
original appointments in each municipality, the first
commissioner shall be appointed by the mayor and shall
serve for six years from the date of his appointment; the
second commissioner shall be appointed by the local
trades board, or in the absence of such board, by the
international association of fire fighters, and shall serve
for four years from the date of his appointment; and the
third commissioner shall be appointed by the local
chamber of commerce or local businessmen's association
and shall serve for two years from the date of his
appointment. In the event there is no local chamber of
commerce or local businessmen's association at the time
any appointment is to be made by it, such appointment
shall be made by the other two commissioners by mutual
agreement. After the original appointments, all appoint-
ments shall be made for periods of four years each by
the appointing authority hereinbefore designated. In the
event that any commissioner of said civil service
commission shall cease to be a member thereof by virtue
of death, final removal or other cause, a new commis-
sioner shall be appointed to fill the unexpired term of
said commissioner within ten days after said ex-
commissioner shall have ceased to be a member of said
commission. Such appointment shall be made by the
officer or body who in the first instance 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, who shall serve as
president for one year. The mayor may, at any time,
remove any commissioner or commissioners for good cause, which shall be stated in writing and made a part of the records of the commission: Provided, That once the mayor has removed any commissioner, the mayor shall within ten days thereafter file in the office of the clerk of the circuit court of the county in which the municipality or the major portion of the territory thereof is located a petition setting forth in full the reason for said removal and praying for the confirmation by said circuit court of the action of the mayor in so removing the said commissioner. A copy of said 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 said court and shall be heard by said court as soon as practicable upon the request of the removed commissioner or commissioners. All rights herein vested in said circuit court may be exercised by the judge thereof in vacation. In the event that no term of the circuit court is being held at the time of the filing of said petition, and the judge thereof cannot be reached in the county wherein the petition was filed, said petition shall be heard at the next succeeding term of said circuit court, whether regular or special, and the commissioner or commissioners so removed shall remain removed until a hearing is had upon the petition of the mayor. The court or the judge thereof in vacation shall hear and decide the issues presented by said petition. The mayor or commissioner or commissioners, as the case may be, against whom the decision of the court or the 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 the judge thereof in vacation as in other civil cases. In the event that the mayor shall fail to file his petition in the office of the clerk of the circuit court, as hereinbefore provided, within ten days after the removal of said commissioner or commissioners, such commissioner or commissioners shall immediately resume his or their position or positions as a member or members of the firemen's civil service commission.

Any resident of the municipality shall have the right
at any time to file charges against and seek the removal of any member of the firemen's civil service commission of such municipality. Such charges shall be filed in the form of a petition in the office of the clerk of the circuit court of the county in which the municipality or the major portion of the territory thereof is located, and a copy of said petition shall be served upon the commissioner or commissioners sought to be removed. Said petition shall be matured for hearing and heard by said circuit court or the judge thereof in vacation in the same manner as civil proceedings in the circuit courts of this state are heard, and the party against whom the circuit court's decision is rendered shall have the right to petition the supreme court of appeals for a review of the action of the circuit court, 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 committee or take any active part in the management of any political campaign.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ........................................ this the 30th day of ........................................, 1987.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/35/97
Time 4:50 P.M.