

700: 2789

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1987



ENROLLED

HOUSE BILL No. 2789

(By Delegate Rogers)



Passed MARCH 13, 1987

In Effect Ninety Days from Passage

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.

§8-15-12. Firemen's civil service commission generally.

1 In every municipality having a paid fire department,
2 there shall be a "Firemen's Civil Service Commission."
3 The commission shall consist of three commissioners,
4 one of whom shall be appointed by the mayor of the
5 municipality; one of whom shall be appointed by the
6 local international association of fire fighters in the
7 event that said local exists in the municipality, or in case
8 no such local exists in the municipality, then by the local
9 central body of the West Virginia Federation of Labor
10 AFL-CIO in the event that said central body exists in

11 the municipality, or in case that no such central body
12 exists in the municipality, then by the West Virginia
13 Federation of Labor AFL-CIO; and the third shall be
14 appointed by the local chamber of commerce, or if there
15 be none, by a local businessmen's association. The
16 individuals appointed commissioners shall be qualified
17 voters of the municipality for which they are appointed;
18 and at least two of said commissioners shall be individ-
19 uals in full sympathy with the purposes of the civil
20 service provisions of this article. Not more than two of
21 the said commissioners, at any one time, shall be
22 adherents of the same political party. Of the three
23 original appointments in each municipality, the first
24 commissioner shall be appointed by the mayor and shall
25 serve for six years from the date of his appointment; the
26 second commissioner shall be appointed by the local
27 trades board, or in the absence of such board, by the
28 international association of fire fighters, and shall serve
29 for four years from the date of his appointment; and the
30 third commissioner shall be appointed by the local
31 chamber of commerce or local businessmen's association
32 and shall serve for two years from the date of his
33 appointment. In the event there is no local chamber of
34 commerce or local businessmen's association at the time
35 any appointment is to be made by it, such appointment
36 shall be made by the other two commissioners by mutual
37 agreement. After the original appointments, all appoint-
38 ments shall be made for periods of four years each by
39 the appointing authority hereinbefore designated. In the
40 event that any commissioner of said civil service
41 commission shall cease to be a member thereof by virtue
42 of death, final removal or other cause, a new commis-
43 sioner shall be appointed to fill the unexpired term of
44 said commissioner within ten days after said ex-
45 commissioner shall have ceased to be a member of said
46 commission. Such appointment shall be made by the
47 officer or body who in the first instance appointed the
48 commissioner who is no longer a member of the
49 commission. Each year the three members of the
50 commission shall, together, elect one of their number to
51 act as president of the commission, who shall serve as
52 president for one year. The mayor may, at any time,

53 remove any commissioner or commissioners for good
54 cause, which shall be stated in writing and made a part
55 of the records of the commission: *Provided*, That once
56 the mayor has removed any commissioner, the mayor
57 shall within ten days thereafter file in the office of the
58 clerk of the circuit court of the county in which the
59 municipality or the major portion of the territory
60 thereof is located a petition setting forth in full the
61 reason for said removal and praying for the confirma-
62 tion by said circuit court of the action of the mayor in
63 so removing the said commissioner. A copy of said
64 petition shall be served upon the commissioner so
65 removed simultaneously with its filing in the office of
66 the clerk of the circuit court and shall have precedence
67 on the docket of said court and shall be heard by said
68 court as soon as practicable upon the request of the
69 removed commissioner or commissioners. All rights
70 herein vested in said circuit court may be exercised by
71 the judge thereof in vacation. In the event that no term
72 of the circuit court is being held at the time of the filing
73 of said petition, and the judge thereof cannot be reached
74 in the county wherein the petition was filed, said
75 petition shall be heard at the next succeeding term of
76 said circuit court, whether regular or special, and the
77 commissioner or commissioners so removed shall remain
78 removed until a hearing is had upon the petition of the
79 mayor. The court or the judge thereof in vacation shall
80 hear and decide the issues presented by said petition.
81 The mayor or commissioner or commissioners, as the
82 case may be, against whom the decision of the court or
83 the judge thereof in vacation shall be rendered, shall
84 have the right to petition the supreme court of appeals
85 for a review of the decision of the circuit court or the
86 judge thereof in vacation as in other civil cases. In the
87 event that the mayor shall fail to file his petition in the
88 office of the clerk of the circuit court, as hereinbefore
89 provided, within ten days after the removal of said
90 commissioner or commissioners, such commissioner or
91 commissioners shall immediately resume his or their
92 position or positions as a member or members of the
93 firemen's civil service commission.

94 Any resident of the municipality shall have the right

95 at any time to file charges against and seek the removal
96 of any member of the firemen's civil service commission
97 of such municipality. Such charges shall be filed in the
98 form of a petition in the office of the clerk of the circuit
99 court of the county in which the municipality or the
100 major portion of the territory thereof is located, and a
101 copy of said petition shall be served upon the commis-
102 sioner or commissioners sought to be removed. Said
103 petition shall be matured for hearing and heard by said
104 circuit court or the judge thereof in vacation in the same
105 manner as civil proceedings in the circuit courts of this
106 state are heard, and the party against whom the circuit
107 court's decision is rendered shall have the right to
108 petition the supreme court of appeals for a review of the
109 action of the circuit court, as in other civil cases.

110 No commissioner shall hold any other office (other
111 than the office of notary public) under the United States,
112 this state or any municipality, county or other political
113 subdivision thereof; nor shall any commissioner serve on
114 any political committee or take any active part in the
115 management of any political campaign.

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

Paul O. Allison

Chairman Senate Committee

Lyle Setzer

Chairman House Committee
Member

Originating in the House.

Takes effect ninety days from passage.

Todd A. Hillis

Clerk of the Senate

Donald J. Kopp

Clerk of the House of Delegates

Sanford

President of the Senate

W. P. Miller

Speaker of the House of Delegates

The within *approved* this the *30th*
March
day of _____, 1987.

Arthur. M. ...

Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/07

Time 4:57 p.m.

RECEIVED

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OFFICE OF THE
PROSECUTOR
GENERAL