

**WEST VIRGINIA LEGISLATURE**

**REGULAR SESSION, 1991**

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SECRETARY OF STATE

**ENROLLED**

*Committee Substitute for*  
**SENATE BILL NO. 478**

(By Senator Felton)

**PASSED March 8, 1991**

In Effect 90 days from Passage

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COMMITTEE SUBSTITUTE  
FOR

### Senate Bill No. 478

(BY SENATOR FELTON, *original sponsor*)

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[Passed March 8, 1991; in effect ninety days from passage.]

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AN ACT to repeal section nineteen, article fourteen, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections one, three and twenty of said article, relating to civil service for deputy sheriffs; and providing that persons who are currently or who hereinafter serve as deputy sheriffs shall be covered by civil service.

*Be it enacted by the Legislature of West Virginia:*

That section nineteen, article fourteen, chapter seven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; and that sections one, three and twenty of said article be amended and reenacted to read as follows:

#### **ARTICLE 14. CIVIL SERVICE FOR DEPUTY SHERIFFS.**

##### **§7-14-1. Appointments and promotions of deputy sheriffs.**

1 Notwithstanding the provisions of article three,  
2 chapter six and article seven, chapter seven of this

3 code, all appointments and promotions of full-time  
4 deputy sheriffs, shall be made only according to  
5 qualifications and fitness to be ascertained by exami-  
6 nations, which, so far as practicable, shall be compet-  
7 itive, as hereinafter provided. On and after the  
8 effective date of this article, no person except the chief  
9 deputy shall be appointed, promoted, reinstated,  
10 removed, discharged, suspended or reduced in rank or  
11 pay as a full-time deputy sheriff, as defined in said  
12 section two, of any county in the state of West Virginia  
13 subject to the provisions hereof, in any manner or by  
14 any means other than those prescribed in this article.

**§7-14-3. Civil service commission.**

1 There shall be a civil service commission in each  
2 county and the state. Each such civil service commis-  
3 sion shall consist of three commissioners, one of whom  
4 shall be appointed by the bar association of such  
5 county, one of whom shall be appointed by the deputy  
6 sheriff's association of such county, and one of whom  
7 shall be appointed by the county commission of such  
8 county. In the event the bar association or deputy  
9 sheriff's association fails to make an appointment  
10 within the time prescribed in this section therefor,  
11 then such appointment shall be made by the county  
12 commission. The persons appointed commissioners  
13 shall be qualified voters of the county for which they  
14 are appointed, and at least two of the commissioners  
15 shall be persons in full sympathy with the purposes of  
16 this article. Not more than two of the commissioners,  
17 at any one time, shall be members of the same  
18 political party. The commissioners in each county shall  
19 be appointed as follows: Within sixty days from the  
20 effective date of this article, the authorities having the  
21 power to appoint members to the civil service commis-  
22 sion shall appoint the three commissioners, the first to  
23 be appointed by the bar association of the county shall  
24 serve for six years from the date of appointment, the  
25 second to be appointed by the deputy sheriff's associ-  
26 ation of the county shall serve for four years from the  
27 date of appointment, and the third to be appointed by  
28 the county commission of the county shall serve for a

29 term of two years from the date of appointment. All  
30 subsequent appointments shall be made for terms of  
31 four years. In the event that any commissioner of the  
32 civil service commission ceases to be a member  
33 thereof by virtue of death, final removal or other  
34 cause, a new commissioner shall be appointed to fill  
35 the unexpired term of that commissioner within ten  
36 days after said ex-commissioner ceased to be a mem-  
37 ber of the commission. Such appointment shall be  
38 made by the authority who appointed the commis-  
39 sioner who is no longer a member of the commission.  
40 Each year the three members of the commission shall,  
41 together, elect one of their number to act as president  
42 of the commission for a term of one year. The county  
43 commission may at any time remove a commissioner  
44 for good cause, which shall be stated in writing and  
45 made a part of the records of the commission. Once  
46 the county commission has removed any commis-  
47 sioner, such county commission shall within ten days  
48 thereafter file in the office of the clerk of the circuit  
49 court of the county a petition setting forth in full the  
50 reason for the removal and praying for the confirma-  
51 tion of the circuit court of the action of the county  
52 commission in removing the said commissioner. A  
53 copy of the petition shall be served upon the commis-  
54 sioner so removed simultaneously with its filing in the  
55 office of the clerk of the circuit court and has prece-  
56 dence on the docket of the circuit court and shall be  
57 heard by the court as soon as practicable upon the  
58 request of the removed commissioner. All rights  
59 hereby vested in the circuit court may be exercised by  
60 the judge thereof in vacation. In the event that no  
61 term of the circuit court is being held at the time of  
62 the filing of the petition, and the judge thereof cannot  
63 be reached in the county wherein the petition was  
64 filed, the petition shall be heard at the next succeeding  
65 term of the circuit court, whether regular or special,  
66 and the commissioner so removed shall remain  
67 removed until a hearing is had upon the petition of  
68 the county commission. The circuit court, or the judge  
69 thereof in vacation, shall hear and decide the issues  
70 presented by the petition. The county commission or

71 commissioner, as the case may be, against whom the  
72 decisions of the circuit court or judge thereof in  
73 vacation is rendered has the right to petition the  
74 supreme court of appeals for a review of the decision  
75 of the circuit court or the judge thereof in vacation as  
76 in other civil cases. In the event that the county  
77 commission fails to file its petition in the office of the  
78 clerk of the circuit court, as hereinbefore provided,  
79 within ten days after the removal of the commis-  
80 sioner, such commissioner immediately resumes his  
81 position as a member of the civil service commission.

82 Any resident of the county has the right at any time  
83 to file charges against and seek the removal of any  
84 member of the civil service commission. The charges  
85 shall be filed in the form of a petition in the office of  
86 the clerk of the circuit court of the county. A copy of  
87 the petition shall be served upon the commissioner  
88 sought to be removed. The petition shall be matured  
89 for hearing and heard as a civil action by the circuit  
90 court of the county for which the commissioner serves  
91 as a member of the civil service commission or by the  
92 judge thereof in vacation. The party against whom the  
93 decision of the circuit court or judge thereof in  
94 vacation is rendered has the right to petition the  
95 supreme court of appeals for a review of the decision  
96 of the circuit court or judge thereof in vacation as in  
97 other civil cases.

98 No commissioner may hold any other office (other  
99 than the office of notary public) under the United  
100 States, this state or any municipality, county or other  
101 political subdivision thereof; nor may any commis-  
102 sioner serve on any political party committee or take  
103 any active part in the management of any political  
104 campaign.

**§7-14-20. Inconsistent acts repealed; once established civil  
service remains mandatory.**

1 All acts and parts of acts of the Legislature, whether  
2 general, special or local, in relation to deputy sheriffs  
3 inconsistent with the provisions of this article are  
4 hereby repealed to the extent of such inconsistency.

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

*Somer Deck*  
.....  
Chairman Senate Committee

*Ernest C. Moore*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.)

*Harrell Edwards*  
.....  
Clerk of the Senate

*Donald L. Kopp*  
.....  
Clerk of the House of Delegates

*Will Burdette*  
.....  
President of the Senate

*Robert C. Chiles*  
.....  
Speaker House of Delegates

The within *is approved* this the *20<sup>th</sup>*  
*May*  
day of ....., 1991.

*Gaston Caperton*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date

3/14/91

Time

4:10 pm