WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED

Senate Bill No. 526

(By Senators Bowman, Barnes, Foster, Jenkins, McCabe, Plymale, Stollings, Sypolt, White and Yoder)

[Passed March 10, 2007; in effect ninety days from passage.]
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Senate Bill No. 526

(By Senators Jenkins, Sprouse, Bailey and Plymale)

[Passed March 10, 2007; in effect ninety days from passage.]

AN ACT to amend and reenact §7-14-15 of the Code of West Virginia, 1931, as amended; and to amend and reenact §8-14-19 of said code, all relating to the political activities of deputy sheriffs and municipal police officers; amending the list of prohibited political activities by deputy sheriffs and municipal police officers; providing certain exceptions; prohibiting deputy sheriffs and municipal police officers from being candidates for or holding public office in the county or municipality where employed; prohibiting deputy sheriffs and municipal police officers from soliciting political contributions or donations from members or employees of the county or municipality; setting forth certain permissible activities; and providing
penalties for appointed or elected officials who violate the provisions of this bill.

Be it enacted by the Legislature of West Virginia:

That §7-14-15 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §8-14-19 of said code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 14. CIVIL SERVICE FOR DEPUTY SHERIFFS.

§7-14-15. Political activities of members prohibited; exceptions.

(a) A deputy sheriff covered by the provisions of this article may not:

1. Solicit any assessment, subscription or contribution for any political party, committee or candidate from any person who is a member or employee of the county sheriff's department by which they are employed;

2. Use any official authority or influence, including, but not limited to, the wearing by a deputy sheriff of his or her uniform, for the purpose of interfering with or affecting the nomination, election or defeat of any candidate or the passage or defeat of any ballot issue: Provided, That this subdivision shall not be construed to prohibit any deputy sheriff from casting his or her vote at any election while wearing his or her uniform;

3. Coerce or command anyone to pay, lend or contribute anything of value to a party, committee,
organization, agency or person for the nomination, election or defeat of a ballot issue; or

(4) Be a candidate for or hold any other public office in the county in which he or she is employed: Provided, That any deputy sheriff that is subject to the provisions of 15 U. S. C. §1501, et seq., may not be a candidate for elective office.

(b) Other types of partisan or nonpartisan political activities not inconsistent with the provisions of subsection (a) of this section are permissible political activities for deputy sheriffs.

(c) No person may be appointed or promoted to or demoted or dismissed from any position held by a deputy sheriff or in any way favored or discriminated against because of his or her engagement in any political activities authorized by the provisions of this section. Any elected or appointed official who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be punished by the penalties contained in section twenty-six, article fifteen, chapter eight of this code.

(d) Any deputy sheriff violating the provisions of this section shall have his appointment vacated and he shall be removed, in accordance with the pertinent provisions of this section.

(e) Any three residents of the county may file their written petition with the civil service commission thereof setting out therein the grounds upon which a deputy sheriff of such county should be removed for a violation of subsection (a) of this section. Notice of the filing of such petition shall be given by the commission
to the accused deputy, which notice shall require him to
file a written answer to the charges set out in the
petition within thirty days of the date of such notice.
The petition and answer thereto, if any, shall be entered
upon the records of the civil service commission. If the
answer is not filed within the time stated, or any
extension thereof for cause which in the discretion of
the civil service commission may be granted, an order
shall be entered by the commission declaring the
appointment of the deputy vacated. If such answer is
filed within the time stated, or any extension thereof for
cause which in the discretion of the civil service
commission may be granted, the accused deputy may
demand within such period a public hearing on the
charges, or the civil service commission may, in its
discretion and without demand therefor, set a date and
time for a public hearing on the charges, which hearing
shall be within thirty days of the filing of said answer,
subject, however, to any continuances which may in the
discretion of the civil service commission be granted. 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. The commission at the
conclusion of the hearing, or as soon thereafter as
possible, shall enter an order sustaining, in whole or in
part, the charges made or shall dismiss the charges as
unfounded. In the event the charges are sustained in
whole or in part, the order shall also declare the
appointment of such deputy to be vacated and
thereupon the sheriff shall immediately remove the
deputy from his office and from the payroll of the
county. Notice of the action of the commission shall be
given by registered letter to the county court and the
sheriff. If the sheriff fails to immediately comply with
the order of the commission, he shall be punished for
contempt, upon application of the commission to the
circuit court of the county.

(f) An appeal from the ruling of the commission may
be had in the same manner and within the same time as
specified in section seventeen of this article for an
appeal from a ruling of a commission after hearing held
in accordance with the provisions of said section
seventeen.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 14. LAW AND ORDER; POLICE FORCE OR DEPARTMENTS;
POWERS, AUTHORITY AND DUTIES OF LAW-ENFORCEMENT OFFICIALS AND POLICEMEN;
POLICE MATRONS; SPECIAL SCHOOL ZONE AND PARKING LOT OR PARKING BUILDING POLICE
OFFICERS; CIVIL SERVICE FOR CERTAIN POLICE DEPARTMENTS.

§8-14-19. Political activities of members prohibited; exceptions.

(a) A member of a paid police department may not:

(1) Solicit any assessment, subscription or
contribution for any political party, committee or
candidate from any person who is a member or
employee of the municipality by which they are
employed;

(2) Use any official authority or influence, including,
but not limited to, the wearing by a municipal police
officer of his or her uniform for the purpose of
interfering with or affecting the nomination, election or
defeat of any candidate or the passage or defeat of any
Provided, That this subdivision shall not be construed to prohibit any municipal police officer from casting his or her vote at any election while wearing his or her uniform;

(3) Coerce or command anyone to pay, lend or contribute anything of value to a party, committee, organization, agency or person for the nomination, election or defeat of a ballot issue; or

(4) Be a candidate for or hold any other public office in the municipality in which he or she is employed: Provided, That any municipal police officer that is subject to the provisions of 15 U. S. C. §1501, et seq., may not be a candidate for elective office.

(b) Other types of partisan or nonpartisan political activities not inconsistent with the provisions of subsection (a) of this section are permissible political activities for municipal police officers.

(c) No person may be appointed or promoted to or demoted or dismissed from any position held by a municipal police officer or in any way favored or discriminated against because of his or her engagement in any political activities authorized by the provisions of this section. Any elected or appointed official who violates the provisions of this subsection is guilty of a misdemeanor and, upon conviction thereof, shall be punished by the penalties contained in section twenty-six, article fifteen of this chapter.

(d) Any member of any such paid police department violating the provisions of this section shall have his appointment vacated and he shall be removed, in accordance with the pertinent provisions of this section.
(e) Any three residents of any such city may file their written petition with the policemen's civil service commission thereof setting out therein the grounds upon which a member of the paid police department of such city should be removed for a violation of subsection (a) of this section. Notice of the filing of such petition shall be given by said commission to the accused member, which notice shall require the said member to file a written answer to the charges set out in the petition within thirty days of the date of said notice. The said petition and answer thereto, if any, shall be entered upon the records of the commission. If such answer is not filed within the time stated, or any extension thereof for cause which in the discretion of the commission may be granted, an order shall be entered by the commission declaring the appointment of said member vacated; if such answer is filed within the time stated, or any extension thereof for cause which in the discretion of the commission may be granted, the accused member may demand within such period a public hearing on the charges, or the commission may, in its discretion and without demand therefor, set a time for a public hearing on said charges, which hearing shall be within thirty days of the filing of said answer, subject, however, to any continuances which may in the discretion of the commission be granted. A written record of all testimony taken at such hearing shall be kept and preserved by the commission, which record shall be sealed and not be open to public inspection, if no appeal be taken from the action of the commission. The commission at the conclusion of the hearing, or as soon thereafter as possible, shall enter an order sustaining, in whole or in part, the charges made or shall dismiss the charges as unfounded. In the event the charges are sustained in whole or in part, the order shall also declare the appointment of said member to be
vacated and thereupon the proper municipal authorities shall immediately remove said member from the police force and from the payroll of said city. Notice of the action of the commission shall be given by registered letter to the mayor and chief of police of the city; and for failure to immediately comply with the order of the commission such officer or officers shall be punished for contempt, upon application of the commission to the circuit court of the county in which the city or the major portion of the territory thereof is located.

(f) An appeal from the ruling of the commission may be had in the same manner and within the same time as specified in section twenty of this article for an appeal from a ruling of a commission after hearing held in accordance with the provisions of said section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this 4th Day of April, 2007.

Governor