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SB 526 5

FILED

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OFFICE WES. VIRGINIA  
SECRETARY OF STATE

**WEST VIRGINIA LEGISLATURE**  
**SEVENTY-EIGHTH LEGISLATURE**  
**REGULAR SESSION, 2007**

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**ENROLLED**

**Senate Bill No. 526**

(BY SENATORS BOWMAN, BARNES, FOSTER, JENKINS,  
McCABE, PLYMALE, STOLLINGS, SYPOLT, WHITE AND YODER)

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

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**ENROLLED**

**Senate Bill No. 526**

(BY SENATORS JENKINS, SPROUSE, BAILEY AND PLYMALE)

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

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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.**

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

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

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

16 (3) Coerce or command anyone to pay, lend or  
17 contribute anything of value to a party, committee,

18 organization, agency or person for the nomination,  
19 election or defeat of a ballot issue; or

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

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

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

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

43 (e) Any three residents of the county may file their  
44 written petition with the civil service commission  
45 thereof setting out therein the grounds upon which a  
46 deputy sheriff of such county should be removed for a  
47 violation of subsection (a) of this section. Notice of the  
48 filing of such petition shall be given by the commission

49 to the accused deputy, which notice shall require him to  
50 file a written answer to the charges set out in the  
51 petition within thirty days of the date of such notice.  
52 The petition and answer thereto, if any, shall be entered  
53 upon the records of the civil service commission. If the  
54 answer is not filed within the time stated, or any  
55 extension thereof for cause which in the discretion of  
56 the civil service commission may be granted, an order  
57 shall be entered by the commission declaring the  
58 appointment of the deputy vacated. If such answer is  
59 filed within the time stated, or any extension thereof for  
60 cause which in the discretion of the civil service  
61 commission may be granted, the accused deputy may  
62 demand within such period a public hearing on the  
63 charges, or the civil service commission may, in its  
64 discretion and without demand therefor, set a date and  
65 time for a public hearing on the charges, which hearing  
66 shall be within thirty days of the filing of said answer,  
67 subject, however, to any continuances which may in the  
68 discretion of the civil service commission be granted. A  
69 written record of all testimony taken at such hearing  
70 shall be kept and preserved by the civil service  
71 commission, which record shall be sealed and not be  
72 open to public inspection if no appeal be taken from the  
73 action of the commission. The commission at the  
74 conclusion of the hearing, or as soon thereafter as  
75 possible, shall enter an order sustaining, in whole or in  
76 part, the charges made or shall dismiss the charges as  
77 unfounded. In the event the charges are sustained in  
78 whole or in part, the order shall also declare the  
79 appointment of such deputy to be vacated and  
80 thereupon the sheriff shall immediately remove the  
81 deputy from his office and from the payroll of the  
82 county. Notice of the action of the commission shall be  
83 given by registered letter to the county court and the  
84 sheriff. If the sheriff fails to immediately comply with

85 the order of the commission, he shall be punished for  
86 contempt, upon application of the commission to the  
87 circuit court of the county.

88 (f) An appeal from the ruling of the commission may  
89 be had in the same manner and within the same time as  
90 specified in section seventeen of this article for an  
91 appeal from a ruling of a commission after hearing held  
92 in accordance with the provisions of said section  
93 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.**

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

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

7 (2) Use any official authority or influence, including,  
8 but not limited to, the wearing by a municipal police  
9 officer of his or her uniform for the purpose of  
10 interfering with or affecting the nomination, election or  
11 defeat of any candidate or the passage or defeat of any

12 ballot issue: *Provided*, That this subdivision shall not be  
13 construed to prohibit any municipal police officer from  
14 casting his or her vote at any election while wearing his  
15 or her uniform;

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

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

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

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

39 (d) Any member of any such paid police department  
40 violating the provisions of this section shall have his  
41 appointment vacated and he shall be removed, in  
42 accordance with the pertinent provisions of this section.

43 (e) Any three residents of any such city may file their  
44 written petition with the policemen's civil service  
45 commission thereof setting out therein the grounds  
46 upon which a member of the paid police department of  
47 such city should be removed for a violation of  
48 subsection (a) of this section. Notice of the filing of such  
49 petition shall be given by said commission to the  
50 accused member, which notice shall require the said  
51 member to file a written answer to the charges set out in  
52 the petition within thirty days of the date of said notice.  
53 The said petition and answer thereto, if any, shall be  
54 entered upon the records of the commission. If such  
55 answer is not filed within the time stated, or any  
56 extension thereof for cause which in the discretion of  
57 the commission may be granted, an order shall be  
58 entered by the commission declaring the appointment of  
59 said member vacated; if such answer is filed within the  
60 time stated, or any extension thereof for cause which in  
61 the discretion of the commission may be granted, the  
62 accused member may demand within such period a  
63 public hearing on the charges, or the commission may,  
64 in its discretion and without demand therefor, set a time  
65 for a public hearing on said charges, which hearing  
66 shall be within thirty days of the filing of said answer,  
67 subject, however, to any continuances which may in the  
68 discretion of the commission be granted. A written  
69 record of all testimony taken at such hearing shall be  
70 kept and preserved by the commission, which record  
71 shall be sealed and not be open to public inspection, if  
72 no appeal be taken from the action of the commission.  
73 The commission at the conclusion of the hearing, or as  
74 soon thereafter as possible, shall enter an order  
75 sustaining, in whole or in part, the charges made or  
76 shall dismiss the charges as unfounded. In the event the  
77 charges are sustained in whole or in part, the order shall  
78 also declare the appointment of said member to be



79 vacated and thereupon the proper municipal authorities  
80 shall immediately remove said member from the police  
81 force and from the payroll of said city. Notice of the  
82 action of the commission shall be given by registered  
83 letter to the mayor and chief of police of the city; and  
84 for failure to immediately comply with the order of the  
85 commission such officer or officers shall be punished for  
86 contempt, upon application of the commission to the  
87 circuit court of the county in which the city or the major  
88 portion of the territory thereof is located.

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

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

*Ch White*  
.....  
Chairman Senate Committee

*[Signature]*  
.....  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*Darrell Holmes*  
.....  
Clerk of the Senate

*[Signature]*  
.....  
Clerk of the House of Delegates

*Earl Ray Tomblin*  
.....  
President of the Senate

*[Signature]*  
.....  
Speaker House of Delegates

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

*[Signature]*  
.....  
Governor

PRESENTED TO THE  
GOVERNOR

APR 03 2007

Time 1:40pm