WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2010

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4166

(By Delegates Hamilton, Klempa, Miley, Duke, Ellem, Wells and Manchin)

Passed March 13, 2010

In Effect Ninety Days From Passage
AN ACT to amend and reenact §8-15-17 of the Code of West Virginia, 1931, as amended, relating to paid firefighters who seek subsequent employment with other paid fire departments; authorizing applicants over the age of thirty-five who seek subsequent employment with a paid fire department to apply under certain circumstances; and limiting subsequent hiring or reinstatement effects on seniority considerations.

Be it enacted by the Legislature of West Virginia:

That §8-15-17 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

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

§8-15-17. Form of application; age and residency requirements; exceptions.
(a) The Firemen’s Civil Service Commission in each municipality shall require individuals applying for admission to any competitive examination provided for under the civil service provisions of this article or under the rules of the commission to file in its office, within a reasonable time prior to the proposed examination, a formal application in which the applicant shall state under oath or affirmation:

(1) His or her full name, residence and post-office address;

(2) His or her United States citizenship, age and the place and date of his or her birth;

(3) His or her state of health, and his or her physical capacity for the public service;

(4) His or her business and employments and residences for at least three previous years; and

(5) Any other information as may reasonably be required, touching upon the applicant’s qualifications and fitness for the public service.

(b) Blank forms for the applications shall be furnished by the commission, without charge, to all individuals requesting the same.

(c) The commission may require, in connection with the application, certificates of citizens, physicians and others, having pertinent knowledge concerning the applicant, as the good of the service may require.

(d) Except as provided in subsections (e) and (f) of this section, no application for original appointment shall be received if the individual applying is less than eighteen years
of age or more than thirty-five years of age at the date of his or her application.

(e) In the event any applicant formerly served upon the paid fire department of the municipality to which he or she makes application, for a period of more than one year, and resigned from the department at a time when there were no charges of misconduct or other misfeasance pending against the applicant, within a period of two years next preceding the date of his or her application, and at the time of his or her application resides within the corporate limits of the municipality in which the paid fire department to which he or she seeks appointment by reinstatement is located, then the individual shall be eligible for appointment by reinstatement in the discretion of the Firemen’s Civil Service Commission, even though the applicant shall be over the age of thirty-five years, and the applicant, providing his or her former term of service so justifies, may be appointed by reinstatement to the paid fire department without a competitive examination, but the applicant shall undergo a medical examination; and if the individual shall be so appointed by reinstatement to the paid fire department, he or she shall be the lowest in rank in the department next above the probationers of the department and may not be entitled to seniority considerations.

(f) If an individual is presently employed by one paid fire department and is over the age of thirty-five, he or she may make an application to another paid fire department if:

(1) The paid fire department to which he or she is applying is serving a municipality that has elected to participate in the West Virginia Municipal Police Officers and Firefighters Retirement System created in article twenty-two-a, chapter eight of this code: Provided, That any individual applying pursuant to this subdivision is to be classified as a new employee for retirement purposes and no
prior employment service can be transferred to the West Virginia Municipal Police Officers and Firefighters Retirement System; or

(2) The paid fire department to which he or she is applying is serving a municipality that has elected to participate in the West Virginia Public Employees Retirement System created in article ten, chapter five of this code:

Provided, That any individual applying pursuant to this subdivision is to be classified as a new employee for retirement purposes and no prior employment service can be transferred to the West Virginia Public Employees Retirement System, except for individuals and their prior employment service already credited to them in the West Virginia Public Employees Retirement System pursuant to article ten, chapter five of this code.

(g) Individuals who are authorized to apply to a paid fire department pursuant to subsection (f) of this section shall be in the lowest rank of the department and may not be entitled to seniority considerations.

(h) Any applicant for original appointment must have been a resident for one year, during some period of time prior to the date of his or her application, of the municipality in which he or she seeks to become a member of the paid fire department: Provided, That if the commission determines it necessary it may consider for original appointment applicants who are not residents of the municipality but who have been residents of the county in which the municipality or any portion of the territory thereof is located for a period of at least one year.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bills are correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within was approved this the 26th day of _____, 2010.

[Signature]
Governor