WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2012

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4063

(By Delegates Hamilton, Phillips, Crosier, D. Poling, D. Campbell, M. Poling, Iaquinta, Ireland, O’Neal, Lane and Ellem)

Passed March 9, 2012

To Take Effect From Passage
AN ACT to amend and reenact §7-14-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §7-14B-3 of said code; to amend and reenact §8-14-7 of said code; and to amend and reenact §8-15-12 of said code, all relating to certain county and municipal civil service commissions; continuing the commissions as previously established; composition of the commissions; removing requirement that a simple majority of members of commissions be of same political party; eligible qualifications for commissioners; appointment procedure for commissioners; terms of commissioners; grounds and procedures for removal from the commission; and procedures for replacement of vacancies.

Be it enacted by the Legislature of West Virginia:

That §7-14-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §7-14B-3 of said code be amended and reenacted; that §8-14-7 of said code be amended and reenacted;
and that §8-15-12 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.

§7-14-3. Civil Service Commission.

(a) There shall be a civil service commission for deputy sheriffs in each county, and each civil service commission for deputy sheriffs previously created is continued. The commissioners shall, unless sooner removed, continue to serve until their respective terms expire and their successors have been appointed and qualified.

(b) Each civil service commission for deputy sheriffs consists of the following three members:

(1) One commissioner appointed by the county bar association;

(2) One commissioner appointed by the county deputy sheriff's association; and

(3) One commissioner appointed by the county commission.

(c) The commissioners' terms are for four years and shall be staggered.

(d) In the event a commissioner ceases to be a member thereof by virtue of death, final removal, resignation or other cause, a new commissioner shall be appointed to fill the unexpired term within sixty days after said ex-commissioner ceased to be a member of the commission. All appointments
to the commission shall be made in a timely manner so as not
to create a vacancy for longer than sixty days. If the county
bar association or the county deputy sheriff's association fails
to make an appointment within sixty days, then the county
commission shall make the appointment.

(e) During their term of appointment, each commissioner
must be a resident of this state and a qualified voter of the
county where the civil service commission is located. At any
one time, only two commissioners may be of the same
political party.

(f) A person is not eligible for appointment or
reappointment to the civil service commission if he or she:

(1) Has been convicted of a felony or any misdemeanor
involving moral turpitude under the laws of any jurisdiction;

(2) Is a relative, as defined in section three, article one,
chapter six-b, of:

(A) A county commissioner of the county from which the
appointment is made; or

(B) The president, chairman or similarly situated executive
official of the county deputy sheriff's association or the county
bar association, from which the appointment is made;

(3) Holds any other office, other than the office of notary
public, under the United States, this state, or any
municipality, county or other political subdivision thereof;

(4) Serves on any political committee; or

(5) Takes an active part in the management of any
political campaign.
(g) The commission shall annually elect one of its members as president who serves at the will and pleasure of the commission.

(h) The county commission shall remove a serving commissioner if:

(1) He or she is convicted of a felony or any misdemeanor involving moral turpitude under the laws of any jurisdiction;

(2) He or she is no longer a resident of this state; or

(3) He or she is no longer a qualified voter of the county in which the commission is located.

(i) The county commission may remove a serving commissioner for neglect of duty, incompetence, official misconduct or good cause. The reasons for removal of a commissioner shall be stated in writing and made a part of the records of the civil service commission.

(j) After the county commission has removed a commissioner, the county commission shall, within ten days, file a petition in the office of the clerk of the circuit court of the county where the civil service commission is located, stating:

(1) The reason for the removal; and

(2) A request for the circuit court to confirm the county commission’s action.

(k) A copy of the petition shall be served upon the removed commissioner simultaneously with the filing of the petition in the office of the clerk of the circuit court. The
petition has precedence on the docket of the circuit court and shall be heard by the court as soon as practicable.

(1) The circuit court shall hear and decide the issues presented by the petition. The removed commissioner shall not serve in his or her capacity on the civil service commission until a hearing is had upon the petition, and the circuit court renders a decision in the matter. The county commission or the removed commissioner may appeal the decision of the circuit court to the Supreme Court of Appeals.

(m) If the county commission fails to file its petition in the office of the clerk of the circuit court within ten days after the removal of the commissioner, then the commissioner immediately resumes his or her position as a member of the civil service commission.

(n) A resident of the county may file charges against and seek the removal of any commissioner. The charges shall be filed in the form of a petition in the office of the clerk of the circuit court of the county. A copy of the petition shall be served upon the commissioner sought to be removed. The petition shall be heard as a civil action by the circuit court of the county for which the commissioner serves. The party against whom the decision of the circuit court is rendered may appeal the decision to the Supreme Court of Appeals.

ARTICLE 14B. CIVIL SERVICE FOR CORRECTIONAL OFFICERS.

§7-14B-3. Civil Service Commission.

(a) There shall be a civil service commission for correctional officers in each county with a population of at least twenty-five thousand, and each civil service commission for correctional officers previously created is continued. The
commissions shall, unless sooner removed, continue to serve until their respective terms expire and their successors have been appointed and qualified.

(b) Each county civil service commission for correctional officers consists of the following five members:

(1) Two commissioners appointed by the county bar association;

(2) One commissioner appointed by the county correctional officers’ association; and

(3) Two commissioners appointed by the county commission.

c) The commissioners’ terms are for six years and shall be staggered.

d) In the event a commissioner ceases to be a member thereof by virtue of death, final removal, resignation or other cause, a new commissioner shall be appointed to fill the unexpired term within sixty days after said ex-commissioner ceased to be a member of the commission. All appointments to the commission shall be made in a timely manner so as not to create a vacancy for longer than sixty days. If the county bar association or the county correctional officers’ association fails to make an appointment within sixty days, then the county commission shall make the appointment.

e) During their term of appointment, each commissioner must be a resident of this state and a qualified voter of the county where the civil service commission is located. At any one time, only three commissioners may be of the same political party.
(f) A person is not eligible for appointment or reappointment to the civil service commission if he or she:

(1) Has been convicted of a felony or any misdemeanor involving moral turpitude under the laws of any jurisdiction;

(2) Is a relative, as defined in section three, article one, chapter six-b, of:

(A) A county commissioner of the county from which the appointment is made; or

(B) The president, chairman or similarly situated executive official of the county correctional officers’ association or the county bar association, from which the appointment is made;

(3) Holds any other office, other than the office of notary public, under the United States, this state, or any municipality, county or other political subdivision thereof;

(4) Serves on any political committee; or

(5) Takes an active part in the management of any political campaign.

(g) The civil service commission shall annually elect one of its members as president who serves at the will and pleasure of the commission.

(h) The county commission shall remove a serving commissioner if:

(1) He or she is convicted of a felony or any misdemeanor involving moral turpitude under the laws of any jurisdiction;
(2) He or she is no longer a resident of this state; or

(3) He or she is no longer a qualified voter of the county in which the commission is located.

(i) The county commission may remove a serving commissioner for neglect of duty, incompetence, official misconduct or good cause. The reasons for removal of a commissioner shall be stated in writing and made a part of the records of the civil service commission.

(j) After the county commission has removed a commissioner, the county commission shall, within ten days, file a petition in the office of the clerk of the circuit court of the county where the civil service commission is located, stating:

(1) The reason for the removal; and

(2) A request for the circuit court to confirm the county commission’s action.

(k) A copy of the petition shall be served upon the removed commissioner simultaneously with the filing of the petition in the office of the clerk of the circuit court. The petition has precedence on the docket of the circuit court and shall be heard by the court as soon as practicable.

(l) The circuit court shall hear and decide the issues presented by the petition, and the circuit court renders a decision in the matter. The removed commissioner shall not serve in his or her capacity on the civil service commission until a hearing is had upon the petition. The county commission or the removed commissioner may appeal the decision of the circuit court to the Supreme Court of Appeals.
(m) If the county commission fails to file its petition in the office of the clerk of the circuit court within ten days after the removal of the commissioner, then the commissioner immediately resumes his or her position as a member of the civil service commission.

(n) A resident of the county may file charges against and seek the removal of any commissioner. The charges shall be filed in the form of a petition in the office of the clerk of the circuit court of the county. A copy of the petition shall be served upon the commissioner sought to be removed. The petition shall be heard as a civil action by the circuit court of the county for which the commissioner serves. The party against whom the decision of the circuit court is rendered may appeal the decision to the Supreme Court of Appeals.

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.

§8-14-7. Policemen's Civil Service Commission generally.

(a) There shall be a policemen's civil service commission in each Class I and Class II municipality having a paid police department and each policemen's civil service commission previously created is continued. The commissioners shall, unless sooner removed, continue to serve until their
respective terms expire and their successors have been appointed and qualified.

(b) Each policeman’s civil service commission consists of the following three members:

(1) One commissioner appointed by the mayor of the municipality;

(2) One commissioner appointed by the local fraternal order of police; and

(3) One commissioner appointed by the local chamber of commerce, if there is one, or a local businessmen’s association.

c) The commissioners’ terms are for four years and shall be staggered.

d) In the event a commissioner ceases to be a member thereof by virtue of death, final removal, resignation or other cause, a new commissioner shall be appointed to fill the unexpired term within sixty days after said ex-commissioner ceased to be a member of the commission. All appointments to the commission shall be made in a timely manner so as not to create a vacancy for longer than sixty days. If there is no local chamber of commerce or local businessmen’s association, or the local chamber of commerce or local businessmen’s association fails to make an appointment within sixty days, then the other two commissioners shall make the appointment by mutual agreement.

e) During their term of appointment, each commissioner must be a resident of this state and a qualified voter of the municipality where the civil service commission is located. At any one time, only two commissioners may be of the same political party.
(f) A person is not eligible for appointment or reappointment to the civil service commission if he or she:

1. Has been convicted of a felony or any misdemeanor involving moral turpitude under the laws of any jurisdiction;

2. Is a relative, as defined in section three, article one, chapter six-b, of:

   A. The mayor of the municipality from which the appointment is made; or

   B. The president, chairman or similarly situated executive official of the local fraternal order of police, the local chamber of commerce or local businessmen’s association, from which the appointment is made;

3. Holds any other office, other than the office of notary public, under the United States, this state, or any municipality, county or other political subdivision thereof;

4. Serves on any political committee; or

5. Takes an active part in the management of any political campaign.

(g) The commission shall annually elect one of its members as president who serves at the will and pleasure of the commission.

(h) The mayor of the municipality shall remove a serving commissioner if:

1. He or she is convicted of a felony or any misdemeanor involving moral turpitude under the laws of any jurisdiction;
(2) He or she is no longer resident of this state; or

(3) He or she is no longer a qualified voter of the city in which the commission is located.

(i) The mayor of the municipality may remove a serving commissioner for neglect of duty, incompetence, official misconduct or good cause. The reasons for removal of a commissioner shall be stated in writing and made a part of the records of the civil service commission.

(j) After the mayor has removed a commissioner, the mayor shall, within ten days, file a petition in the office of the clerk of the circuit court of the county in which the municipality or a major portion of the municipality where the civil service commission is located, stating:

(1) The reason for the removal; and

(2) A request for the circuit court to confirm the mayor’s action.

(k) A copy of the petition shall be served upon the removed commissioner simultaneously with the filing of the petition in the office of the clerk of the circuit court. The petition has precedence on the docket of the circuit court and shall be heard by the court as soon as practicable.

(l) The circuit court shall hear and decide the issues presented by the petition. The removed commissioner shall not serve in his or her capacity on the civil service commission until a hearing is had upon the petition, and the circuit court renders a decision in the matter. The mayor or the removed commissioner may appeal the decision of the circuit court to the Supreme Court of Appeals.
(m) If the mayor fails to file his or her petition in the office of the clerk of the circuit court within ten days after the removal of the commissioner, then the commissioner immediately resumes his or her position as a member of the civil service commission.

(n) A resident of the municipality may file charges against and seek the removal of any commissioner. The charges shall be filed in the form of a petition in the office of the clerk of the circuit court of the county in which the municipality or a major portion of the municipality is located. A copy of the petition shall be served upon the commissioner sought to be removed. The petition shall be heard as a civil action by the circuit court of the county for which the commissioner serves. The party against whom the decision of the circuit court is rendered may appeal the decision to the Supreme Court of Appeals.

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


(a) There shall be a firemen’s civil service commission in each municipality having a paid fire department, and each firemen’s civil service commission previously created is continued. The commissioners shall, unless sooner removed, continue to serve until their respective terms expire and their successors have been appointed and qualified.

(b) Each firemen’s civil service commission consists of the following three members:

(1) One commissioner appointed by the mayor of the municipality;
(2) One commissioner appointed by the local international association of firefighters, if there is one, or by the local central body of the West Virginia Federation of Labor AFL-CIO, if there is one, or by the West Virginia Federation of Labor AFL-CIO; and

(3) One commissioner appointed by the local chamber of commerce, if there is one, or a local businessmen’s association.

(c) The commissioners’ terms are for four years and shall be staggered.

(d) In the event a commissioner ceases to be a member thereof by virtue of death, final removal, resignation or other cause, a new commissioner shall be appointed to fill the unexpired term within sixty days after said ex-commissioner ceased to be a member of the commission. All appointments to the commission shall be made in a timely manner so as not to create a vacancy for longer than sixty days. If there is no local chamber of commerce or local businessmen’s association, or the local chamber of commerce or local businessmen’s association fails to make an appointment within sixty days, then the other two commissioners shall make the appointment by mutual agreement.

(e) During their term of appointment, each commissioner must be a resident of this state and a qualified voter of the municipality where the civil service commission is located. At any one time, only two commissioners may be of the same political party.

(f) A person is not eligible for appointment or reappointment to the civil service commission if he or she:
(1) Has been convicted of a felony or any misdemeanor involving moral turpitude under the laws of any jurisdiction;

(2) Is a relative, as defined in section three, article one, chapter six-b, of:

(A) The mayor of the municipality from which the appointment is made; or

(B) The president, chairman or similarly situated executive official of the local chamber of commerce or local businessmen’s association, the local international association of firefighters, the local central body of the West Virginia Federation of Labor AFL-CIO, or the West Virginia Federation of Labor AFL-CIO, from which the appointment is made;

(3) Holds any other office, other than the office of notary public, under the United States, this state, or any municipality, county or other political subdivision thereof;

(4) Serves on any political committee; or

(5) Takes an active part in the management of any political campaign.

(g) The commission shall annually elect one of its members as president who serves at the will and pleasure of the commission.

(h) The mayor of the municipality shall remove a serving commissioner if:

(1) He or she is convicted of a felony or any misdemeanor involving moral turpitude under the laws of any jurisdiction;
(2) He or she is no longer resident of this state; or

(3) He or she is no longer a qualified voter of the municipality in which the commission is located.

(i) The mayor of the municipality may remove a serving commissioner for neglect of duty, incompetence, official misconduct or good cause. The reasons for removal of a commissioner shall be stated in writing and made a part of the records of the civil service commission.

(j) After the mayor has removed a commissioner, the mayor shall, within ten days, file a petition in the office of the clerk of the circuit court of the county in which the municipality or a major portion of the municipality where the civil service commission is located, stating:

(1) The reason for the removal; and

(2) A request for the circuit court to confirm the mayor’s action.

(k) A copy of the petition shall be served upon the removed commissioner simultaneously with the filing of the petition in the office of the clerk of the circuit court. The petition has precedence on the docket of the circuit court and shall be heard by the court as soon as practicable.

(l) The circuit court shall hear and decide the issues presented by the petition. The removed commissioner shall not serve in his or her capacity on the civil service commission until a hearing is had upon the petition, and the circuit court renders a decision in the matter. The mayor or the removed commissioner may appeal the decision of the circuit court to the Supreme Court of Appeals.
(m) If the mayor fails to file his or her petition in the office of the clerk of the circuit court within ten days after the removal of the commissioner, then the commissioner immediately resumes his or her position as a member of the civil service commission.

(n) A resident of the municipality may file charges against and seek the removal of any commissioner. The charges shall be filed in the form of a petition in the office of the clerk of the circuit court of the county in which the municipality or a major portion of the municipality is located. A copy of the petition shall be served upon the commissioner sought to be removed. The petition shall be heard as a civil action by the circuit court of the county for which the commissioner serves. The party against whom the decision of the circuit court is rendered may appeal the decision to the Supreme Court of Appeals.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within approved this the 20th day of March, 2012.

Governor
PRESENTED TO THE GOVERNOR

MAR 15 2012

Time 9:50 am