WEST VIRGINIA CODE: §16b-17-11

§16B-17-11. Appeal and enforcement of commission orders.

(a) From any final order of the commission, an application for review may be prosecuted by either party to the Supreme Court of Appeals within thirty days from the receipt thereof by the filing of a petition therefor to such court against the commission and the adverse party as respondents, and the clerk of such court shall notify each of the respondents and the commission of the filing of such petition. The commission shall, within ten days after receipt of such notice, file with the clerk of the court the record of the proceedings had before it, including all the evidence. The court or any judge thereof in vacation may thereupon determine whether or not a review shall be granted. And if granted to a nonresident of this state, he or she shall be required to execute and file with the clerk before such order or review shall become effective, a bond, with security to be approved by the clerk, conditioned to perform any judgment which may be awarded against him or her thereon. The commission may certify to the court and request its decision of any question of law arising upon the record, and withhold its further proceeding in the case, pending the decision of court on the certified question, or until notice that the court has declined to docket the same. If a review be granted or the certified question be docketed for hearing, the clerk shall notify the board and the parties litigant or their attorneys and the commission of the fact by mail. If a review be granted or the certified question docketed, the case shall be heard by the court in the manner provided for other cases: *Provided,* That in the following cases the appellant may prosecute the appeal in the circuit court of Kanawha County pursuant to section four, §29A-5-1 *et seq*. of this code: (1) Cases in which the commission awards damages other than back pay exceeding $5,000; (2) cases in which the commission awards back pay exceeding $30,000; and (3) cases in which the parties agree that the appeal should be prosecuted in circuit court. In such cases the appellee shall respond within thirty days of filing and the court shall make a determination within the following 30 days: *Provided, however,* That appeals filed erroneously in the circuit court after April 1, 1987, and prior to July 1, 1989, may be prosecuted in the Supreme Court of Appeals without regard to the time limits specified herein: *Provided further,* That any party adversely affected by the final judgment of the circuit court of Kanawha County may seek review thereof by appeal to the Supreme Court of Appeals pursuant to §29A-6-1 of this code filed within 30 days of entry of the final order of the circuit court.

The appeal procedure contained in this subsection shall be the exclusive means of review, notwithstanding the provisions of chapter twenty-nine-a of this code: *Provided,* That such exclusive means of review shall not apply to any case wherein an appeal or a petition for enforcement of a cease and desist order has been filed with a circuit court of this state prior to April 1, 1987.

(b) In the event that any person shall fail to obey a final order of the commission within thirty days after receipt of the same, or, if applicable, within thirty days after a final order of

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the circuit court or the Supreme Court of Appeals, a party or the commission may seek an order from the circuit court for its enforcement. Such proceedings shall be initiated by filing of a petition in said court, and served upon the respondent in the manner provided by law for the service of summons in civil actions; a hearing shall be held on such petition within 60 days of the date of service. The court may grant appropriate temporary relief, and shall make and enter upon the pleadings, testimony, and proceedings such order as is necessary to enforce the order of the commission or Supreme Court of Appeals.

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