WEST VIRGINIA CODE: §6-6-6

§6-6-6. Removal by Governor of state elective officer -- Procedure; appeal.

The charges on which the removal of any officer mentioned in the preceding section is sought shall be reduced to writing and signed by a citizen or citizens of this state, and verified by the affidavit of one or more of the signers; or, in case the removal is sought of an officer entrusted by law with the collection, custody and expenditure of public moneys, because of any misapplication, misappropriation, or embezzlement of such moneys, the charges may be signed and verified as aforesaid, or be signed by the chief inspector and supervisor of public offices of the state. If, on examination of the charges by the Governor, it shall appear that the officer should be removed, if the charges be true, he shall cause a summons thereupon to be issued containing a copy of the charges, requiring the officer named therein to appear and answer the same on the day and at a place named therein, and cause the same to be served upon such officer at least twenty days before the return day thereof, which summons may be served in the same manner as a summons commencing a civil suit. On the return day of the summons, at the place therein named, the Governor shall proceed to hear proof of the charges made, and may adjourn the hearing from time to time and from place to place.

In all such hearings before the Governor, the evidence of witnesses and the production of documentary evidence may be required at any designated place of hearing by the Governor, at his own instance or at the instance of such officer against whom charges may have been brought as aforesaid; and in case of disobedience to a subpoena or other process of the Governor, the Governor, or such officer, against whom charges may have been brought as aforesaid, may invoke the aid of any circuit court in requiring the evidence and testimony of witnesses and the production of papers, books and documents, and such court, in case of a refusal to obey the subpoena issued to any person, shall issue an order requiring such person to appear before the Governor and produce all books and papers, if deemed proper, and give evidence touching the matter in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof. A claim that any such testimony or evidence may tend to incriminate the person giving the same shall not excuse such witness from testifying, but such witness shall never be prosecuted or suffer any penalty or forfeiture for any offense concerning which he is compelled to furnish information or testify. A written record shall be kept of all testimony and other proceedings before the Governor.

At the close of the hearing, if the charges are sustained by satisfactory proof, the Governor shall remove such officer from the discharge of the duties of his office, and place the records, papers and property pertaining to the office in the possession of some other officer for safekeeping. The order of removal shall become final at the expiration of thirty days from the date thereof, unless appealed from, as hereinafter provided. In the event an appeal is taken from the order of removal, it shall not become final until decided by the Supreme Court of Appeals.

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The vacancy in the office shall not be filled until the order of removal becomes final. The Governor shall designate some person as deputy of the officer removed, who, in the name of his principal, shall exercise the duties of the office from the date of the order of removal until the suspension thereof, if suspended, and if the order be not suspended, until the same shall be affirmed or vacated; or, if no appeal be taken, until the order becomes final.

Any such officer against whom charges may have been brought as aforesaid, feeling aggrieved by his removal from office by the Governor, may present his petition in writing to the Supreme Court of Appeals, or to a judge thereof in vacation, within thirty days after such removal from office by the Governor, praying for the suspension, setting aside or vacating of such order of removal. The court, or the judge, shall fix a time for the hearing on the application, but such hearing shall not be held sooner than five days, unless by agreement of the parties, after the presentation of the petition. Notice of the time and place of such hearing shall be forthwith given to the Governor, or, in case of his absence from the state or from his office, such notice may be given to him by leaving, or causing to be left, a copy thereof at his office in the state Capitol. If the court, or the judge, after such hearing, be of the opinion that a suspending order should issue, the court in its, or the judge in his, discretion, may suspend such removal, and may require bond upon such conditions and in such penalty, and impose such terms and conditions upon the petitioner, as are just and reasonable; and the court, or the judge, shall fix a time for the final hearing on the application. The hearing of the matter shall take precedence over all other matters before the court, except contested elections of Secretary of State, Auditor, treasurer, Attorney General, state superintendent of free schools, commissioner of agriculture, or of a judge of any court. For such final hearing, and before the day fixed therefor, the Governor shall file with the clerk of the Supreme Court of Appeals all papers, documents, testimony, evidence and records, or certified copies thereof, introduced or offered at the hearing resulting in such removal; and shall also file with said clerk a written statement of the cause, and his reasons for making such removal. After argument by counsel, the court shall decide the matter in controversy, both as to the law and evidence, as may seem to it to be just and right, and may affirm the order of removal, or may permanently suspend, set aside and vacate such removal and restore such officer to his office; and in case such removal be not suspended, set aside or vacated by the Supreme Court of Appeals, the Governor shall fill the vacancy caused by the removal of such officer.

The supreme court shall consider and decide the appeal upon the original papers and documents, without requiring the same to be printed, and shall enforce its findings by proper writ.

In any case in which the charges are signed and filed by the chief inspector and supervisor of public offices, the proceedings under this section shall be conducted and prosecuted by the Attorney General of the state.

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