WEST VIRGINIA CODE: §8-15-25

§8-15-25. Removal, discharge, suspension or reduction in rank or pay; hearing; attorney fees; appeal; reduction in number of members.

(a) No member of any paid fire department subject to the civil service provisions of this article may be removed, discharged, suspended or reduced in rank or pay except for just cause, which may not be religious or political, except as provided in section twenty-four of this article; and no such member may be removed, discharged, suspended or reduced in rank or pay except as provided by the civil service provisions of this article, and in no event until the member has been furnished with a written statement of the reasons for the action. In every case of such removal, discharge, suspension or reduction, a copy of the statement of reasons therefor and of the written answer thereto, if the member desires to file such written answer, shall be furnished to the firemen's civil service commission and entered upon its records. If the member demands it, the commission shall grant a public hearing, which hearing shall be held within a period of ten days from the filing of the charges in writing or the written answer thereto, whichever shall last occur. At the hearing, the burden shall be upon the removing, discharging, suspending or reducing officer, hereinafter in this section referred to as "removing officer", to show just cause for his or her action, and in the event the removing officer fails to show just cause for the action before the commission, then the member shall be reinstated with full pay, forthwith and without any additional order, for the entire period during which the member may have been prevented from performing his or her usual employment, and no charges may be officially recorded against the member's record. The member, if reinstated or exonerated, shall, if represented by legal counsel, be awarded reasonable attorney fees to be determined by the commission and paid by the governing body. A written record of all testimony taken at the hearing shall be kept and preserved by this commission, which record shall be sealed and not be open to public inspection unless an appeal is taken from the action of the commission.

(b) In the event the commission sustains the action of the removing officer, the member has an immediate right of appeal to the circuit court of the county wherein the municipality or the major portion of the territory thereof is located. In the event that the commission reinstates the member, the removing officer has an immediate right of appeal to the circuit court. In the event either the removing officer or the member objects to the amount of the attorney fees awarded to the member, the objecting party has an immediate right of appeal to the circuit court. Any appeal must be taken within ninety days from the date of entry by the commission of its final order. Upon an appeal being taken and docketed with the clerk of the circuit court of the county, the circuit court shall proceed to hear the appeal upon the original record made before the commission and no additional proof may be permitted to be introduced. The circuit court's decision is final, but the member or removing officer, as the case may be, against whom the decision of the circuit court is rendered has the right to petition the Supreme Court of Appeals for a review of the circuit court's decision as in other civil cases. The member or removing officer also has the right, where appropriate, to seek, in

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lieu of an appeal, a writ of mandamus. The member, if reinstated or exonerated by the circuit court or by the Supreme Court of Appeals, shall, if represented by legal counsel, be awarded reasonable attorney fees as approved by the court and the fees shall be paid by the governing body.

(c) The removing officer and the member shall at all times, both before the commission and upon appeal, be given the right to employ counsel to represent them.

(d) If for reasons of economy or other reasons it is deemed necessary by any such municipality to reduce the number of paid members of its paid fire department, the municipality shall follow the procedure set forth in this subsection. The reduction in members of the paid fire department of the municipality shall be effected by suspending the last person or persons, including probationers, who have been appointed to the paid fire department. The removal shall be accomplished by suspending the number desired in the inverse order of their appointment: Provided, That in the event the said paid fire department is increased in numbers to the strength existing prior to the reduction of members, the members suspended under the terms of this subsection shall be reinstated in the inverse order of their suspension before any new appointments to said paid fire department are made.

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