

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1961

ENROLLED

HOUSE BILL No. 186.....

(By Mr. \_\_\_\_\_)

*John E. Spencer, Mr. Singleton*

PASSED

*March 8th,*

1961

In Effect

*July 1<sup>st</sup>, 1961*

Passage

Filed in Office of the Secretary of State  
of West Virginia MAR 16 1961  
JOE E. BURDETT  
SECRETARY OF STATE

**ENROLLED**

**House Bill No. 186**

(By MR. PETERS and MR. SPEAKER, MR. SINGLETON)

[Passed March 8, 1961; in effect July 1, 1961.]

AN ACT to repeal article six, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to enact in lieu thereof a new article six, creating a civil service system for the state of West Virginia.

*Be it enacted by the Legislature of West Virginia:*

That article six, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed and a new article six be enacted in lieu thereof to read as follows:

**Article 6. Civil Service System.**

Section 1. *General Purpose.*—The general purpose of

2 this article is to attract to the service of this state per-  
3 sonnel of the highest ability and integrity by the estab-  
4 lishment of a system of personnel administration based

5 on merit principles and scientific methods governing the  
6 appointment, promotion, transfer, lay-off, removal, dis-  
7 cipline, classification, compensation and welfare of its civil  
8 employees, and other incidents of state employment. All  
9 appointments and promotions to positions in the state  
10 service shall be made solely on the basis of merit and fit-  
11 ness, except as hereinafter specified.

Sec. 2. *Classified Service; Exceptions Therefrom.*—(a)  
2 The classified service to which this law shall apply shall  
3 comprise all positions covered by the present merit system  
4 at the effective date of this article and the following posi-  
5 tions in the state tax commission and the public service  
6 commission: Procurement officer; supervisor of field dep-  
7 uties; supervisor, supervisor I and field auditors of the  
8 cigarettes, soft drinks, general license and store license  
9 division; supervisor and field auditors of the accounting  
10 division; supervisor and research analysts of the public  
11 utility division; supervisor of the assessment and levy  
12 division; supervisor of the cashier's division; supervisor,  
13 senior accountant and auditors of the consumers' sales tax  
14 division; the supervisor, assistant supervisor and auditors

15 of the gasoline excise division; supervisor and assistant di-  
16 vision director of the inheritance tax division; supervisor,  
17 revenue examiners and field <sup>7</sup>auditors of the business and *Handwritten signature*  
18 occupation tax division; supervisor and field appraisers  
19 of the property evaluation division; the supervisor of the  
20 property evaluation-assessment and equalization-division;  
21 supervisor of the tabulation division; chief and assistant  
22 chief of the rate and tariff department; chief accountant,  
23 assistant chief accountant, and senior accountants of the  
24 accounting department; chief engineer, senior engineers,  
25 senior gasoline engineers, senior electrical engineers and  
26 staff engineers of the engineering department; and ass<sup>st</sup>- *Handwritten initials*  
27 ant director and rate analysts of the motor carrier de-  
28 partment.

29 The governor may, by executive order, with the written  
30 consent of the civil service commission and the appointing  
31 authority concerned, add to the list of positions in the clas-  
32 sified service, but such additions shall not include the  
33 following:

34 (1) The state legislature and others officers elected by

35 popular vote and persons appointed to fill vacancies in  
36 elective offices.

37 (2) Members of boards and commissions and heads of  
38 departments appointed by the governor or such heads of  
39 departments selected by commissions or boards when ex-  
40 pressly exempt by law or board order.

41 (3) One principal assistant or deputy and one private  
42 secretary for each board or commission or head of a de-  
43 partment elected or appointed by the governor or legis-  
44 lature, other than the civil service commission and the  
45 director of personnel.

46 (4) Not more than fifteen employees in the office of the  
47 governor.

48 (5) Judges, referees, receivers, jurors and notaries  
49 public.

50 (6) The secretaries and clerks of each judge of a court  
51 of record.

52 (7) Patients or inmates employed in state institutions.

53 (8) Persons employed in a professional or scientific  
54 capacity to make or conduct a temporary and special in-  
55 quiry, investigation or examination on behalf of the legis-

56 lature or a committee thereof, an executive department  
57 or by authority of the governor.

58 (9) All employees assigned to the executive mansion.

59 (10) Janitors and laborers employed by any agency.

60 (11) Managers and clerks of liquor stores.

61 (12) Superintendent, county maintenance of roads, and  
62 all personnel under his supervision.

63 (13) Part-time professional personnel engaged in pro-  
64 fessional services without administrative duties and per-  
65 sonnel employed for less than ninety working days a year.

66 (14) All clerical employees who are not under the pres-  
67 ent merit system and whose jobs do not require special  
68 knowledge or skill and training in the operation of busi-  
69 ness machines.

70 All excepted positions to be termed unclassified service.

71 Nothing herein shall be construed as precluding the  
72 appointing authorities from filling any position in the  
73 manner in which positions in the classified service are  
74 filled.

Sec. 3. *State Personnel Department.*—(a) There shall  
2 be in the state government a state personnel department,

3 the executive head of which shall be a director of per-  
4 sonnel. The employees of the present merit system office,  
5 with the exception of the merit system supervisor, are  
6 hereby transferred into the office of the director of per-  
7 sonnel. Their services shall be considered continuous.  
8 In addition, all funds, equipment, supplies, personnel and  
9 property records, or anything of value now in the posses-  
10 sion of the merit system council are hereby transferred  
11 to the state personnel department.

12 (b) In the department there shall be a civil service  
13 commission of three members, with the powers and duties  
14 hereinafter enumerated.

Sec. 4. *Director of Personnel.*—After selection through  
2 open competitive examination, then upon recommenda-  
3 tion of the civil service commission, the governor shall  
4 appoint a director of personnel, who shall be experienced  
5 in the field of personnel administration, and who is in  
6 known sympathy with the application of merit principles  
7 in public employment. The selection and appointment  
8 must be in conformity with civil service rules. The  
9 present merit system supervisor may be the appointee.

10 The director of personnel may be removed by the civil  
11 service commission for cause only after he has been pre-  
12 sented in writing with the reasons for his removal. He  
13 shall be given an opportunity, not less than fifteen days,  
14 to answer any charges either in writing or upon his re-  
15 quest to be heard by the commission. The statement of  
16 reasons and answer or transcript of hearing shall be filed  
17 with the secretary of state as a public record. The de-  
18 cision of the commission, after a hearing, shall be final  
19 and not subject to appeal.

Sec 5. *Organization of the Commission.*—(a) The pres-  
2 ent merit system council shall be transformed into the  
3 civil service commission. The members of the commis-  
4 sion shall be persons in sympathy with the application of  
5 merit principles to public employment. No member of  
6 the commission shall be a member of any local, state, or  
7 national committee of a political party or an officer or  
8 member of a committee in any partisan political club or  
9 organization or shall hold, or be a candidate for, any paid  
10 public office. Not more than two members of the same



11 political party shall serve on the commission at the same  
12 time.

13 (b) Vacancies in the present merit system council  
14 now being transferred by this article into the civil serv-  
15 ice commission occur June thirtieth, one thousand nine  
16 hundred sixty-one, June thirtieth, one thousand nine  
17 hundred sixty-two and June thirtieth, one thousand nine  
18 hundred sixty-three. The members of the commission  
19 shall be appointed by the governor by and with the  
20 advice and consent of the senate. On the first vacancy,  
21 one member shall be appointed for a term of four years,  
22 on the second vacancy, the member shall be appointed for  
23 a term of five years, and on the third vacancy, for a term  
24 of six years. Thereafter, each member shall be appointed  
25 for a term ending six years from the date of expiration  
26 of the term for which his predecessor was appointed,  
27 except that a person appointed to fill a vacancy occurring  
28 prior to the expiration of such term shall be appointed  
29 for the remainder of the term. Each member of the com-  
30 mission shall hold office until his successor is appointed  
31 and qualified.

32 (c) A member of the commission may be removed by  
33 the governor only for cause, after being given a copy of  
34 charges against him and an opportunity to be heard pub-  
35 licly on such charges before the governor. A copy of the  
36 charges and a transcript of the record of the hearing shall  
37 be filed with the secretary of state. The decision of the  
38 governor, after a hearing, shall be final and not subject to  
39 appeal.

40 (d) Members of the commission shall each be paid  
41 twenty-five dollars for each day devoted to the work of  
42 the commission, but not more than six hundred dollars in  
43 any one year. They shall be entitled to reimbursement  
44 for necessary traveling and other expenditures necessi-  
45 tated by their official duties.

46 (e) The commission shall elect one of its members  
47 chairman. It shall meet at such time and place as shall be  
48 specified by call of the chairman or the directors. At  
49 least one meeting shall be held in each month. All meet-  
50 ings shall be open to the public. Notice of each meeting  
51 shall be given in writing to each member by the director  
52 at least three days in advance of the meeting. Two mem-

53 bers shall constitute a quorum for the transaction of  
54 business.

55 (f) There is hereby created an advisory board to ad-  
56 vise the commission and the director in the administra-  
57 tion of this article. The advisory board shall consist of  
58 the appointing authorities from all agencies having em-  
59 ployees in the classified service.

Sec. 6. *Duties of the Commission.*—In addition to the  
2 duties expressly set forth elsewhere in this law, the com-  
3 mission shall:

4 (1) Represent the public interest in the improvement  
5 of personnel administration in the state service.

6 (2) Advise the governor and the director on problems  
7 concerning personnel administration.

8 (3) Foster the interest of institutions of learning and  
9 of industrial, civic, professional and employee organiza-  
10 tions in the improvement of personnel standards in the  
11 state service.

12 (4) Make any investigation which it may consider  
13 desirable concerning the administration of personnel in

14 the state service, and make recommendations to the di-  
15 rector with respect thereto.

16 (5) Make an annual report and special reports and  
17 recommendations to the Governor.

18 (6) Approve the budget as prepared by the director  
19 for administration of this article before submission to the  
20 director of the budget.

Sec. 7. *Duties of the Director.*—(a) The director, as  
2 executive head of the department, shall direct and super-  
3 vise all its administrative and technical activities. In ad-  
4 dition to the duties imposed upon him elsewhere in this  
5 law, it shall be his duty:

6 (1) To apply and carry out this law and the rules  
7 adopted thereunder.

8 (2) To attend meetings of the commission and to act  
9 as its secretary and keep minutes of its proceedings.

10 (3) To establish and maintain a roster of all employees  
11 in the state civil service, in which there shall be set forth,  
12 as to each employee, the class title, pay or status, and  
13 other pertinent data.

14 (4) To appoint such employees of the department and

15 such experts and special assistants as may be necessary  
16 to carry out effectively the provisions of this law.

17 (5) To foster and develop, in cooperation with ap-  
18 pointing authorities and others, programs for the im-  
19 provement of employee effectiveness, including training,  
20 safety, health, counseling and welfare.

21 (6) To make available to the public information about  
22 vacancies in the classified service and to strive constantly  
23 to attract to the career service of this state people of the  
24 highest ability.

25 (7) To investigate from time to time the operation and  
26 effect of this law and of the rules made thereunder and  
27 to report his findings and recommendations to the com-  
28 mission and to the governor.

29 (8) To make an annual report regarding the work of  
30 the department, and such special reports as he may con-  
31 sider desirable, to the commission.

32 (9) To prepare the annual budget for the department  
33 of personnel and when approved by the commission, sub-  
34 mit it to the director of the budget.

35 (10) To perform any other lawful acts which he may

36 consider necessary or desirable to carry out the purposes  
37 and provisions of this law.

38 (b) In the event of the absence of the director or his  
39 inability from any cause to discharge the powers and  
40 duties of his office, the commission may from time to time  
41 designate in writing an employee of the department to  
42 act for him. In such case, the powers and duties of the  
43 director shall devolve upon such employee designated by  
44 the commission.

45 (c) The director may designate appropriate persons,  
46 including officers and employees in the state service, to  
47 assist in the preparation and rating of tests. An appoint-  
48 ing authority shall excuse any employee in his division  
49 from his regular duties for the time required for his work  
50 as an examiner. Such officers and employees shall not be  
51 entitled to extra pay for further services as examiners but  
52 shall be entitled to reimbursement for necessary traveling  
53 and other expenses.

Sec. 8. *Rules.*—The present merit system council rules  
2 shall be transformed into the temporary rules of the civil  
3 service commission and shall continue in effect until the

4 director of personnel prepares and submits to the civil  
5 service commission new rules for the classified service.

6 Such new rules shall be filed and made effective in  
7 conformity with article two, chapter five of this code after  
8 public notice and public hearing. Amendments thereto  
9 may be made in the same manner. The new rules shall  
10 provide:

11 (1) For the preparation, maintenance and revision of a  
12 position classification plan for all positions in the classified  
13 service, based upon similarity of duties performed and re-  
14 sponsibilities assumed, so that the same qualifications may  
15 reasonably be required for and the same schedule of pay  
16 may be equitably applied to all positions in the same class.  
17 After such classification has been approved by the com-  
18 mission, the director shall allocate the position of every  
19 employee in the classified service to one of the classes in  
20 the plan. Any employee affected by the allocation of a  
21 position to a class shall, after filing with the director of  
22 personnel a written request for reconsideration thereof  
23 in such manner and form as the director may prescribe,  
24 be given a reasonable opportunity to be heard thereon by

25 the director. The interested appointing authority shall be  
26 given like opportunity to be heard.

27 (2) For a pay plan for all employees in the classified  
28 service, after consultation with appointing authorities and  
29 the state fiscal officers, and after a public hearing held  
30 by the commission. Such pay plan shall become effective  
31 only after it has been approved by the governor after sub-  
32 mission to him by the commission. Amendments to the  
33 pay plan may be made in the same manner. Each em-  
34 ployee shall be paid at one of the rates set forth in the  
35 pay plan for the class of position ~~at one of the rates set~~  
36 ~~forth in the pay plan for the class of position~~ in which he  
37 is employed. The principle of equal pay for equal work  
38 in the several agencies of the state government shall be  
39 followed in the pay plan as established hereby.

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40 (3) For open competitive examinations to test the rela-  
41 tive fitness of applicants for the respective positions. Such  
42 examinations need not be held until after the rules have  
43 been adopted, the service classified and a pay plan estab-  
44 lished, but shall be held not later than one year after this  
45 article takes effect. Such examinations shall be announced



46 publicly at least fifteen days in advance of the date fixed  
47 for the filing of applications therefor, and may be adver-  
48 tised through the press, radio and other media. The direc-  
49 tor may, however, in his discretion, continue to receive  
50 applications and examine candidates long enough to as-  
51 sure a sufficient number of eligibles to meet the needs of  
52 the service; and may add the names of successful candi-  
53 dates to existing eligible lists in accordance with their re-  
54 spective ratings.

55 Veterans who present proof of at least one year's hon-  
56 orable service to the United States in either of the World  
57 Wars or the Korean War shall be entitled to an additional  
58 five points on any examination and disabled veterans shall  
59 be entitled to an additional ten points: *Provided, however,*  
60 That no such additions shall be made where a veteran  
61 fails to pass the examination.

62 (4) For promotions which shall give appropriate con-  
63 sideration to the applicant's qualifications, record of per-  
64 formance and his score on written examination, when  
65 such examination is practicable. In filling vacancies an  
66 effort should be made to achieve a balance between pro-

67 motion from within the service and the introduction into  
68 the service of qualified new employees. An advancement  
69 in rank or grade or an increase in salary beyond the  
70 maximum fixed for the class shall constitute a promotion.

71 (5) For the establishment of eligible lists for appoint-  
72 ment and promotion, upon which lists shall be placed the  
73 names of successful candidates in the order of their rela-  
74 tive excellence in the respective examinations. Eligibility  
75 for appointment from any such list shall continue not  
76 longer than three years. An appointing authority must  
77 make his selection from the top five names on the appro-  
78 priate list of eligibles.

79 (6) For the rejection of candidates or eligibles who fail  
80 to comply with reasonable requirements in regard to such  
81 factors as age, physical condition, character, training and  
82 experience, who are addicted to alcohol or narcotics, or  
83 who have attempted any deception or fraud in connection  
84 with an examination, or where in the judgment of the  
85 commission there is reasonable doubt of the loyalty of  
86 the candidate or eligible to the nation.

87 (7) For a period of probation not to exceed one year

88 before appointment or promotion may be made complete.

89 (8) For provisional employment without competitive  
90 examination when there is no appropriate eligible list  
91 available. No such provisional employment shall continue  
92 longer than six months, nor shall successive provisional  
93 appointments be allowed, except during the first year  
94 after the effective date of this law in order to avoid stop-  
95 page of orderly conduct of the business of the state.

96 (9) For keeping records of performance of all em-  
97 ployees in the classified service, which service records may  
98 be considered in determining salary increases and de-  
99 creases provided in the pay plan; as a factor in promo-  
100 tion tests; as a factor <sup>in</sup> ~~of~~ determining the order of lay-offs  
*by*  
*Cabinet*  
*by*  
*ESB*  
101 because of lack of funds or work and in reinstatement;  
102 and as a factor in demotions, discharges and transfers.

103 (10) For lay-offs by reason of lack of funds or work,  
104 or abolition of a position, or material change in duties or  
105 organization, and for reemployment of employees so laid  
106 off, giving consideration in both lay-offs and reemploy-  
107 ment to performance record and seniority in service.

108 (11) For discharge or reduction in rank or grade only

109 for cause of employees in the classified service. Discharge  
110 or reduction of these employees shall take place only after  
111 the person to be discharged or reduced has been presented  
112 with the reasons for such discharge or reduction stated in  
113 writing, and has been allowed a reasonable time to reply  
114 thereto in writing, or upon request to appear personally  
115 and reply to the head of the department or his deputy.  
116 The statement of reasons and the reply shall be filed as a  
117 public record with the director.

118 (12) For such other rules and administrative regula-  
119 tions, not inconsistent with this law, as may be proper  
120 and necessary for its enforcement.

121 The commission and the director may include in the  
122 rules provided for in this article such provisions as are  
123 necessary to conform to regulations and standards of any  
124 federal agency governing the receipt and use of federal  
125 grants-in-aid by any state agency; anything in this article  
126 to the contrary notwithstanding. The commission and the  
127 director shall see that rules and practices meeting such  
128 standards are in effect continuously after the effective  
129 date of this article.

Sec. 9. *Duty to Furnish Facilities.*—All officers and employees of the state and of municipalities and political subdivisions of the state shall allow the department the reasonable use of public buildings under their control, and furnish heat, light and furniture, for any examination, hearing or investigation authorized by this law. The department shall pay to a municipality or political subdivision the reasonable cost of any such facilities furnished by it.

Sec. 10. *Duties of State Officers and Employees.*—All officers and employees of the state shall comply with and aid in all proper ways in carrying out the provisions of this law and the rules, regulations and orders thereunder. All officers and employees shall furnish any records or information which the director or the commission may request for any purpose of this law. The director may institute and maintain any action or proceeding at law or in equity that he considers necessary or appropriate to secure compliance with this article and the rules and orders thereunder.

Sec. 11. *Status of Present Employees.*—(a) Employees

2 under the present merit system at the effective date of this  
3 article: No employee shall lose any rights gained by ap-  
4 pointment under the present merit system now being  
5 formulated into the civil service by this article. Employ-  
6 ees who have gained permanent status under the present  
7 system will not be subject to further examination, except  
8 when they wish to qualify for promotion, and will con-  
9 tinue in the position they hold. Their rights as per-  
10 manent employees shall be continuous. Employees hold-  
11 ing provisional appointments under the present merit  
12 system must qualify for permanent appointments under  
13 competitive examination.

14 (b) Employees holding positions included under classi-  
15 fied service by this article or placed under the same by  
16 future action shall be required to take qualifying tests  
17 prescribed by the director.

18 Those employees who fail to qualify shall be dismissed  
19 from their positions within thirty days after establish-  
20 ment of an eligible list for their respective positions.  
21 Nothing in this article shall preclude the reclassification or  
22 reallocation as provided by this law of any position.

Sec. 12. *Certification of Payrolls.*—(a) No state disburs-  
2 ing or auditing officer shall make or approve or take any  
3 part in making or approving any payment for personal  
4 service to any person holding a position in the classified  
5 service unless the payroll voucher or account of such pay  
6 bears the certification of the director, or of his authorized  
7 agent, that the persons named therein have been ap-  
8 pointed and employed in accordance with the provisions  
9 of this law and the rules, regulations and orders there-  
10 under. The director may for proper cause withhold cer-  
11 tification from an entire payroll or from any specific item  
12 or items thereon. The director may, however, provide  
13 that certification of payrolls may be made once every six  
14 months, and such certification shall remain in effect ex-  
15 cept in the case of any officer or employee whose status  
16 has changed after the last certification of his payroll. In  
17 the latter case no voucher for payment of salary to such  
18 employee shall be issued or payment of salary made with-  
19 out further certification by the director.

20 (b) If an appointing authority fails to comply with an  
21 order of the commission after a hearing, he shall be per-

22 sonally liable to the appealing employee for any salary  
23 due from the time of the final order of reinstatement by the  
24 commission.

25 (c) If the director wrongfully withholds certification of  
26 the payroll voucher or account of any employee, such  
27 employee may maintain a proceeding in the courts to com-  
28 pel the director to certify such payroll voucher or account.

Sec. 13. *Appeals by Employees to the Commission.*—Any  
2 employee in the classified service who is dismissed or de-  
3 moted after completing his probationary period of service  
4 or who is suspended for more than thirty days in any one  
5 year, may, within thirty days after such dismissal, de-  
6 motion or suspension, appeal to the commission for review  
7 thereof. Upon such review, both the appealing employee  
8 and the appointing authority whose action is reviewed  
9 shall have the right to be heard publicly and to present  
10 evidentiary facts. At the hearing of such appeals, tech-  
11 nical rules of evidence shall not apply. If the commission  
12 finds that the action complained of was taken by the ap-  
13 pointing authority without good cause, the employee shall  
14 be reinstated to his former position or a position of like



15 status and pay, without loss of pay for the period of his  
16 suspension. When any employee is dismissed and not re-  
17 instated after such appeal, the commission in its discre-  
18 tion may direct that his name be placed on an appropriate  
19 reemployment list, for employment in any similar posi-  
20 tion other than the one from which he has been removed.  
21 Any final action or decision taken or made hereunder  
22 shall be subject to review by the supreme court of appeals,  
23 if appeal is made within sixty days of the action or de-  
24 cision complained of.

Sec. 14. *Records of the State Personnel Department.*—

2 The records of the department, except such records as the  
3 rules may properly require to be held confidential for  
4 reasons of public policy, shall be public records and shall  
5 be open to public inspection, subject to reasonable regu-  
6 lations as to the time and manner of inspection which may  
7 be prescribed by the director.

Sec. 15. *Services to Political Subdivisions.*—(a) Sub-

2 ject to the approval of the commission the director may  
3 enter into agreements with any municipality or other  
4 political subdivision of the state to furnish services and

5 facilities of the department to such municipality or politi-  
6 cal subdivision in the administration of its personnel on  
7 merit principles. Any such agreement shall provide for  
8 the reimbursement to the state of the reasonable cost of  
9 the services and facilities furnished, as determined by  
10 the directors. All municipalities and political subdivi-  
11 sions of the state are hereby authorized to enter into such  
12 agreements. Subject to the approval of the commission,  
13 the director may enter into an agreement with the state  
14 department of health for the inclusion of personnel of  
15 local health departments under the civil service system  
16 established by this article.

17 (b) The director may cooperate with governmental  
18 agencies for other jurisdictions charged with personnel  
19 administration in conducting joint tests and establishing  
20 joint lists from which eligibles shall be certified for ap-  
21 pointment in accordance with the provisions of this law.

Sec. 16. *Retirement System.*—The director will submit to  
2 the governor recommendations concerning the advisability  
3 and practicability of establishing an actuarially sound re-

4 tirement and pension system for persons holding positions  
5 in the service.

*Sec. 17. Oaths, Testimony, and the Production of Records;*

2 *Immunity from Suit.*—The commission, each member of  
3 the commission and the director shall have power to ad-  
4 minister oaths, subpoena witnesses and compel the pro-  
5 duction of books and papers pertinent to any investiga-  
6 tion or hearing authorized by this law. Any person who  
7 shall fail to appear in response to a subpoena or to answer  
8 any question or produce any books or papers pertinent  
9 to any such investigation or hearing or who shall know-  
10 ingly give false testimony therein shall be guilty of a  
11 misdemeanor. Immunity from civil suit is hereby granted  
12 for all relevant evidence offered at commission hearings.

*Sec. 18. Refusal to Testify.*—If any employee in the state

2 service shall wilfully refuse or fail to appear before any  
3 court or judge, any legislative committee, or any officer,  
4 board or body authorized to conduct any hearing or in-  
5 quiry, or having appeared shall refuse to testify or an-  
6 swer any question relating to the affairs or government  
7 of the state of the conduct of any state officer or em-

8 ployee on the ground that his testimony or answers would  
9 tend to incriminate him, or shall refuse to accept a grant of  
10 immunity from prosecution on account of any matter  
11 about which he may be asked to testify at any such hear-  
12 ing or inquiry, he shall forfeit his office or position and  
13 shall not be eligible thereafter for appointment to any  
14 position in the state service.

Sec. 19. *Political Activities Prohibited.*—(a) No per-  
2 son shall be appointed or promoted to, or demoted or  
3 dismissed from any position in the classified service or  
4 in any way favored or discriminated against with respect  
5 to such employment because of his political or religious  
6 opinions or affiliations or race; but nothing herein shall  
7 be construed as precluding the dismissal of any employee  
8 who may be engaged in subversive activities or found dis-  
9 loyal to the nation.

10 (b) No person shall seek or attempt to use any politi-  
11 cal endorsement in connection with any appointment in  
12 the classified service.

13 (c) No person shall use or promise to use, directly or  
14 indirectly, any official authority or influence, whether

15 possessed or anticipated, to secure or attempt to secure  
16 for any person an appointment or advantage in appoint-  
17 ment to a position in the classified service, or an increase  
18 in pay or other advantage in employment in any such  
19 position, for the purpose of influencing the vote or politi-  
20 cal action of any person, or for any consideration.

21 (d) No employee in the classified service or member  
22 of the commission or the director shall, directly or indi-  
23 rectly, pay or promise to pay any assessment, subscription  
24 or contribution, or perform any service for any political  
25 party, or solicit or take any part in soliciting any such  
26 assessment, subscription, contribution or service. No per-  
27 son shall solicit any such assessment, subscription, con-  
28 tribution or service of any employee in the classified  
29 service.

30 (e) No employee in the classified service shall be a  
31 member of any national, state or local committee of a  
32 political party, or an officer or member of a committee  
33 of a partisan political club, or a candidate for nomination  
34 or election to any paid public office, or shall take any part  
35 in the management or affairs of any political party or in

36 any political campaign, except to exercise his right as a  
37 citizen privately to express his opinion and to cast his  
38 vote.

39 (f) Any officer or employee in the state service who  
40 violates any of the foregoing provisions of this section  
41 shall forfeit his office or position, and for one year shall  
42 be ineligible for any office or position in the state service.

Sec. 20. *Unlawful Acts Prohibited.*—(a) No person  
2 shall make any false statement, certificate, mark, rating  
3 or report with regard to any test, certification or appoint-  
4 ment made under any provisions of this law or in any  
5 manner commit or attempt to commit any fraud prevent-  
6 ing the impartial execution of this law and the rules.

7 (b) No person shall, directly or indirectly, give, render,  
8 pay, offer, solicit or accept any money, or other valuable  
9 consideration for or on account of any appointment, pro-  
10 posed appointment, promotion or proposed promotion to,  
11 or any advantage in, a position in the classified service.

12 (c) No employee of the department, examiner, or  
13 other person shall defeat, deceive or obstruct any person  
14 in his right to examination, eligibilty, certification or

15 appointment under this law, or furnish to any person any  
16 special or secret information for the purpose of affecting  
17 the rights or prospects of any person with respect to  
18 employment in the classified service.

Sec. 21. *Penalties.*—(a) Any person who wilfully vio-  
2 lates any provision of this law or of the rules shall be  
3 guilty of a misdemeanor, and shall upon conviction be  
4 punished by a fine of not less than one hundred dollars  
5 nor more than five hundred dollars or by imprisonment  
6 in the county jail for a period not to exceed one year,  
7 or both, in the discretion of the court. Jurisdiction under  
8 this section shall be in a court of record exercising crimi-  
9 nal jurisdiction within the county wherein the offense is  
10 committed.

11 (b) Any person who is convicted of a misdemeanor  
12 under this law shall, for a period of five years, be ineligible  
13 for appointment to or employment in a position in the  
14 state service, and if he is an officer or employee of the  
15 state, shall forfeit his office or position.

Sec. 22. *Appropriations.*—(a) Appropriations shall be  
2 made from the general fund to the state personnel depart-

3 ment to meet the estimated pro rata share of the cost of  
4 administering the provisions of this article for depart-  
5 ments, commissions, boards or agencies which receive  
6 their sole support from the general fund or other state  
7 funds.

8 (b) The director shall maintain accurate records re-  
9 flecting the cost of administering the provisions of this  
10 article. At the close of each quarter year period he shall  
11 summarize the cost and shall bill each department, com-  
12 mission, board or agency which receives support from the  
13 federal government for a pro-rata share of the adminis-  
14 trative cost based on the relationship between the quar-  
15 terly average number of employees in the service of such  
16 department, commission, board or agency and the quar-  
17 terly average number of employees in the service of all  
18 the departments, commissions, boards and agencies for  
19 the appropriate calendar quarter.

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20 (c) All departments, commissions, boards or agencies  
21 which receive support from the federal government shall  
22 include in their budgets sufficient amounts to meet their  
23 pro rata shares of the cost of administering this article



24 and shall remit such shares quarterly to the state per-  
25 sonnel department in the manner provided by law.

26 (d) The department is authorized and directed to ac-  
27 cept on behalf of the state any grant or contribution, fed-  
28 eral or otherwise, made to assist in meeting the cost of  
29 carrying out the purposes of this article.

Sec. 23. *Separability*.—If any provision of this law or  
2 of any rule, regulation or order thereunder or the appli-  
3 cation of such provision to any person or circumstance  
4 shall be held invalid the remainder of this law and the  
5 application of such provision of this law or of such rule,  
6 regulation or order to persons or circumstances other  
7 than those as to which it is held invalid shall not be af-  
8 fected thereby.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Harold Davis, Jr.  
Chairman Senate Committee

Mrs. H. H. Withrow  
Chairman House Committee

Originated in the House.

Takes effect July 1<sup>st</sup> 1961 passage.

Richard Meyer  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

Howard Carson  
President of the Senate

Julius W. Singleton Jr.  
Speaker House of Delegates

The within approved this the 16<sup>th</sup>  
day of March, 1961.

Wm. Barron  
Governor

Filed in Office of the Secretary of State  
of West Virginia MAR 16 1961  
JOE F. BURDETT  
SECRETARY OF STATE