

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1967



ENROLLED

HOUSE BILL No. 621

(By Mr. Lohr and Miss Tapis)



PASSED March 9, 1967

In Effect from Passage



FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 3-20-67

11-621

ENROLLED

House Bill No. 621

(By MR. LOHR and MISS TSAPIS)

[Passed March 9, 1967; in effect from passage.]

AN ACT to amend and reenact section thirteen, article five-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the removal, discharge, suspension, reduction in rank or pay, reduction in numbers and reinstatement of the members of a municipal police department, and providing that such members may be suspended for certain limited periods without any right to a hearing or review.

Be it enacted by the Legislature of West Virginia:

That section thirteen, article five-a, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5A. CIVIL SERVICE FOR POLICE DEPARTMENTS.**§8-5A-13. Removal, discharge, suspension, etc., of members of police department.**

1 (a) No member of any police department within the
2 terms of this article shall be removed, discharged, sus-
3 pended or reduced in rank or pay except for just cause,
4 which shall not be religious or political, except as herein-
5 after provided in section twenty; further, no such em-
6 ployee shall be removed, discharged, suspended or re-
7 duced except as provided in this article, and in no event
8 until he shall have been furnished with a written state-
9 ment of the reasons for such action. For the purpose
10 of the remainder of this subsection and subsections (b)
11 and (c) of this section, the term "suspension" shall mean
12 only (1) a suspension in excess of ten days or (2) a sus-
13 pension in any calendar year which when added to any
14 previous suspension or suspensions within the same cal-
15 endar year results in a total period of suspension in ex-
16 cess of ten days within such same calendar year, and
17 for the purpose of the remainder of this subsection and
18 said subsections (b) and (c), a person shall not be con-

19 sidered to be suspended or sought to be suspended un-
20 less his suspension meets the foregoing definition of said
21 term. In every case of such removal, discharge, suspen--
22 sion or reduction, a copy of the statement of reasons there-
23 for and of the written answer thereto, if the person sought
24 to be removed, discharged, suspended or reduced desires
25 to file such written answer, shall be furnished to the civil
26 service commission and entered upon its records. If the
27 person sought to be removed, discharged, suspended or
28 reduced shall demand it, the civil service commission
29 shall grant him a public hearing, which hearing shall be
30 held within a period of ten days from the filing of the
31 charges in writing and the written answer thereto. At
32 such hearing the burden shall be upon the removing,
33 discharging, suspending or reducing officer, hereinafter
34 in this section referred to as "removing officer," to justify
35 his action and in the event the removing officer fails to
36 justify his action before the civil service commission,
37 then the person removed, discharged, suspended or re-
38 duced shall be reinstated with full pay, forthwith and
39 without any additional order, for the entire period dur-

40 ing which he may have been prevented from performing
41 his usual employment, and no charges shall be officially
42 recorded against his record. A written record of all testi-
43 mony taken at such hearing shall be kept and preserved
44 by the civil service commission, which record shall be
45 sealed and not be open to public inspection, if no appeal
46 be taken from the action of the commission.

47 (b) In event that the civil service commission shall sus-
48 tain the action of the removing officer the person removed,
49 discharged, suspended or reduced shall have an imme-
50 diate right of appeal to the circuit court of the county
51 wherein the city or municipality is situated. Said appeal
52 shall be taken within ninety days from the entry by the
53 civil service commission of its final order; upon such an
54 appeal being taken and docketed with the clerk of the
55 circuit court of said county, the circuit court shall pro-
56 ceed to hear the appeal upon the original record taken
57 therein and no additional proof shall be permitted to be
58 introduced. The circuit court's decision shall be final,
59 saving to the employee, however, the right to petition

60 the supreme court of appeals for a review of the circuit
61 court's decision.

62 (c) The removing officer and the person sought to be
63 removed, discharged, suspended or reduced shall at all
64 times, both before the civil service commission and upon
65 appeal, be given the right to employ counsel to repre-
66 sent them: *Provided, however,* That if for reasons of
67 economy or other reasons it shall be deemed necessary
68 by any city or municipality to reduce the number of
69 paid members of any police department then said muni-
70 cipality shall follow the procedure set forth in subsection
71 (d) of this section.

72 (d) The reduction in members of the said police de-
73 partment of said city or municipality shall be effected
74 by suspending the last man or men, including proba-
75 tioners, that have been appointed to said police depart-
76 ment. Such removal shall be accomplished by suspending
77 the number desired in the inverse order of their appoint-
78 ment: *Provided further,* That in event the said police de-
79 partment shall again be increased in numbers to the
80 strength existing prior to such reduction of members the

81 said policemen suspended under the terms of this article
82 shall be reinstated in the inverse order of their suspen-
83 sion before any new appointment to said police depart-
84 ment shall be made.

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

William Tomper
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the House.

Takes effect from passage.

Howard Hughes
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Howard E. Carson
President of the Senate

H. Laban White
Speaker House of Delegates

The within approved this the 19
day of March, 1967.

Hubert C. Smith
Governor



PRESENTED TO THE
GOVERNOR

Date 9/17/67

Time 9:30am