WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1967

ENROLLED

HOUSE BILL No. 621

(By Mr. Lohr and Mississippi)

PASSED March 7, 1967

In Effect from Passage

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

(a) No member of any police department within the terms of this article shall be removed, discharged, suspended or reduced in rank or pay except for just cause, which shall not be religious or political, except as hereinafter provided in section twenty; further, no such employee shall be removed, discharged, suspended or reduced except as provided in this article, and in no event until he shall have been furnished with a written statement of the reasons for such action. For the purpose of the remainder of this subsection and subsections (b) and (c) of this section, the term “suspension” shall mean only (1) a suspension in excess of ten days or (2) a suspension in any calendar year which when added to any previous suspension or suspensions within the same calendar year results in a total period of suspension in excess of ten days within such same calendar year, and for the purpose of the remainder of this subsection and said subsections (b) and (c), a person shall not be con-
sidered to be suspended or sought to be suspended unless his suspension meets the foregoing definition of said term. 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 person sought to be removed, discharged, suspended or reduced desires to file such written answer, shall be furnished to the civil service commission and entered upon its records. If the person sought to be removed, discharged, suspended or reduced shall demand it, the civil service commission shall grant him a public hearing, which hearing shall be held within a period of ten days from the filing of the charges in writing and the written answer thereto. At such hearing the burden shall be upon the removing, discharging, suspending or reducing officer, hereinafter in this section referred to as "removing officer," to justify his action and in the event the removing officer fails to justify his action before the civil service commission, then the person removed, discharged, suspended or reduced shall be reinstated with full pay, forthwith and without any additional order, for the entire period dur-
ing which he may have been prevented from performing his usual employment, and no charges shall be officially recorded against his record. A written record of all testimony taken at such hearing shall be kept and preserved by the civil service commission, which record shall be sealed and not be open to public inspection, if no appeal be taken from the action of the commission.

(b) In event that the civil service commission shall sustain the action of the removing officer the person removed, discharged, suspended or reduced shall have an immediate right of appeal to the circuit court of the county wherein the city or municipality is situated. Said appeal shall be taken within ninety days from the entry by the civil service commission of its final order; upon such an appeal being taken and docketed with the clerk of the circuit court of said county, the circuit court shall proceed to hear the appeal upon the original record taken therein and no additional proof shall be permitted to be introduced. The circuit court's decision shall be final, saving to the employee, however, the right to petition
the supreme court of appeals for a review of the circuit court's decision.

(c) The removing officer and the person sought to be removed, discharged, suspended or reduced shall at all times, both before the civil service commission and upon appeal, be given the right to employ counsel to represent them: Provided, however, That if for reasons of economy or other reasons it shall be deemed necessary by any city or municipality to reduce the number of paid members of any police department then said municipality shall follow the procedure set for in subsection (d) of this section.

(d) The reduction in members of the said police department of said city or municipality shall be effected by suspending the last man or men, including probationers, that have been appointed to said police department. Such removal shall be accomplished by suspending the number desired in the inverse order of their appointment: Provided further, That in event the said police department shall again be increased in numbers to the 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.

G. Howard House  
Clerk of the Senate

C. A. Lansdell  
Clerk of the House of Delegates

Howard E. Carraway  
President of the Senate

H. Lathan White  
Speaker House of Delegates

The within approved this the 17th day of March, 1967.

Wm. E. Smith  
Governor
PRESENTED TO THE GOVERNOR

Date  9/17/67

Time  9:30am