

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1967



ENROLLED

HOUSE BILL No. 622

(By Mr. Miss Hapis and Mr. Lohr)



PASSED March 9, 1967

In Effect from Passage



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

#622

ENROLLED

House Bill No. 622

(By MISS TSAPIS AND MR. LOHR)

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

AN ACT to amend and reenact section thirteen, article six-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 fire 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 six-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 6A. PAID FIRE DEPARTMENTS.**§8-6A-13. Removal, discharge, suspension, etc., of members
~~of members~~ of fire department.**

1 (a) No member of any fire 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 here-
5 inafter provided in section seventeen; further, no such
6 employee shall be removed, discharged, suspended, or
7 reduced 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 fifteen days or (2) a
13 suspension in any calendar year which when added to
14 any previous suspension or suspensions within the same
15 calendar year results in a total period of suspension in
16 excess of fifteen days within such same calendar year,
17 and for the purpose of the remainder of this subsection
18 and said subsections (b) and (c), a person shall not be
19 considered to be suspended or sought to be suspended

20 unless his suspension meets the foregoing definition of
21 said term. In every case of such removal, discharge,
22 suspension or reduction, a copy of the statement of rea-
23 sons therefor and of the written answer thereto, if the
24 person sought to be removed, discharged, suspended or
25 reduced desires to file such written answer, shall be fur-
26 nished to the civil service commission and entered upon
27 its records. If the person sought to be removed, dis-
28 charged, suspended or reduced shall demand it, the civil
29 service commission shall grant him a public hearing,
30 which hearing shall be held within a period of ten days
31 from the filing of the charges in writing and the written
32 answer thereto. At such hearing the burden shall be
33 upon the removing, discharging, suspending or reducing
34 officer, hereinafter in this section referred to as "remov-
35 ing officer," to justify his action, and in the event the re-
36 moving officer fails to justify his action before the civil
37 service commission, then the person removed, discharged,
38 suspended or reduced shall be reinstated with full pay,
39 forthwith and without any additional order, for the entire
40 period during which he may have been prevented from

41 performing his usual employment, and no charges shall be
42 officially recorded against his record. A written record of
43 all testimony taken at such hearing shall be kept and pre-
44 served by the civil service commission, which record shall
45 be 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
48 sustain the action of the removing officer the person re-
49 moved, discharged, suspended or reduced, shall have an
50 immediate right of appeal to the circuit court of the
51 county wherein the city or municipality is situated.
52 Said appeal shall be taken within ninety days from the
53 entry by the civil service commission of its final order;
54 upon such an appeal being taken and docketed with the
55 clerk of the circuit court of said county, the circuit court
56 shall proceed to hear the appeal upon the original record
57 taken therein and no additional proof shall be permitted
58 to be introduced. The circuit court's decision shall be
59 final, saving to the employee, however, the right to pe-
60 tition the supreme court of appeals for a review of the
61 circuit court's decision.

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

72 (d) The reduction in members of the said fire depart-
73 ment of said city or municipality shall be effected by
74 suspending the last man or men, including probationers,
75 that have been appointed to said fire department. Such
76 removal shall be accomplished by suspending the num-
77 ber desired in the inverse order of their appointment:

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cc. by 78 ~~Providing~~^{ed} further, That in event the said fire department
79 shall again be increased in numbers to the strength ex-
80 isting prior to such reduction of members the said fire-
81 men suspended under the terms of this article shall be

82 reinstated in the inverse order of their suspension before
83 any new appointment to said fire department shall be
84 made.

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

William Tampus
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the House.

Takes effect from passage.

James H. Meyer
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

Howard E. Carson
President of the Senate

H. Leban White
Speaker House of Delegates

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

Hullett C. Smith
Governor



PRESENTED TO THE
GOVERNOR

Date 3/17/67

Time 3:07 P.M.