

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1968

ENROLLED

HOUSE BILL No. 298

(By Mr. Speaker Mr. White and
Mr. Watson)

PASSED February 8, 1968

In Effect from Passage



FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE

THIS DATE 2-16-68

ENROLLED

House Bill No. 298

(By MR. SPEAKER, MR. WHITE, and MR. WATSON)

[Passed February 8, 1968; in effect from passage.]

AN ACT to amend and reenact sections eight and nineteen, article six, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to rules of the civil service commission, certain preferences for veterans under such rules, and certain political activities of civil service personnel.

Be it enacted by the Legislature of West Virginia:

That sections eight and nineteen, article six, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 6. CIVIL SERVICE SYSTEM.

§29-6-8. Rules of commission.

- 1 The present merit system council rules shall be trans-
- 2 formed into the temporary rules of the civil service

3 commission and shall continue in effect until the direc-
4 tor of personnel prepares and submits to the civil service
5 commission new rules for the classified service.

6 Such new rules shall be filed and made effective in
7 conformity with the provisions of chapter twenty-
8 nine-a of this code. Amendments thereto may be
9 made in the same manner. The new rules shall
10 provide:

11 (1) For the preparation, maintenance and revision of
12 a position classification plan for all positions in the classi-
13 fied service, based upon similarity of duties performed
14 and responsibilities assumed, so that the same qualifica-
15 tions may reasonably be required for and the same sched-
16 ule of pay may be equitably* applied to all positions in
17 the same class. After such classification has been ap-
18 proved by the commission, the director shall allocate the
19 position of every employee in the classified service to
20 one of the classes in the plan. Any employee affected
21 by the allocation of a position to a class shall, after filing
22 with the director of personnel a written request for re-
23 consideration thereof in such manner and form as the

24 director may prescribe, be given a reasonable opportunity
25 to be heard thereon by the director. The interested
26 appointing authority shall be given like opportunity to
27 be heard.

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

40 (3) For open competitive examinations to test the
41 relative fitness of applicants for the respective positions.
42 Such examinations need not be held until after the
43 rules have been adopted, the service classified and a
44 pay plan established, but shall be held not later than one

45 year after this article takes effect. Such examinations
46 shall be announced publicly at least fifteen days in
47 advance of the date fixed for the filing of applications
48 therefor, and may be advertised through the press, radio
49 and other media. The director may, however, in his
50 discretion, continue to receive applications and examine
51 candidates long enough to assure a sufficient number
52 of eligibles to meet the needs of the service; and may
53 add the names of successful candidates to existing eligible
54 lists in accordance with their respective 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, the Korean war or the Vietnam conflict shall be
58 entitled to an additional five points on any examination
59 and disabled veterans shall be entitled to an additional
60 ten points: *Provided, however,* That no such additions
61 shall be made where a veteran fails to pass the exami-
62 nation.

63 (4) For promotions which shall give appropriate
64 consideration to the applicant's qualifications, record of
65 performance and his score on written examination, when

66 such examination is practicable. In filling vacancies an
67 effort should be made to achieve a balance between pro-
68 motion from within the service and the introduction into
69 the service of qualified new employees. An advancement
70 in rank or grade or an increase in salary beyond the
71 maximum fixed for the class shall constitute a promo-
72 tion.

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

81 (6) For the rejection of candidates or eligibles who
82 fail to comply with reasonable requirements in regard
83 to such factors as age, physical condition, character, train-
84 ing and experience, who are addicted to alcohol or nar-
85 cotics, or who have attempted any deception or fraud
86 in connection with an examination, or where in the judg-

87 ment of the commission there is reasonable doubt of the
88 loyalty of the candidate or allegiance to the nation.

89 (7) For a period of probation not to exceed one year
90 before appointment or promotion may be made complete.

91 (8) For provisional employment without competitive
92 examination when there is no appropriate eligible list
93 available. No such provisional employment shall con-
94 tinue longer than six months, nor shall successive pro-
95 visional appointments be allowed, except during the first
96 year after the effective date of this article, in order to
97 avoid stoppage of orderly conduct of the business of the
98 state.

99 (9) For keeping records of performance of all em-
100 ployees in the classified service, which service records
101 may be considered in determining salary increases and
102 decreases provided in the pay plan; as a factor in pro-
103 motion tests; as a factor in determining the order of lay-
104 offs because of lack of funds or work and in reinstatement;
105 and as a factor in demotions, discharges and transfers.

106 (10) For layoffs by reason of lack of funds or work,
107 or abolition of a position, or material change in duties

108 or organization, and for reemployment of employees so
109 laid off, giving consideration in both layoffs and re-
110 employment to performance record and seniority in
111 service.

112 (11) For discharge or reduction in rank or grade only
113 for cause of employees in the classified service. Dis-
114 charge or reduction of these employees shall take place
115 only after the person to be discharged or reduced has
116 been presented with the reasons for such discharge or
117 reduction stated in writing, and has been allowed a
118 reasonable time to reply thereto in writing, or upon re-
119 quest to appear personally and reply to the head of the
120 department or his deputy. The statement of reasons and
121 the reply shall be filed as a public record with the direc-
122 tor.

123 (12) For such other rules and administrative regula-
124 tions, not inconsistent with this article, as may be proper
125 and necessary for its enforcement.

126 The commission and the director may include in the
127 rules provided for in this article such provisions as
128 are necessary to conform to regulations and standards

129 of any federal agency governing the receipt and use
130 of federal grants-in-aid by any state agency, anything
131 in this article to the contrary notwithstanding. The
132 commission and the director shall see that rules and
133 practices meeting such standards are in effect continu-
134 ously after the effective date of this article.

§29-6-19. Favortism or discrimination because of political or religious opinions, affiliations or race; political activities prohibited.

1 (a) No person shall be appointed or promoted to, or
2 demoted or dismissed from any position in the classified
3 service or in any way favored or discriminated against
4 with respect to such employment because of his political
5 or religious opinions or affiliations or race; but nothing
6 herein shall be construed as precluding the dismissal of
7 any employee who may be engaged in subversive activi-
8 ties or found disloyal to the nation.

9 (b) No person shall seek or attempt to use any political
10 endorsement in connection with any appointment in the
11 classified service.

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

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

20 (d) No employee in the classified service or member of
21 the commission or the director shall, directly or in-
22 directly, solicit or receive any assessment, subscription
23 or contribution, or perform any service for any political
24 party, or in any manner take part in soliciting any such
25 assessment, subscription, contribution or service of any
26 employee in the classified services.

27 (e) No employee in the classified service shall be a
28 member of any national, state or local committee of a
29 political party, or an officer or member of a committee
30 of a partisan political club, or a candidate for nomination
31 or election to any paid public office, or hold any paid
32 elective public office, or shall take any part in the man-
33 agement or affairs of any political party or in any political

34 campaign, except to exercise his right as a citizen pri-
35 vately to express his opinion and to cast his vote.

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

40 (g) Political participation pertaining to constitutional
41 amendments, referendums, approval of municipal ordi-
42 nances, nonpartisan activities or issues, and other similar
43 questions or activities shall not be deemed to be pro-
44 hibited by the foregoing provisions of this section.

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

William Tompa
Chairman Senate Committee

Clayton C. Davidson
Chairman House Committee

Originated in the House.

Takes effect from passage.

Harold Nease
Clerk of the Senate

C. G. Blankenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

H. Laban White
Speaker of the House of Delegates

The within *approved* this the *14*
day of *February*, 1968.

Herbert C. Smith
Governor



PRESENTED TO THE
GOVERNOR

Date 2/13/68

Time 2:20 P.M.

RECEIVED

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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA