WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1968

ENROLLED

HOUSE BILL No. 298

(By Mr. Speaker, Mr. White, and Mr. Wilson)

PASSED February 9, 1968

In Effect from Passage

FILED IN THE OFFICE
ROBERT D. BAILEY
SECRETARY OF STATE
THIS DATE 2-16-68
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
commission and shall continue in effect until the director of personnel prepares and submits to the civil service commission new rules for the classified service.

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

(1) For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class. After such classification has been approved by the commission, the director shall allocate the position of every employee in the classified service to one of the classes in the plan. Any employee affected by the allocation of a position to a class shall, after filing with the director of personnel a written request for reconsideration thereof in such manner and form as the
director may prescribe, be given a reasonable opportunity
to be heard thereon by the director. The interested
appointing authority shall be given like opportunity to
be heard.

(2) For a pay plan for all employees in the classi-
ified service, after consultation with appointing authori-
ties and the state fiscal officers, and after a public hear-
ing held by the commission. Such pay plan shall be-
come effective only after it has been approved by the
governor after submission to him by the commission.

Amendments to the pay plan may be made in the same
manner. Each employee shall be paid at one of the rates
set forth in the pay plan for the class of position in which
he is employed. The principle of equal pay for equal
work in the several agencies of the state government
shall be followed in the pay plan as established hereby.

(3) For open competitive examinations to test the
relative fitness of applicants for the respective positions.
Such examinations need not be held until after the
rules have been adopted, the service classified and a
pay plan established, but shall be held not later than one
year after this article takes effect. Such examinations shall be announced publicly at least fifteen days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio and other media. The director may, however, in his discretion, continue to receive applications and examine candidates long enough to assure a sufficient number of eligibles to meet the needs of the service; and may add the names of successful candidates to existing eligible lists in accordance with their respective ratings.

Veterans who present proof of at least one year's honorable service to the United States in either of the world wars, the Korean war or the Vietnam conflict shall be entitled to an additional five points on any examination and disabled veterans shall be entitled to an additional ten points: Provided, however, That no such additions shall be made where a veteran fails to pass the examination.

(4) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance and his score on written examination, when
such examination is practicable. In filling vacancies an

effort should be made to achieve a balance between pro-

motion from within the service and the introduction into

the service of qualified new employees. An advancement

in rank or grade or an increase in salary beyond the

maximum fixed for the class shall constitute a promo-

tion.

(5) For the establishment of eligible lists for appoint-

ment and promotion, upon which lists shall be placed

the names of successful candidates in the order of their

relative excellence in the respective examinations.

Eligibility for appointment from any such list shall con-
tinue not longer than three years. An appointing

authority must make his selection from the top five names

on the appropriate list of eligibles.

(6) For the rejection of candidates or eligibles who

fail to comply with reasonable requirements in regard
to such factors as age, physical condition, character, train-
ing and experience, who are addicted to alcohol or nar-
cotics, or who have attempted any deception or fraud

in connection with an examination, or where in the judg-
ment of the commission there is reasonable doubt of the
loyalty of the candidate or allegiance to the nation.

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

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

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

(10) For layoffs by reason of lack of funds or work,
or abolition of a position, or material change in duties
or organization, and for reemployment of employees so laid off, giving consideration in both layoffs and re-
employment to performance record and seniority in service.

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

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

The commission and the director may include in the rules provided for in this article such provisions as are necessary to conform to regulations and standards
of any federal agency governing the receipt and use
of federal grants-in-aid by any state agency, anything
in this article to the contrary notwithstanding. The
commission and the director shall see that rules and
practices meeting such standards are in effect continu-
ously after the effective date of this article.

§29-6-19. Favoritism or discrimination because of political or
religious opinions, affiliations or race; political activi-
ties prohibited.

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

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

12 (c) No person shall use or promise to use, directly or
indirectly, any official authority or influence, whether
possessed or anticipated, to secure or attempt to secure
for any person an appointment or advantage in appoint-
ment to a position in the classified service, or an increase
in pay or other advantage in employment in any such
position, for the purpose of influencing the vote or
political action of any person, or for any consideration.
(d) No employee in the classified service or member of
the commission or the director shall, directly or in-
directly, solicit or receive any assessment, subscription
or contribution, or perform any service for any political
party, or in any manner take part in soliciting any such
assessment, subscription, contribution or service of any
employee in the classified services.
(e) No employee in the classified service shall be a
member of any national, state or local committee of a
political party, or an officer or member of a committee
of a partisan political club, or a candidate for nomination
or election to any paid public office, or hold any paid
elective public office, or shall take any part in the man-
agement or affairs of any political party or in any political
campaign, except to exercise his right as a citizen pri-

cvately to express his opinion and to cast his vote.

(f) Any officer or employee in the state service who

violates any of the foregoing provisions of this section

shall forfeit his office or position, and for one year shall

be ineligible for any office or position in the state service.

(g) Political participation pertaining to constitutional

amendments, referendums, approval of municipal ordi-

nances, nonpartisan activities or issues, and other similar

questions or activities shall not be deemed to be pro-

hibited by the foregoing provisions of this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

William Temper
Chairman Senate Committee

Clayton L. Davidson
Chairman House Committee

Originated in the House.

Takes effect from passage.

John W. Hare
Clerk of the Senate

C. A. Blakenship
Clerk of the House of Delegates

Howard W. Carson
President of the Senate

W. Saban White
Speaker of the House of Delegates

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

H. Lee Smith
Governor
PRESENTED TO THE
GOVERNOR

Date: 2/13/68

Time: 2:20 P.M.