WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976

ENROLLED
Committee Substitute for
HOUSE BILL No. 1368

(By Mr. Jatte)

PASSED May 15, 1976

In Effect ninety days from Passage

C 641

FILED IN THE OFFICE
JAMES R. MCCARTNEY
SECRETARY OF STATE
THIS DATE 5/25/76
AN ACT to amend and reenact section thirteen, article six, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to civil service for state employees generally, dismissals and demotions of employees in the classified service; hearings upon such dismissals or demotions; the burden of proof with respect to such hearings; authorizing certain action by the commission following such hearings; and judicial review of any decision following such hearings.

Be it enacted by the Legislature of West Virginia:

That section thirteen, 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.

§29-6-13. Appeals by employees to commission; hearings; review by court of appeals.

1. Any employee in the classified service who is dismissed or demoted after completing his probationary period of service or
who is suspended for more than thirty days in any one year, may, within thirty days after such dismissal, demotion or suspension, appeal to the commission for review thereof. Upon such review, both the appealing employee and the appointing authority whose action is reviewed shall have the right to be heard publicly and to present evidentiary facts. At the hearing of such appeals, technical rules of evidence shall not apply. At any such hearing, the burden of proof will be upon the appointing authority to establish that the dismissal or demotion was proper in all respects and that such dismissal or demotion was not arbitrary or capricious. Such burden shall remain with the appointing authority throughout every stage of such hearing. If the commission finds that the action complained of was taken by the appointing authority without good cause, the employee shall be reinstated to his former position or a position of like status and pay, without loss of pay for the period of his suspension, and awarded his reasonable and necessary attorneys fees expended therein, such fees to be paid by the appointing authority. If the commission finds that the action complained of and taken by the appointing authority was too severe but was with good cause, the commission may provide for such other remedy or remedies, as may be deemed appropriate and in the best interest of the parties. The commission shall expressly have the authority by order to provide for such remedies as it may deem to be appropriate after it has made a complete review of the circumstances of each individual case and such remedies shall include, but not be limited to, the restoration of all or part of an individual's back pay or wages for the period of the suspension or reinstatement of an individual to his former position or a position of like status and pay or reemployment to any other position which in the judgment of the commission is in the best interest of the parties or any combination of such remedies. When any employee is dismissed and not reinstated after such appeal the commission in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he has been removed. Any final action or decision taken or made hereunder shall be subject to review by the supreme court of appeals, if appeal is made within sixty days of the action or decision complained of.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James
Chairman Senate Committee

Chairman House Committee

Originated in the House.
Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 24th day of May, 1976.

Governor
PRESENTED TO THE
GOVERNOR

Date 5/20/76
Time 1:55 p.m.