

MAY 25 11 11 AM '76

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976



ENROLLED

Committee Substitute for

HOUSE BILL No. 1388

(By Mr. Satter.....)



PASSED May 15,..... 1976

In Effect ninety days from..... Passage



FILED IN THE OFFICE
JAMES R. McCARTNEY
SECRETARY OF STATE

THIS DATE 5/25/76

8
8
E
/

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1388
(By MR. SATTES)

(Originating in the House Committee on the Judiciary)

[Passed May 15, 1976; in effect ninety days from passage.]

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
- 2 demoted after completing his probationary period of service or

3 who is suspended for more than thirty days in any one year,
4 may, within thirty days after such dismissal, demotion or sus-
5 pension, appeal to the commission for review thereof. Upon
6 such review, both the appealing employee and the appointing
7 authority whose action is reviewed shall have the right to be
8 heard publicly and to present evidentiary facts. At the hearing
9 of such appeals, technical rules of evidence shall not apply.
10 At any such hearing, the burden of proof will be upon the
11 appointing authority to establish that the dismissal or demotion
12 was proper in all respects and that such dismissal or demotion
13 was not arbitrary or capricious. Such burden shall remain with
14 the appointing authority throughout every stage of such hear-
15 ing. If the commission finds that the action complained of was
16 taken by the appointing authority without good cause, the
17 employee shall be reinstated to his former position or a position
18 of like status and pay, without loss of pay for the period of his
19 suspension, and awarded his reasonable and necessary attorneys
20 fees expended therein, such fees to be paid by the appointing
21 authority. If the commission finds that the action complained
22 of and taken by the appointing authority was too severe but
23 was with good cause, the commission may provide for such
24 other remedy or remedies, as may be deemed appropriate
25 and in the best interest of the parties. The commission
26 shall expressly have the authority by order to provide for such
27 remedies as it may deem to be appropriate after it has made
28 a complete review of the circumstances of each individual
29 case and such remedies shall include, but not be limited to, the
30 restoration of all or part of an individual's back pay or wages
31 for the period of the suspension or reinstatement of an indi-
32 vidual to his former position or a position of like status and
33 pay or reemployment to any other position which in the judg-
34 ment of the commission is in the best interest of the parties or
35 any combination of such remedies. When any employee is
36 dismissed and not reinstated after such appeal the commis-
37 sion in its discretion may direct that his name be placed on an
38 appropriate reemployment list for employment in any similar
39 position other than the one from which he has been removed.
40 Any final action or decision taken or made hereunder shall be
41 subject to review by the supreme court of appeals, if appeal is
42 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 L. Davis

 Chairman Senate Committee

Clarence C. Christman Jr.

 Chairman House Committee

Originated in the House.

Takes effect ninety days from passage.

J. C. Dillon, Jr.

 Clerk of the Senate

V. A. Blankenship

 Clerk of the House of Delegates

W. T. Butler Jr.

 President of the Senate

Lewis F. McHenry

 Speaker House of Delegates

The within *approved* this the *24th*
Day
 day of _____, 1976.

Arch A. Branch Jr.

 Governor

PRESENTED TO THE
GOVERNOR

Date 5/20/76

Time 1:55 p.m.