WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981

ENROLLED
Committee Substitute for
SENATE BILL NO. 104

(By Mr. Gilligan)

PASSED April 11, 1981
In Effect ninety days from Passage.
ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 164
(MR. GILLIGAN, original sponsor)

[Passed April 11, 1981; in effect ninety days from passage.]

AN ACT to amend article two, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section eleven, relating to the right of an employee to a hearing on a dispute with a county board of education; and requiring the board to pay reasonable attorney's fees, court costs, and court reporter's fees when employee prevails.

Be it enacted by the Legislature of West Virginia:

That article two, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section eleven, to read as follows:

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-11. School employee's right to a hearing on any dispute; payment of attorney's fee and court reporter's fee and court costs.

In case of dispute or controversy between the county board of education and any county board employee, except the superintendent, associate superintendent, or assistant superintendent, regarding transfer, suspension, dismissal, assignment, grievance, salary, termination of contract, job classification, or any similar matter, the employee shall be entitled to the payment of attorney fees and court reporter
costs as hereinafter provided. When the dispute involves assignment, transfer, suspension, termination or renewal of contract or dismissal, the employee shall have a right, upon request, to an immediate hearing before the board. When the dispute involves grievance, salary, job classification, or any similar matter, the employee shall have a right to a hearing, upon request, before the board after exhausting all available grievance procedures exclusive of a board hearing.

If, after such a hearing, the employee institutes any proceeding in a circuit court against the board, based upon such dispute or controversy, and shall substantially prevail, the board shall be liable to the employee, upon final judgment or order, for court costs, and for reasonable attorney's fees, to be set by the court, for representing the employee in the hearing before the board, in the circuit court, and in the supreme court of appeals, and shall be further liable to the employee for the charges, if any, for any court reporter's costs incurred during the hearing before the board: Provided, That in no event shall such attorney's fees be awarded in excess of a total of five hundred dollars for the board hearing and circuit court proceedings nor an additional five hundred dollars for supreme court proceedings: Provided, however, That the requirements of this section shall not be construed to limit the school employee's right to recover reasonable attorney's fees in a mandamus proceeding brought under section eight, article four, chapter eighteen-a of this code.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. B. Baylor
Chairman Senate Committee

Tony E. Whittow
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

J. C. Willis
Clerk of the Senate

R. Blankenship
Clerk of the House of Delegates

Robert R. Rackover
President of the Senate

Charles H. Lee, Jr.
Speaker House of Delegates

The within is approved this the 20th day of April, 1981.

John D. Rhinelander
Governor