

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-28-81

Time \_\_\_\_\_

No: 164

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981

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## ENROLLED

*Committee Substitute for*

SENATE BILL NO. 164

(By Mr. Gilligan)

—•—

PASSED April 11, 1981

In Effect ninety days from Passage

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**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.**

1 In case of dispute or controversy between the county board  
2 of education and any county board employee, except the  
3 superintendent, associate superintendent, or assistant  
4 superintendent, regarding transfer, suspension, dismissal,  
5 assignment, grievance, salary, termination of contract, job  
6 classification, or any similar matter, the employee shall be  
7 entitled to the payment of attorney fees and court reporter

8 costs as hereinafter provided. When the dispute involves  
9 assignment, transfer, suspension, termination or renewal of  
10 contract or dismissal, the employee shall have a right, upon  
11 request, to an immediate hearing before the board. When the  
12 dispute involves grievance, salary, job classification, or any  
13 similar matter, the employee shall have a right to a hearing,  
14 upon request, before the board after exhausting all available  
15 grievance procedures exclusive of a board hearing.

16 If, after such a hearing, the employee institutes any  
17 proceeding in a circuit court against the board, based upon  
18 such dispute or controversy, and shall substantially prevail,  
19 the board shall be liable to the employee, upon final judgment  
20 or order, for court costs, and for reasonable attorney's fees, to  
21 be set by the court, for representing the employee in the  
22 hearing before the board, in the circuit court, and in the  
23 supreme court of appeals, and shall be further liable to the  
24 employee for the charges, if any, for any court reporter's costs  
25 incurred during the hearing before the board: *Provided*, That  
26 in no event shall such attorney's fees be awarded in excess of  
27 a total of five hundred dollars for the board hearing and  
28 circuit court proceedings nor an additional five hundred  
29 dollars for supreme court proceedings: *Provided, however*,  
30 That the requirements of this section shall not be construed  
31 to limit the school employee's right to recover reasonable  
32 attorney's fees in a mandamus proceeding brought under  
33 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. P. Baylor*  
Chairman Senate Committee

*Jonny E. Whitlow*  
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

*Isaac C. Williams*  
Clerk of the Senate

*W. Blankenship*  
Clerk of the House of Delegates

*W. Blankenship*  
President of the Senate

*W. Blankenship*  
Speaker House of Delegates

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

*W. Blankenship*  
Governor



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SECY. OF STATE