WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

ENROLLED

SENATE BILL NO. 534

(By Mr. [Signature of President])

PASSED March 16, 1984

In Effect ninety days from Passage
ENROLLED

Senate Bill No. 534
(By Mr. McGraw, Mr. President)

[Passed March 10, 1984; in effect ninety days from passage.]

AN ACT to amend article fourteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirteen-a; and to amend article fifteen of said chapter by adding thereto a new section, designated section eighteen-a, all relating to review by members of police and fire departments of their individual promotional examination questions, answers and scores; public hearing and review of any individual's examination by the policemen's or firemen's civil service commission upon request of the individual; certification of eligibility lists after exhaustion of commission review; judicial review of commission decisions.

Be it enacted by the Legislature of West Virginia:

That article fourteen, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirteen-a; and that article fifteen of said chapter be amended by adding thereto a new section, designated section eighteen-a, all to read as follows:
ARTICLE 14. LAW AND ORDER; POLICE FORCE OR DEPARTMENTS; POWERS, AUTHORITY AND DUTIES OF LAW-ENFORCEMENT OFFICIALS AND POLICEMEN; POLICE MATRONS; SPECIAL SCHOOL ZONE AND PARKING LOT OR PARKING BUILDING POLICE OFFICERS; CIVIL SERVICE FOR CERTAIN POLICE DEPARTMENTS.

PART V. CIVIL SERVICE FOR CERTAIN POLICE DEPARTMENTS.

§8-14-13a. Individual review of test and answers from promotional examination.

(a) Any applicant for promotion to any position in a paid police department may personally review such applicant's examination questions, answers and scores to all parts of any competitive examination within five days after the posting of results of the competitive examination. Such five days shall not include the day the examination results are posted, nor any day that the office of the recorder of the city is not open for business to the public. The commission shall not certify the list of eligibles until all procedures before the commission under this section have been exhausted. The commission shall provide any applicant requesting review of such applicant's examination questions, answers and scores with a location to review such materials.

(b) If any applicant feels aggrieved by the answers and/or scores received on a promotional competitive examination, the commission shall, at the request of such applicant made within five days as calculated above, appoint a date, time and place for a public hearing, at which time such applicant may appear, with or without counsel. The commission shall review all parts of the competitive examination questions, answers and scores of the aggrieved applicant, and testimony shall be taken. The commission shall subpoena, at the expense of the applicant, any competent witnesses requested by such applicant.

(c) After such review, the commission shall render a decision either in favor of the applicant, and therefore adjust the certified eligibility list to provide for such applicant's adjusted score, or the commission shall rule that the applicant's prior score should remain unchanged.
Any decision rendered by the commission under this section shall be in writing and shall set forth findings of fact and conclusions of law relied upon to reach such decision.

(d) The commission shall not certify a list of eligibles after the completion of a competitive promotional examination until all applicants for such position have exhausted the procedures before the commission set forth in this section.

(e) If any applicant is aggrieved by a decision rendered by the commission under this section, such applicant may, within twenty days of the date of the commission's decision, seek judicial review thereof in the circuit court of the county wherein such municipality is located. Nothing in this section shall be construed as depriving such applicant of the right to seek a writ of mandamus to the appropriate court within the time specified in this subsection.

ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

PART IV. CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

§8-15-18a. Individual review of test and answers from promotional examination.

(a) Any applicant for promotion to any position in a paid fire department may personally review such applicant's examination questions, answers and scores to all parts of any competitive examination within five days after the posting of results of the competitive examination. Such five days shall not include the days the examination results are posted, nor any day that the office of the recorder of the city is not open for business to the public. The commission shall not certify the list of eligibles until all procedures before the commission under this section have been exhausted. The commission shall provide any applicant requesting review of such applicant's examination questions, answers and scores with a location to review such materials.
(b) If any applicant feels aggrieved by the answers and/or scores received on a promotional competitive examination, the commission shall, at the request of such applicant made within five days as calculated above, appoint a date, time and place for a public hearing, at which time such applicant may appear, with or without council. The commission shall review all parts of the competitive examination questions, answers and scores of the aggrieved applicant, and testimony shall be taken. The commission shall subpoena, at the expense of the applicant, any competent witnesses requested by such applicant.

(c) After such review, the commission shall render a decision either in favor of the applicant, and therefore adjust the eligibility list to provide for such applicant's adjusted score, or the commission shall rule that the applicant's prior score should remain unchanged. Any decision rendered by the commission under this section shall be in writing and shall set forth findings of fact and conclusions of law relied upon to reach such decision.

(d) The commission shall not certify a list of eligibles after the completion of a competitive promotional examination until all applicants for such position have exhausted the procedures before the commission set forth in this section.

(e) If any applicant is aggrieved by a decision rendered by the commission under this section, such applicant may, within twenty days of the date of the commission's decision, seek judicial review thereof in the circuit court of the county wherein such municipality is located. Nothing in this section shall be construed as depriving such applicant of the right to seek a writ of mandamus to the appropriate court within the time specified in this subsection.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Donald Angelo
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Donald D. Yost
Clerk of the House of Delegates

President of the Senate

Walter S. London
Speaker House of Delegates

The within _____ is approved ______ this the 30th day of __________, 1984.

Governor

[Signature]