

No. 534

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WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1984

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ENROLLED

SENATE BILL NO. 534

(By Mr. McGraw, Mr. President)

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PASSED March 10 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.

1 (a) Any applicant for promotion to any position in a
2 paid police department may personally review such ap-
3 plicant's examination questions, answers and scores to
4 all parts of any competitive examination within five
5 days after the posting of results of the competitive ex-
6 amination. Such five days shall not include the day the
7 examination results are posted, nor any day that the
8 office of the recorder of the city is not open for business
9 to the public. The commission shall not certify the list
10 of eligibles until all procedures before the commission
11 under this section have been exhausted. The commis-
12 sion shall provide any applicant requesting review of
13 such applicant's examination questions, answers and
14 scores with a location to review such materials.

15 (b) If any applicant feels aggrieved by the answers
16 and/or scores received on a promotional competitive ex-
17 amination, the commission shall, at the request of such
18 applicant made within five days as calculated above,
19 appoint a date, time and place for a public hearing, at
20 which time such applicant may appear, with or without
21 counsel. The commission shall review all parts of the
22 competitive examination questions, answers and scores
23 of the aggrieved applicant, and testimony shall be taken.

24 The commission shall subpoena, at the expense of the
25 applicant, any competent witnesses requested by such
26 applicant.

27 (c) After such review, the commission shall render a
28 decision either in favor of the applicant, and therefore
29 adjust the certified eligibility list to provide for such
30 applicant's adjusted score, or the commission shall rule
31 that the applicant's prior score should remain unchanged.

32 Any decision rendered by the commission under this
33 section shall be in writing and shall set forth findings
34 of fact and conclusions of law relied upon to reach such
35 decision.

36 (d) The commission shall not certify a list of eligibles
37 after the completion of a competitive promotional ex-
38 amination until all applicants for such position have
39 exhausted the procedures before the commission set
40 forth in this section.

41 (e) If any applicant is aggrieved by a decision rendered
42 by the commission under this section, such applicant may,
43 within twenty days of the date of the commission's deci-
44 sion, seek judicial review thereof in the circuit court of
45 the county wherein such municipality is located. Nothing
46 in this section shall be construed as depriving such
47 applicant of the right to seek a writ of mandamus to the
48 appropriate court within the time specified in this sub-
49 section.

**ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPART-
MENTS; CIVIL SERVICE FOR PAID FIRE DE-
PARTMENTS.**

PART IV. CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

**§8-15-18a. Individual review of test and answers from pro-
motional examination.**

1 (a) Any applicant for promotion to any position in a
2 paid fire department may personally review such ap-
3 plicant's examination questions, answers and scores to
4 all parts of any competitive examination within five days
5 after the posting of results of the competitive examina-
6 tion. Such five days shall not include the days the ex-
7 amination results are posted, nor any day that the office
8 of the recorder of the city is not open for business to the
9 public. The commission shall not certify the list of
10 eligibles until all procedures before the commission under
11 this section have been exhausted. The commission shall
12 provide any applicant requesting review of such ap-
13 plicant's examination questions, answers and scores with
14 a location to review such materials.

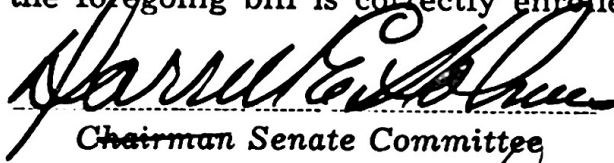
15 (b) If any applicant feels aggrieved by the answers
16 and/or scores received on a promotional competitive
17 examination, the commission shall, at the request of such
18 applicant made within five days as calculated above,
19 appoint a date, time and place for a public hearing, at
20 which time such applicant may appear, with or without
21 council. The commission shall review all parts of the
22 competitive examination questions, answers and scores
23 of the aggrieved applicant, and testimony shall be taken.
24 The commisison shall subpoena, at the expense of the ap-
25 plicant, any competent witnesses requested by such ap-
26 plicant.

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

35 (d) The commission shall not certify a list of eligibles
36 after the completion of a competitive promotional ex-
37 amination until all applicants for such position have ex-
38 hausted the procedures before the commission set forth
39 in this section.

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

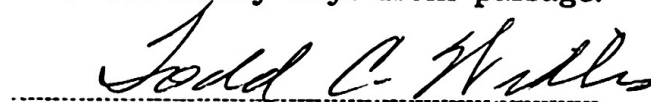
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

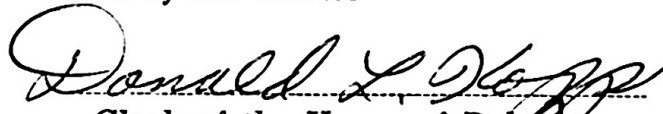

Chairman Senate Committee

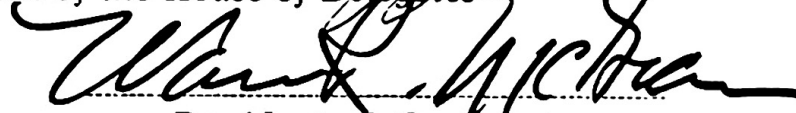

Chairman House Committee

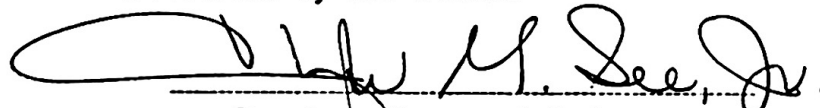
Originated in the Senate.

In 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 is approved this the 30
day of March, 1984.


Governor

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