

SB # 18

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1994



# ENROLLED

SENATE BILL NO. 18

(By Senators Burdette, Mr. President, and Boley, By Request of the Executive)



PASSED March 10, 1994

In Effect 90 days from Passage

**E N R O L L E D**  
**Senate Bill No. 18**

(BY SENATORS BURDETTE, MR. PRESIDENT, AND BOLEY,  
BY REQUEST OF THE EXECUTIVE)

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[Passed March 10, 1994; in effect ninety days from passage.]

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AN ACT to amend and reenact section ten-a, article six, chapter twenty-nine of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the rights of supervisors and certain employees in the classified service of the state in circumstances where there is a reduction in force.

*Be it enacted by the Legislature of West Virginia:*

That section ten-a, 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 COMMISSION.**

**§29-6-10a. Reduction in work force.**

- 1 (a) Notwithstanding any other provision of this article
- 2 or any rule promulgated thereunder to the contrary, an
- 3 employee in the classified service who has performed

4 work for a reasonable period of time in a position with  
5 a classification that is higher than the position in which  
6 he is employed and classified may, in the event that his  
7 regular position would be terminated as a result of a  
8 reduction in force in his division, have the right to  
9 request that his classification be reviewed and that, in  
10 his or her supervisor's discretion, he be promoted to the  
11 higher classified position by passing a qualifying  
12 examination for such higher position and providing  
13 sufficient evidence of his work periods and satisfactory  
14 performance of the duties and responsibilities of the  
15 higher classified position.

16 The commission shall provide by legislative rule for  
17 the maintenance of records by all covered agencies of  
18 the work periods and rating of job performance of  
19 employees performing work in a position or positions  
20 with a classification that is higher than the position in  
21 which he is employed and classified and the duration of  
22 work periods required to request review and promotion.

23 (b) The provisions of this subsection shall be of no  
24 force and effect on and after the first day of July, one  
25 thousand nine hundred ninety-five. Notwithstanding  
26 any other provision of this code to the contrary, a  
27 managerial or supervisory employee in the classified  
28 service of this state with a classified service pay grade of  
29 sixteen or higher who is adversely affected by a  
30 reduction in force shall not be entitled to be reassigned,  
31 transferred or otherwise retained for any position in  
32 state government except as provided in this section, and  
33 no regulation or policy shall provide for such a right:  
34 *Provided*, That there shall be no redesignation of the  
35 levels of pay grades in the classified service in effect on  
36 the first day of May, one thousand nine hundred ninety-  
37 four. Any such employee shall have the right, upon  
38 notice of and prior to the effective date of the reduction  
39 in force, to accept a position in a lower job class at no  
40 less than the entry salary of that position if the  
41 employee: (1) Has formerly performed the duties of that

42 position or the substantial equivalent thereof and is  
43 otherwise qualified within the classified service for that  
44 position; and (2) is a more senior employee than the least  
45 senior employee then employed in such position. No  
46 provision of this section shall be construed to deny the  
47 right of the appointing authority, in his or her discre-  
48 tion, to reassign, transfer or otherwise retain such  
49 employee to or for another position for which the  
50 employee is qualified within the classified service.  
51 Where the employee is not reassigned, transferred or  
52 otherwise retained pursuant to the provisions of this  
53 section, no provision of this section shall be construed to  
54 deny the employee the opportunity to reapply for  
55 entrance in the classified service of the state through  
56 participation in competitive examinations.

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

*[Handwritten signature]*  
.....  
Chairman Senate Committee

*[Handwritten signature]*  
.....  
Ernest C. Moore  
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

*[Handwritten signature]*  
.....  
Clerk of the Senate

*[Handwritten signature]*  
.....  
Clerk of the House of Delegates

*[Handwritten signature]*  
.....  
President of the Senate

*[Handwritten signature]*  
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Speaker House of Delegates

The within *is appended* this the *30th* day of *March*, 1994.

*[Handwritten signature]*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/29/94

Time 11:35 am