

CIVIL SERVICE COMMISSION
Willard H. Erwin, Jr., Chairman
Bill J. Wellman



Address Communications To:
Director of Personnel
1900 Washington Street East
Room B-456
Charleston, West Virginia 25305
Phone 348-3950

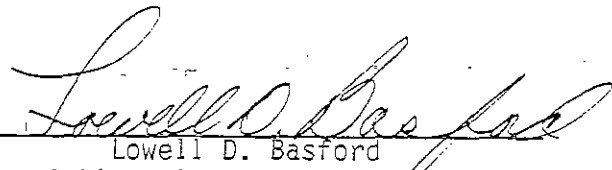
STATE OF WEST VIRGINIA

CIVIL SERVICE SYSTEM

NOTICE OF AGENCY APPROVAL

LEGISLATIVE RULE: Rules and Regulations
West Virginia Civil Service System

The attached legislative rule constitutes the official rule approved by
the West Virginia Civil Service Commission
on 5th day of November, 1986 and filed pursuant to law
with the West Virginia Secretary of State and the Legislative Rule-
Making Review Committee.


Lowell D. Basford
Acting Director of Personnel

PROMULGATION HISTORY ABSTRACT

AGENCY: Civil Service System

RULE TITLE Rules and Regulations

Civil Service System SERIES # 2

RULE TYPE: Legislative

NEW RULE: _____; AMENDMENT OF EXISTING RULE: XXX

SECTION(S) AMENDED: Sections 3, 10, 12, 16, 18,

23, 24, 25

DATE FILED PROPOSED RULE OR AMENDMENTS FOR PUBLIC HEARING: September 8, 1986

DATE(S) OF PUBLIC HEARING: October 16, 1986

For Interpretive, Procedural or Exempt Rules ONLY

DATE AGENCY ADOPTED RULE FILED: _____

DATE EFFECTIVE: _____

For Legislative Rules ONLY

DATE AGENCY APPROVED RULE FILED: November 17, 1986

DATE OF ACTION BY L.R.M.R.C. : Approved _____ Amended _____

Approve Part _____, Reject _____

MODIFIED TO MEET L.R.M.R.C. COMMENTS; yes _____, no _____

BILL OF AUTHORIZATION # _____, PASSED ON _____

AMENDED BY THE LEGISLATURE, yes _____, no _____

FINAL FILING ON _____

EFFECTIVE ON _____

DATE RULE OR AMENDMENT FILED AS AN EMERGENCY RULE: _____

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rules and Regulations

Type of Rule: X Legislative Interpretive Procedural

Agency Civil Service System Address 1900 Washington Street, E.
Charleston, WV 25305

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Personal Services					
Current Expense					
Repairs and Alterations					
Equipment					
Other					

2. Explanation of above estimates.

See comment on #4A

3. Objectives of these rules:

To bring the Rules and Regulations into compliance with the related statute, Chapter 29, Article 6.

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

The granting of paid time off for grievant and grievant representative to prepare for grievance presentation will decrease the work time for these employees. We estimate the lost work time to be approximately 3,000 man-hours.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of citizens.

C. Economic Impact on Citizens/Public at Large.

Date 11/14/86

Signature of Agency Head or Authorized Representative

Leon D. Pasfinc

DATE: November 17, 1986

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: Lowell D. Basford, Acting Director of Personnel *LOB*

LEGISLATIVE RULE TITLE:

1. Authorizing statute(s) citation Chapter 29.
Article 6, Section 10

2. a. Date filed in State Register with Notice of Hearing:
September 8, 1986

b. What other notice, including advertising, did you
give of the hearing?

Notice was placed in all major newspapers (20) in the State
and notice was sent to all agencies and employee organizations

c. Date of Hearing(s): October 16, 1986

d. Attach list of persons who appeared at hearing,
comments received, amendments, reasons for
amendments.

Attached X No comments received

e. Date you filed in State Register the agency
approved proposed Legislative Rule following public
hearing: (be exact)

November 17, 1986

f. Name and phone number of agency person to contact
for additional information:

Lowell D. Basford

348-3950

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

b. Date of Hearing: -----

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

d. Attach findings and determinations and reasons:

Attached -----

FILED

Section 3. Definitions

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Veterans' Preference Points: An additional 5 points added to the final passing score of any veteran who has served in the armed forces of the United States of America during World War I (April 6, 1917, to November 11, 1918), World War II (December 7, 1941, to December 31, 1946), the Korean Conflict (June 27, 1950, to January 31, 1955), or the Vietnam Conflict (August 5, 1964, to March 28, 1973 May 7, 1975) and who has received a discharge under honorable conditions from such service. An additional 5 points are available to such veterans who also have a current and compensable service connected disability or who have received a Purple Heart award.

Section 10. Appointments

10.07. Posting of Job Openings-Whenever a job opening occurs in the classified service, the appointing authority shall post a notice within the building, facility or work area and throughout the agency that candidates will be considered to fill the job opening. The posting notice shall be at least ten (10) working days before making an appointment to fill the job opening. The notice shall state that a job opening has occurred, describe the duties to be performed, and the classification to be used to fill the job opening.

(a) The term job opening refers to any vacancy to be filled by promotion, lateral class change, or transfer.

(b) A vacancy is any full-time permanent unfilled budgetary position or any full-time permanent new position created by a reorganization or realignment of job functions.

(c) The posting notice shall include a description of the duties to be performed by the person selected, the minimum qualifications for the position, the job classification to be used in filling the job opening, the salary level or range that will be considered, and the job location. When appropriate, the posting notice may specify two classes in a promotional series.

An established closing date, if any, for the receipt of applications shall allow sufficient time to ensure that the job vacancy circulation has been posted throughout the agency for ten (10) working days. The naming of an individual to fill the position is the appointment and is not altered by the fact that the individual will not assume the duties until a later date. Therefore, the agency shall not make an appointment to a position prior to the deadline for receipt of applications as listed on the posting.

(d) Any employee in the classified service who believes that the statutory requirement is violated or who is denied consideration for the job opening shall have the right to initiate a grievance under Section 23 of these Rules and Regulations within five working days of becoming aware of the event or within five working days of when they should have become aware of the event.

Section 12. Promotions, Demotions, Transfers

12.06. Posting Requirements

The vacancy posting requirements described in Section 10.07 shall apply to all full-time classified position vacancies except demotions with prejudice and/or transfers for cause, regardless of the means used to fill such vacancy.

Section 16. Attendance and Leave

In compliance with Chapter 21, Article 5C; Chapter 2, Article 2; and Chapter 29, Article 6, Section 10, of the Code of West Virginia, as amended, the following regulations shall apply to classified employees.

16.01. Holidays Official Holidays

1. In accordance with Chapter 2, Article 2, of the West Virginia Code, as amended, official holidays are New Year's Day, Martin Luther King's Birthday, Lincoln's Birthday, Washington's Birthday, Memorial Day, West Virginia Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, Christmas Day, any day in which an election (Primary or General) is held throughout the State, and such other days as the President, Governor or other duly constituted authority shall proclaim to be legal holidays.

2. When a holiday falls on a Sunday, the following Monday shall be observed as the official holiday. When a holiday falls on a Saturday, the previous Friday shall be observed. When Christmas or New Year's Day occurs on Tuesday, Wednesday, Thursday, or Friday, the last half of the scheduled work day immediately preceding the holiday will be given as time off. It is recognized that some agencies must modify holiday schedules to accommodate around-the-clock shifts or other special needs. Each agency should notify employees in advance of altered holiday work schedules and should schedule altered holidays on days as close as possible to the normal holidays.

3. Public employees may observe Martin Luther King Day on his actual birthday, January fifteenth. - A public employer shall not refuse time off to any employee for such observance; however, the time off shall be charged against the employee's accrued annual leave and application therefor shall be the same as application for annual leave.

~~(b) Religious Holidays~~ - Agencies shall make reasonable accommodation to an employee's religious holidays as required by law.

Section 16.03. Annual Leave

(f) Death of Employee-Upon the death of an employee who has not used all accrued annual leave, the unused portion shall be paid in such manner as to benefit the employee's estate. Payment shall not be limited to the maximum carry-forward amount for length of service category and may be paid in lump sum as provided in Section 16.03(g)2 of these rules.

(g) Separation From Employment-An employee who separates from employment for any reason except as described in 16.03(f) shall be paid for all accrued annual leave not to exceed the maximum carry-over hours for the appropriate length of service category. Annual leave does not accrue, salary adjustments shall not be given, and payment shall not be made for holidays which occur after the effective date of separation or last day worked during the notice period. Such payment shall be made according to one of the following methods:

1. An employee may elect to be paid in bi-monthly installments as if employment were continuing until the pay period during which the accrued annual leave is exhausted. If the last day for which separation leave payment is due falls before the day on which the pay period ends, separation leave payment for those days within that pay period shall be calculated using the daily rate for the month in which the last day on payroll occurs. Employees in positions allocated to job classes assigned to an hourly pay schedule or per diem pay schedule approved by the Commission shall be paid according to those standard procedures.

2. Any eligible employee as defined in §5-5-1 of the West Virginia Code as amended, who is separated from employment by resignation, layoff, dismissal, retirement, death, or termination, may be paid in lump sum, at their option, for accrued annual leave in accordance with this section and Section 16.03(f). Separation leave payment for an employee who selects a lump sum payment shall be calculated using the annualized hourly rate of pay established for the class by Civil Service.

3. An employee who retires may elect not to receive payment for any or all accrued annual leave and may apply the balance towards extended insurance coverage under guidelines established by the Public Employees Insurance Board.

Section 16.04. Sick Leave

(e)--Separation From Service

1. Separation from Employment-All accumulated sick leave shall be cancelled as of the effective date of separation of employment or last day worked during the notice period. --Sick leave does not accrue, salary adjustments shall not be given, and payment shall not be made for holidays which occur after the effective date of separation or last day worked during the notice period. --If the employee returns to work within twelve (12) successive calendar months all lost sick leave shall be restored. --However, if the employee returns to work after more than twelve (12) successive calendar months from his effective date of separation of employment, no more than thirty (30) days of lost sick leave shall be restored.

~~2. Leave-of-Absence/Reduction-in-Force-After-a-reduction-in-force-or-leave-of-absence, any unused accumulated sick leave shall be reinstated if a permanent employee is reinstated within a year from date of separation.~~

(e) Separation From Service-Sick leave does not accrue, salary adjustments shall not be given, and payment shall not be made for holidays which occur after the effective date of separation or last day worked during the notice period.

1. Retirement-Unused sick leave may be used to purchase extended insurance coverage upon retirement under guidelines established by the Public Employees Insurance Board.

2. All Other Separations-All accumulated sick leave shall be cancelled as of the effective date of separation of employment or last day worked during the notice period. If the employee returns to work within twelve (12) calendar months all lost sick leave shall be restored. However, if the employee returns to work after more than twelve (12) calendar months from the effective date of separation of employment, no more than thirty (30) days of lost sick leave shall be restored.

Section 18. ~~Prohibition-of-Political-Activities~~ Political Activities

18.01. Prohibition of Political Activities

(a) No person shall be appointed or promoted to or demoted or dismissed from any position in the classified service or in any way favored or discriminated against with respect to such employment because of his political or religious opinions or affiliations or race; but nothing herein shall be construed as precluding the dismissal of any employee who may be engaged in subversive activities or found disloyal to the nation.

~~(a)~~(b) No person shall seek or attempt to use any political endorsement in connection with any appointment in the classified service.

~~(b)~~(c) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person, or for any consideration.

~~(d) No employee in the classified service shall be a member of any national, state or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take any part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote.~~

~~(c)~~(d) No employee in the classified service or member of the Commission or the Director shall, directly or indirectly, pay or promise to pay any assessment,

subscription or contribution, or perform any service for any political party, or solicit or take part in soliciting any such assessment, subscription or contribution, or service. No person shall solicit any such assessment, subscription, contribution or service of any employee in the classified service solicit or receive any assessment, subscription or contribution, or perform any service for any political party, committee or candidate for compensation, other than for expenses actually incurred, or in any manner take part in soliciting any such assessment, subscription, contribution or service of any employee in the classified service.

(e) Notwithstanding any other provision of this code, no employee in the classified service shall:

(1) Use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

(2) Directly or indirectly coerce, attempt to coerce, command or advise a state or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes; or

(3) Be a candidate for any national or state paid public office or court of record; or hold any paid public office; or be a candidate or delegate to any state or national political party convention, a member of any national, state or local committee of a political party, or a financial agent or treasurer within the meaning of the provisions of section three, four or five-e, article eight, chapter three of this code. Other types of partisan or nonpartisan political campaigning and management not inconsistent with the provisions of this subdivision and with the provisions of subsection (d) of this section, shall be permitted.

(e) Political participation pertaining to constitutional amendments, referendums, approval of municipal ordinances or activities shall not be deemed to be prohibited by the foregoing provisions of this section.

(f) Any classified employee who becomes a candidate for any paid public office as permitted by this section shall be placed on a leave of absence without pay for the period of such candidacy, commencing upon the filing of the certificate of candidacy. If elected, such employee shall resign the position in the classified service to be effective no later than the date of assuming the elective office.

18.02. Application of the Hatch Act-Employees whose principal employment involves an activity which is financed wholly or in part by loans or grants made by the United States or a Federal agency are subject to applicable provisions of the Federal Hatch Act. These provisions shall be made known to classified employees by the appointing authority concerned and compliance adhered to.

18.03. Additional Prohibition for Highways Employees-No person may be appointed or employed in any capacity by the department who is a candidate or holds any public office or is a member of any political party committee. Employees of the Department of Highways may not be a candidate for or hold any

public office or be a member of any political party committee. An employee of the Department of Highways who becomes a candidate for or holds any public office or becomes a member of any political party committee shall vacate his position with the department immediately on the date of the filing of candidacy or the date of assuming the public office or the political party committee membership.

Section 23. Grievance Procedure

23.05. General Provisions

(g) Paid Time-Off-An employee selected by a grievant to represent him in the processing of a grievance through this procedure shall be granted necessary time-off during his working hours to represent such other employee without loss of pay and without charge to annual or compensatory leave credits. Likewise, the grievant shall be granted time-off with no loss of pay and benefits. An employee may have the assistance of one other person in the preparation and presentation of the grievance. At the request of the grievant, such person may be present at any step of the procedure. In addition to actual time spent in grievance presentation at the first, second and third steps, the employee representative shall be granted time-off during his working hours, not to exceed four (4) hours per grievance, for the preparation of such grievance without loss of pay and without charge to annual leave or compensatory leave. Likewise, the grievant shall be granted time-off during his working hours, not to exceed four (4) hours per grievance, with no loss of pay and benefits. However, it shall be understood by all parties that the first responsibility of any State employee is the work assigned by the appointing authority to the employee. Grievance preparation and representation activities by an employee shall not seriously affect the overall productivity of the employee.

Section 24. Amendments Training

If and when it appears desirable in the interests of good administration, the Civil Service Commission, after public notice and public hearing, may amend the rules as it becomes necessary.

24.01. Training-Each agency is responsible for providing training to employees of the agency based upon the agency's needs and resources and the employee's needs and capability. Selection of employees for training shall ensure equal opportunity and shall not discriminate on the basis of race, sex, age, religion, national origin, political affiliation, handicap or any other non-job related factors. The Director of Personnel shall make available to the agencies technical assistance in the areas of training needs assessment, locating training materials and resources, course development, training techniques, training evaluation and coordination of training between the agencies.

(a) Required Courses-The Director shall provide training courses on specific aspects of personnel administration under Civil Service law and these rules and regulations, and shall designate employees by classification, or by duties, who must attend each type of course.

(b) General Courses-The Director shall make available to the agencies training in knowledge, skills and abilities which are applicable broadly in many classifications in all agencies. Employee selection shall be consistent with established agency and Civil Service nomination procedures.

24.02. Apprenticeship Programs-The Director of Personnel, or his designee, in cooperation with participating appointing authorities within each agency shall develop and annually revise by the thirty-first day of December a list of employment classifications appropriate for apprenticeship training. Each appointing authority shall develop apprenticeship programs for approved classes that have employees working in apprenticeable trades which are, or may be recognized by, the United States Department of Labor, Bureau of Apprenticeship and Training. The apprenticeship program shall be developed and conducted in a manner that will assure meeting the national minimum requirements of quality and be registered with the United States Department of Labor, Bureau of Apprenticeship and Training.

Subject to the approval of the Director of Personnel, each participating agency shall determine the location and positions in which apprenticeships shall be established. The Chief Administrative Officer of each agency shall establish procedures for the coordination of apprenticeship programs developed in accordance with this section and shall provide to the Director of Personnel, at his request, information which shall include, but not be limited to, the number of persons who applied for apprenticeship positions, the number of persons accepted into the apprenticeship programs, the number of persons who successfully completed and received a certificate of completion from the Bureau of Apprenticeship and Training, the number of persons who failed to complete apprenticeships, the number of persons who remain employed after successfully completing apprenticeships and a summary of characteristics of applicants and participants in the program.

24.03. Apprenticeship Advisory Board-The Director of Personnel shall prepare and submit necessary reports to the Apprenticeship Advisory Board established in accordance with §29-6-17b of the West Virginia Code, as amended, regarding the achievements and deficiencies of the apprenticeship program.

Section 24. 25. Amendments

If and when it appears desirable in the interests of good administration, the Civil Service Commission, after public notice and public hearing, may amend the rules as it becomes necessary.

Civil Service System
Attendance at Public Hearing
October 16, 1986

Lowell D. Basford, Civil Service System
Sandra Bryan, Department of Commerce
Darrell Buttrick, Department of Highways
Perry Dotson, Department of Highways
Willard H. Erwin, Jr., Civil Service Commission
Willard M. Farley, Civil Service System
Larry Freeman, Vocational Rehabilitation Division
Jesse Haynes, Department of Highways
Betty Kirk, Civil Service System
Robert McCauley, American Federation of State, County and Municipal Employees
Linda Moore, State Tax Department
Mary Jane Murad, Department of Natural Resources
James P. Quarles, Vocational Rehabilitation Division
Patrick S. Quinlan, Governor's Office of Community & Industrial Development
Pam Ray, American Federation of State, County and Municipal Employees
Joe E. Smith, Department of Human Services
Bill J. Wellman, Civil Service Commission
Nancy Williams, Department of Commerce

PUBLIC HEARING ON PROPOSED CIVIL SERVICE RULES AND REGULATIONS
HOUSE OF DELEGATES CHAMBER
STATE CAPITOL
CHARLESTON, WEST VIRGINIA
October 16, 1986

MR. ERWIN: Anybody that wants to make comments this morning orally, please come up and sign the document. The purpose of the hearing this morning scheduled for 9:00, October 16th, in the House of Delegates Chamber, State Capitol, Charleston, West Virginia, is pursuant to notice given in accordance with the Statute a public hearing or comment period on a proposed rule to be instituted by the Commission. At this time the floor is open and in the order that individuals signed the pad, Mr. Joe Smith you wish to make a comment. Alright, Mr. Joe Smith has the floor.

MR. SMITH: I'm Joe Smith from the Department of Human Services, and we, I would like to state for the agency our support of those changes which regulates job postings, which provides employees an equal opportunity for jobs within our agency. We are supportive of the holiday provisions, as well as the other provision related to lump sum payments. However, we think the regulations related to training is an unnecessary regulation, although we do not object to the intent of the provision. Additionally, I would like to state our opposition to the six (6) hour provision, which pays employees, or gives employees paid time off for the purpose of filing grievances. We believe this is an incentive for employees to file more grievances, that is contrary to the principle of being able to deal with routine personnel matters in an effective and efficient manner. Additionally, we find that it is contrary to the principle of delivering prompt services to the public, and we would petition Civil Service not to

incorporate the concept of six (6) hours, paid time off for filing grievances. Thank you.

MR. ERWIN: Thank you Mr. Smith. Next we have Mr. Robert McCauley, representing the West Virginia AFSCME. Mr. McCauley.

MR. MCCAULEY: My name is Robert McCauley, from American Federation of State, County and Municipal Employees, in West Virginia. I'd like to congratulate the Commission for promulgating rules on Senate Bill 403, Economic Development Act, for 1983 Civil Service Reform Act and the job posting bill, its more than enough time has passed that these have been put into Rules and Regulations. I'd like to speak specifically to the question of the grievance procedure and the six (6) hour time off proposal. AFSCME has supported this proposal in that we have found in, through experience in the field, that if an employee is represented by another employee, particularly in the lower steps of the grievance procedure, this is an absolutely necessary provision, for either the grievant or the representative to have time to go through personnel files to at least make tentative contact with witnesses, prior to a grievance hearing. In some cases we've had employee representatives who have used the majority of their annual leave just trying to investigate grievances. At the same time that's going on, its, we've had other cases where supervision has taken two or three days at a time to investigate grievances on agency time. If the purpose of the grievance procedure is to convince employees that they are going to get a fair shake, a fair hearing, then, they should be given at least nominal time in order to investigate and prepare their presentation in the grievance procedure.

Certainly, the six (6) hour rule has not caused a major increase in grievances at this point, although, in fact, if given time to investigate a grievance, it would, there's a possibility that in many cases, after, if a grievance is thoroughly investigated, it can be withdrawn or dropped in the beginning steps of the procedure. I think, I'm pleased to see that the Commission has promulgated the rule and I'd like to see it, see the Legislature follow through and approve it.

MR. ERWIN: Are there any other comments, written or otherwise? Anyone intend to submit written comments?

MR. SMITH: We will confirm our comments in writing.

MR. ERWIN: Alright. The Department of Human Services will confirm their comments in writing. Does anyone have any written documents they wish to submit at a later date? Anyone have any further comments on the matter? You two ladies that just arrived, do you wish to make any comments? You ladies wish to make any comment on the matter, the two that just arrived?

Do you wish to speak?

No.

MR. ERWIN: Alright, appearing to be nothing else to be heard at this time, the hearing on this matter is now concluded, and we will allow you three days to get your documents in if you want to file a document. If there's nothing further we stand adjourned.

Arch A. Moore, Jr.
Governor



David K. Heydinger, M.D.
Director

State of West Virginia

DEPARTMENT OF HEALTH
CHARLESTON 25305

October 15, 1986

Mr. Lowell D. Basford
Acting Director of Personnel
West Virginia Civil Service System
1900 Washington Street, East
Charleston, West Virginia 25305

Dear Mr. Basford:

We have reviewed and discussed the proposed changes in the West Virginia Civil Service Rules and Regulations.

We wish to recommend a revision in the proposed rule at Section 18.02. The first sentence should, we believe, be amended to read as follows:

✓ "Employees whose principal employment involves an activity which is financed wholly or in part by loans or grants made by the United States or a Federal agency are subject to applicable provisions of the Hatch Act."

As presently written, the rule could be construed to refer to all employees of grant-aided agencies.

Sincerely,

David K. Heydinger, M.D.
David K. Heydinger, M.D.
Director of Health

DKH/TGR/eaw

cc: George W. Lilley, Jr., Ed.D.
Jack H. Hartley
Mary S. Blizzard

REC 11 14 3 01

ARCH A. MOORE, JR.
GOVERNOR

October 6, 1986

ROBERT E. TROCIN
COMMISSIONER

Mr. Lowell D. Basford, Acting Director of Personnel
West Virginia Civil Service System
Capitol Complex Building #6, Room 456-B
Charleston, West Virginia 25305

Dear Tim:

This is a written response to the proposed revisions to the West Virginia Civil Service System Rules & Regulations.

After reviewing the proposed regulations, I have two (2) minor suggestions of major impact.

- ✓ 1. Section 12.06 Posting Requirements - This section should be rewritten to eliminate the need for posting of demotions and/or transfer for disciplinary action. It is suggested that the rule indicate "... unless a demotion and/or transfer for cause is being implemented." Such a statement at the end of the proposed rule would eliminate the need for a department to post a position for ten (10) working days when disciplinary action is the result of the personnel action. I believe that a posting requirement prior to implementation of a disciplinary action, demotion and/or transfer could jeopardize the affected employees due process rights, in that the disciplinary action would be delayed pending the completion of the posting period. In addition, posting of such a position places false hopes of the availability of a actual position for other department employees.
- ✓ 2. Section 16.03 Separation From Employment - Lump-sum Payment of Annual Leave - I believe that a specific method of payment should be clearly identified within the rule & regulation, in order to ensure consistent application among the thirty-one user agencies of the Civil Service System. This would eliminate confusion and problems in implementing the method of payment. The Department of Commerce is not opposed to the current application of paying lump-sum annual leave based upon the annual hourly rate of pay.

Although the proposed Rules & Regulations are warranted based upon recent changes in West Virginia Law, I believe it is necessary for the Civil

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H.A. with Clerk, Secy. of H.

Mr. Lowell D. Basford, Acting Director of Personnel
West Virginia Civil Service System
October 6, 1986

PAGE TWO

Service Commission to consider major revisions to the Civil Service Rules & Regulations similar to those changes in 1981. I believe that revisions to the lay-off formula, grievance procedure, attendance & leave regulations, and salary regulations are long overdue as West Virginia State Government prepares for the 1990's. My staff and I are available to assist you and your staff in this regard at your convenience.

If you should have any questions or need further assistance, please contact Mr. James D. Wells, Personnel Officer, at 348-2954.

Sincerely,



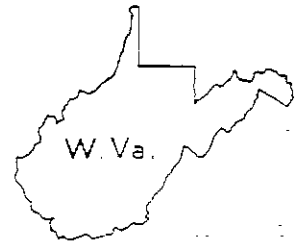
Robert E. Trocin
Commissioner

RET:jwb

cc: Brenda Nichols Harper, Deputy Commissioner
Frank Linville, Director of Administration
Charles R. Spears, Director, Division of Parks & Recreation
Michael D. Herron, Director, Division of Marketing/Tourism
James D. Wells, Personnel Officer



U.S. DEPARTMENT OF LABOR
BUREAU OF APPRENTICESHIP AND TRAINING
ROOM 305 550 EAGAN STREET
CHARLESTON, WEST VIRGINIA 25301
304-347-5141



October 24, 1986

Mr. Tim Basford
Acting Director
West Virginia Civil Service Commission
1800 Washington Street, East
Charleston, West Virginia

Dear Mr. Basford:

After reviewing the proposed rules for apprenticeship programs within State agencies, I applaud your efforts.

The legislation is rather specific and extensive interpretation was wisely avoided.

The apprenticeship programs for State agencies will be of benefit to not only the agencies, but to every participant. Through this concept of training, a higher skilled employee will be obtained, which equates to a more productive and better satisfied employee.

At this juncture, cooperation will be a key ingredient in the success of this legislation. My staff and I are prepared to assist and advise with the development of the apprenticeship programs.

Again, I applaud your efforts of confining the rules to the true intent of the legislation.

Sincerely,

A handwritten signature in cursive script, reading "George F. Jones", is written over the typed name.

GEORGE F. JONES
State Director



WEST VIRGINIA DEPARTMENT OF HUMAN SERVICES

1900 Washington Street, East

Arch A. Moore, Jr.
Governor

Charleston, WV 25305

Telephone: (304) 348-2400

Commissioner

October 21, 1986

Mr. Lowell D. Basford
Acting Director of Personnel
Civil Service System
1900 Washington Street, East
Charleston, WV 25305

Dear Tim:

I appreciate the efforts of the Civil Service System and Commission in revising their regulations to incorporate the requirements of state statute related to the celebration of Martin Luther King's birthday as a legal holiday, the conversion of sick leave for the purpose of insurance after retirement, the option of lump sum payment for accrued annual leave upon separation, and the job posting procedure.

Although I am supportive of Civil Service and the Commission's efforts in general, I would like to express my concern about two proposed changes. The changes to which I have reference are the requirements that agencies provide their employees with training on specific aspects of personnel administration under Civil Service law, rules and regulations and giving employees 6 hours paid time off for grievance preparation. While I agree with the intent of the proposed changes to require training employees in personnel administration, I must state that this is an unnecessary regulation and I believe each of you will agree that sheer volume of the regulations of various regulatory agencies such as Finance and Administration, Department of Labor, Human Rights, Worker's Compensation, Unemployment Compensation, OSHA, Equal Employment Opportunity Commission, Civil Service, Public Employees Retirement System and Insurance, is very cumbersome to effective personnel administration and often divisive as it causes the adherence to all required procedures to be the principle goal of an agency rather than desirable results. I find it to be rather ironic that Civil Service should be creating additional regulations at the same time the federal government has undertaken efforts to reduce the number of regulations applying to State operated merit systems.

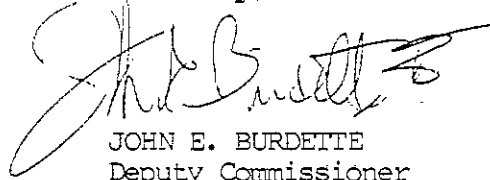
Mr. Lowell D. Basford
Page 2
October 21, 1986

In reference to the proposal to give employees 6 hours paid time off for grievance preparation, I do not believe the original drafters of the grievance procedure ever contemplated giving employees paid time off to prepare grievances. Granting employees paid time off can only serve to undermine the present incentive for employees to resolve grievances at the first step and encourage employees to file more grievances. Further, such a provision is inconsistent with the State's interest in being able to deal with routine personnel matters promptly and inexpensively. Under the present system, it is not unusual for a grievant to require the majority of our employees in a particular unit to participate in a grievance. As a matter of fact, more expenditures in terms of man-hours are spent in a grievance, where there are no property or liberty interest involved than in a Civil Service appeal involving a dismissal where strict safeguards have been established to protect employees from erroneous deprivation of property and liberty interest.

In summary, I believe the 6 hours paid time off for grievance preparation fails to recognize the State's interest in meeting its mandates to provide timely services to the citizens of this state and the public's interest should not be considered inconsequential.

Thank you for the opportunity to comment on the proposed changes.

Sincerely,



JOHN E. BURDETTE
Deputy Commissioner

cc: Thomas R. Tinder, Administrative Assistant to the Governor



WEST VIRGINIA DEPARTMENT OF HIGHWAYS

1900 Washington Street, East
Charleston, West Virginia
25305

ARCH A. MOORE, JR.
GOVERNOR

WILLIAM S. RITCHIE, JR.
COMMISSIONER

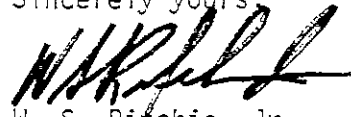
October 10, 1986

Mr. Lowell D. Basford
Acting Director of Personnel
Civil Service System
1900 Washington Street, East
Charleston, West Virginia 25305

Dear Mr. Basford:

Attached are comments regarding the proposed Civil Service rules
which will be considered October 16, 1986.

Sincerely yours


W. S. Ritchie, Jr.
Commissioner

WSR:Hh

Attachment

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1986 NOV 19 PM 2:07
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1986 OCT 11 PM 2:40
CLERK OF COURTS
STATE OF WEST VIRGINIA

WEST VIRGINIA DEPARTMENT OF HIGHWAYS

Comments on Proposed Rule Section 23
Civil Service Rules and Regulations

The Department of Highways does not support the proposed change to Section 23 of Civil Service Rules and Regulations, which provides for six hours for preparation only for each grievance.

Our experience shows that at the first step there is very little preparation time, since it is an informal discussion of the problem between the grievant and the supervisor.

Step two normally consists of the grievant presenting the case to the next level supervisor. Preparation time would be devoted to interviewing two or three witnesses to corroborate the grievant's statement or to review records. The maximum time involved at this step should be no more than an hour.

Preparation for the third step hearing board should be reviewing the testimony presented at step two and developing an order of presentation. This should take no more than one hour.

Since we have been required to provide the six hours for preparation, it has been noted that certain employees, who routinely represent grievants, take advantage of the preparation time whether or not it is needed. At times the grievant and the representative find it necessary to confer with witnesses and potential witnesses all of whom are in a non-productive status. In a recent grievance, approximately 57 man-hours were spent in preparation time and approximately 224 man-hours were spent in the hearing. This represents 281 man-hours which could have been devoted to the maintenance of highways.

The Department of Highways supports granting a maximum of six hours per grievance which would include preparation and presentation.

WEST VIRGINIA DEPARTMENT OF HIGHWAYS

Comments On Proposed Rule Section 16.03(g)

MONTHLY RATE VERSUS THE PAYROLL PERIOD RATE

A Law was passed requiring that all state employees be paid on a bimonthly basis. Prior to the passage of the Law, the Departments' salaried employees were paid once a month. Their respective rates of pay were based upon a monthly rate.

In order for us to comply with directives from the Auditor's Office and to meet the needs of the REMIS System, a daily rate of pay needed to be developed based upon the number of days in the two (2) pay periods (halves) in each month. This number will vary from pay period to pay period. Under normal circumstances old salaried employees are paid half of their salary each pay period. The new daily rate needed to be calculated for the payment of exceptions (separations, leaves of absences, etc.)

Prior to the implementation of the new bimonthly system, representatives from Finance and Personnel Division met with Civil Service to establish a daily rate for the two (2) pay periods (halves) in each month.

A new payroll chart was approved by Civil Service for Highways use. See attachment. Please note that our chart consists of 20, 22 and 24 day rates which matches our paid halves while Civil Service's chart is based upon the actual number of work days in a calendar month.

We have also attached Civil Service's pay chart for comparison purposes.



STATE OF WEST VIRGINIA

CIVIL SERVICE SYSTEM

November 17, 1986

M E M O R A N D U M

TO: Honorable Ken Hechler
Secretary of State

FROM: Lowell D. Rasford *LOB*
Acting Director of Personnel

SUBJECT: Reasons for Amendment to Agency Proposed Rules

Section 10.07. Posting of Job Openings

This section was amended to delete the denial of movement to a vacant position from grievance consideration unless the posting procedure was violated or the grievant can cite an arbitrary or discriminatory action on the part of the appointing authority which denied the employee consideration for the job. The Civil Service Commission has consistently held that, absent a violation of the posting or appointment procedures or an allegation of discrimination, favoritism or arbitrary action, the selection of employees for vacancies is the prerogative of the appointing authority.

Section 12.06. Posting Requirements

This section was amended to provide that a job posting would not be necessary when the appointing authority is taking a disciplinary action to demote or transfer an employee into a vacant position for cause. To require posting only serves to give false hopes to other employees that a vacancy is being filled for which they may apply. Such demotions or transfers can often be a more appropriate form of punishment than either suspension or dismissal.

See comments from Robert E. Trocin, Commissioner, Department of Commerce.
Exhibit 1

Section 16.03. Separation from Employment

This section was amended to require a consistent method of lump sum payment for accrued annual leave by the various agencies regardless of the month in which the separation takes place.

See comments from Robert E. Trocin, Commissioner, Department of Commerce.
Exhibit 1

Honorable Ken Hechler
Secretary of State
Page 2

Section 18.02. Prohibition of Political Activities

This section was amended to clarify that the provisions of the Federal Hatch Act apply only to employees in an agency whose principle employment is funded wholly or in part by federal monies. As original proposed the rule would have been construed as applying to all employees of the department, regardless of the source of personal services funding.

See comments of David K. Heydinger, M.D., Director, Department of Health. Exhibit 2.

Section 23.05. Grievance Procedure

Section 23.05 (g) Paid Time-Off was amended to reduce the number of hours of paid time-off to prepare for a grievance from six (6) hours to four (4) hours. Written comments received from William S. Ritchie, Commissioner, Department of Highways, and John E. Burdette, Deputy Commissioner, Department of Human Services, Exhibit 3, opposed the granting of six (6) hours for preparing grievances. Those agencies state that the granting of this amount of paid time-off would hinder the ability of the agency to effectively serve the public. The four hours being proposed would be in addition to actual time spent in grievance conferences and hearings.

Section 24. Amendments

This section is being renumbered as Section 25 to make it the last section of the Rules and Regulations

LDR:ss... ..

Enclosures

CIVIL SERVICE COMMISSION
Willard H. Erwin, Jr., Chairman
Bill J. Wellman



Address Communications To:
Director of Personnel
1900 Washington Street East
Room B-456
Charleston, West Virginia 25305
Phone 348-3950

STATE OF WEST VIRGINIA

CIVIL SERVICE SYSTEM

November 17, 1986

Honorable Ken Hechler
Secretary of State
Secretary of State's Office
Capitol Building, Room M-157
Charleston, West Virginia 25305

Dear Mr. Secretary:

I herewith transmit the agency approved proposed rules of the Administrative Rules and Regulations of the West Virginia Civil Service System.

Sincerely,

A handwritten signature in cursive script that reads "Lowell D. Basford".

Lowell D. Basford
Acting Director of Personnel

LDB:ss

Attachments:

FILED

NOV 19 1986

STATE OF WEST VIRGINIA
SECRETARY OF STATE