

VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

CHAPTER 595

An Act to amend and reenact § 2.2-3005.1 of the Code of Virginia, relating to the State Grievance Procedure; scope of hearing officer's decision; reinstatement.

[S 815]

Approved March 25, 2011

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3005.1 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-3005.1. Scope of hearing officer's decision; agency cooperation; cost of hearing; decision of hearing officer.

A. For those issues qualified for a hearing, the hearing officer may order appropriate remedies. Relief may include (i) reinstatement *to the same position, or if the position is filled, to an equivalent position*, (ii) back pay, (iii) full reinstatement of fringe benefits and seniority rights, (iv) mitigation or reduction of the agency disciplinary action, or (v) any combination of these remedies. In grievances challenging discharge, if the hearing officer finds that the employee has substantially prevailed on the merits of the grievance, the employee shall be entitled to recover reasonable ~~attorneys'~~ attorney fees, unless special circumstances would make an award unjust. All awards of relief, including ~~attorneys'~~ attorney fees, by a hearing officer must be in accordance with rules established by the Department of Employment Dispute Resolution.

B. The agency from which the grievance arises shall bear the costs for the hearing officer and other associated hearing expenses including the grievant's ~~attorneys'~~ attorney fees that the hearing officer may award.

C. The decision of the hearing officer shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for those findings, including any award of reasonable ~~attorneys'~~ attorney fees pursuant to this section, and (iii) be final and binding if consistent with law and policy.

D. The provisions of this section relating to the award of ~~attorneys'~~ attorney fees shall not apply to any local government or agency thereof that is otherwise subject to the grievance procedure set forth in this chapter.