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HOUSE BILL NO. 67

Offered January 8, 2020

Prefiled December 5, 2019

A BILL to amend and reenact §§ 40.1-55 through 40.1-57.1 and 40.1-58.1 of the Code of Virginia, relating to strikes by certain government employees.

Patron—Carter

Referred to Committee on Labor and Commerce

Be it enacted by the General Assembly of Virginia:

1. That §§ 40.1-55 through 40.1-57.1 and 40.1-58.1 of the Code of Virginia are amended and reenacted as follows:

§ 40.1-55. Public safety employee striking terminates, and becomes temporarily ineligible for, public employment.

A. As used in this article, "public safety employee" means any law-enforcement officer, as defined in § 9.1-500.

B. Any public safety employee of the Commonwealth, or of any county, city, town or other political subdivision thereof, or of any agency of any one of them, who, in concert with two or more other such employees, for the purpose of obstructing, impeding or suspending any activity or operation of his employing agency or any other governmental agency, strikes or willfully refuses to perform the duties of his employment shall, by such action, be deemed to have terminated his employment and shall thereafter be ineligible for employment in any position or capacity during the next ~~twelve~~ 12 months by the Commonwealth, or any county, city, town or other political subdivision of the Commonwealth, or by any department or agency of any of them.

§ 40.1-56. Department head, etc., to notify public safety employee of such termination, etc.

In any such case the head of any department of the state government, or the mayor of any city or town, or the chairman of the board of supervisors or other governing body of any county, or the head of any other such employing agency, in which such a public safety employee whose employment was terminated pursuant to § 40.1-55 was employed, shall forthwith notify such public safety employee of the fact of the termination of his employment and at the same time serve upon him in person or by registered mail a declaration of his ineligibility for reemployment as before provided. Such declaration shall state the fact upon which the asserted ineligibility is based.

§ 40.1-57. Appeal by public safety employee from declaration of ineligibility.

In the event that any such public safety employee whose employment was terminated pursuant to § 40.1-55 feels aggrieved by such declaration of ineligibility he may within ~~ninety~~ 90 days after the date thereof appeal to the circuit court of the county or the circuit court of the city in which he was employed by filing a petition therein for a review of the matters of law and fact involved in or pertinent to the declaration of ineligibility. A copy of the petition shall be served upon or sent by registered mail to the official signing the declaration, who may file an answer thereto within ~~ten~~ 10 days after receiving the same. The court or the judge thereof in vacation shall, as promptly as practicable, hear the appeal de novo and notify the employee and the signer of the declaration of ineligibility of the time and place of hearing. The court shall hear such testimony as may be adduced by the respective parties and render judgment in accordance with the law and the evidence. Such judgment shall be final.

§ 40.1-57.1. Appeal by employer for reemployment of terminated public safety employee.

Notwithstanding any provision of law to the contrary, in the event that the employer of an individual terminated under this article deems it necessary for the protection of the public welfare that such individual be reemployed within the ~~twelve~~ 12 months following his termination, the employer may, within ~~ninety~~ 90 days after the date of the declaration of ineligibility, appeal to the circuit court of the county or the circuit court of the city in which the individual was employed by filing a petition therein setting forth the reasons why the public welfare requires reemployment. A copy of the petition shall be served upon or sent by registered mail to the former public safety employee, who may file an answer therein ~~ten~~ 10 days after receiving the same. The court or the judge thereof in vacation shall notify the employer and former public safety employee of the time and place of the hearing on the appeal, such hearing to be de novo and to be held as promptly as possible. The court shall hear such testimony as may be adduced by the respective parties and render judgment in accordance with the law and the evidence. Such judgment shall be final.

§ 40.1-58.1. Application of article to public employers and public safety employees.

As used in this article, the words, "person," "persons," "employer," "employees," "union," "labor

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59 union," "association," "organization," and "corporation" shall include ~~but not be limited to~~ public
60 employers, public employees, and any representative of public employees in ~~this~~ *the* Commonwealth.
61 The application of this article to public employers, public employees, and their representatives shall not
62 be construed as modifying in any way the application of § 40.1-55 to ~~government~~ *public safety*
63 employees *as defined in such section*.