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Betsey Bayless
Secretary of State

CHAPTER 21

SENATE BILL 1073

AN ACT

AMENDING SECTIONS 41-781, 41-782 AND 41-785, ARIZONA REVISED STATUTES;
RELATING TO THE STATE PERSONNEL BOARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 41-781, Arizona Revised Statutes, is amended to
3 read:

4 41-781. Personnel board; members; appointment; term; meetings;
5 compensation

6 A. The state personnel board shall consist of five members appointed
7 by the governor pursuant to section 38-211. No more than three members shall
8 belong to the same political party. Persons eligible for appointment shall
9 have had a continuous recorded registration pursuant to title 16, chapter 1
10 with either the same political party or as an independent for at least two
11 years immediately preceding appointment. Of the members appointed one shall
12 be a person who for more than five years has managed a component or unit of
13 government or industry with more than twenty employees, one shall be a
14 professional personnel administrator, one a state employee, one a person
15 active in business management and one a member of the public. Members may
16 be removed by the governor for cause. The chairman CHAIRPERSON of the
17 personnel board shall serve as AN ex officio member of the law enforcement
18 merit system council ESTABLISHED BY SECTION 41-1830.11 without voting
19 privileges.

20 B. The term of office for each member is three years, each term to
21 expire three years from the date of appointment. Upon the expiration of the
22 term of a member a successor shall be appointed for a full term of three
23 years.

24 C. The personnel board may hold regular monthly meetings and, in
25 addition, may hold special meetings the board deems necessary. A chairman
26 CHAIRPERSON and vice chairman CHAIRPERSON shall be elected by the members at
27 the first meeting of each year and the chairman CHAIRPERSON shall not be
28 permitted to succeed himself SERVE SUCCESSIVE TERMS AS CHAIRPERSON. Meetings
29 of the personnel board shall be open to the public, and executive sessions
30 may be held as provided by law.

31 D. Any one of the following shall constitute the resignation of a
32 board member and authorize the governor to appoint a new member to fill the
33 unexpired term so vacated:

- 34 1. Becoming a candidate for any elective public office.
35 2. Accepting any appointive office or employment in the state service,
36 except the state employee who is designated to serve on the board.

37 E. Members of the personnel board, except the person designated as the
38 state employee, are eligible to receive compensation as determined pursuant
39 to section 38-611 for each day actually spent for meetings of the personnel
40 board. The member of the personnel board designated as the state employee
41 shall be paid his THE STATE EMPLOYEE'S regular compensation for meetings of
42 the board.

1 Sec. 2. Section 41-782, Arizona Revised Statutes, is amended to read:

2 41-782. Powers and duties of the personnel board

3 A. The personnel board shall hear and review appeals as provided in
4 this article relating to dismissal from state service, suspension for more
5 than forty working hours or demotion resulting from disciplinary action as
6 defined in the personnel rules.

7 B. The personnel board shall hear and review ~~appeals~~ COMPLAINTS as
8 provided in title 38, chapter 3, article 9, relating to any personnel action
9 taken against an employee or former employee of this state, except an
10 employee or former employee of a state university or the board of regents,
11 which the employee or former employee believes was taken in reprisal for ~~his~~
12 THE EMPLOYEE'S OR FORMER EMPLOYEE'S disclosure of information to a public
13 body. The state personnel board shall recommend the dismissal of a
14 supervisor or other responsible person, other than an elected official, who
15 it determines committed a prohibited personnel practice.

16 C. The personnel board may adopt rules ~~deemed~~ IT DEEMS necessary for
17 the administration of hearings and the review of appeals AND COMPLAINTS as
18 prescribed in this section.

19 Sec. 3. Section 41-785, Arizona Revised Statutes, is amended to read:

20 41-785. Appeals to the personnel board; notice of charges;
21 hearings

22 A. Any employee who has completed ~~his~~ THE EMPLOYEE'S original
23 probationary period of service as provided by the personnel rules may appeal
24 to the PERSONNEL board seeking relief from dismissal from state service,
25 suspension for more than forty working hours or demotion resulting from
26 disciplinary action. The appeal shall be filed not later than ten working
27 days after the effective date of such action. The employee shall be
28 furnished with specified charges in writing when the action is taken. Such
29 appeal shall be in writing and must state specific facts relating directly
30 to the charges on which the appeal is based and shall be heard by the
31 PERSONNEL board within thirty days after its receipt. The personnel board
32 shall provide the employing agency with a copy of the appeal not less than
33 twenty days in advance of the hearing.

34 B. Hearings on such appeals shall be open to the public, except in
35 cases where the employee requests a confidential hearing, and shall be
36 informal with technical rules of evidence not applying to the proceedings
37 except the rule of privilege recognized by law. Both the employee and ~~his~~
38 THE employing agency shall be notified OF ANY HEARING OR MEETING DATE not
39 less than twenty days in advance of the hearing OR NOT LESS THAN TEN DAYS IN
40 ADVANCE OF A MEETING and may select representatives of their choosing,
41 present and cross-examine witnesses, and give evidence before the personnel
42 board. The personnel board may appoint a hearing officer to conduct the
43 hearing and take evidence on behalf of the board and exercise the rights
44 prescribed by section 12-2212. The personnel board shall prepare an official

1 record of the hearing, including all testimony recorded manually or by
2 mechanical device, and exhibits. ~~and shall transcribe such record on~~
3 ~~request of either party~~ MAY REQUEST THAT THE RECORD BE TRANSCRIBED. IF A
4 PARTY REQUESTS THAT THE RECORD BE TRANSCRIBED, AN ENTITY, OTHER THAN THE
5 PERSONNEL BOARD, SELECTED BY THE REQUESTING PARTY SHALL TRANSCRIBE THE RECORD
6 AT THE COST OF THE REQUESTING PARTY. If the disciplinary hearing would
7 involve evidence the state is prevented by law from disclosing, then a
8 confidential hearing upon the state's request shall be granted.

9 C. The board may reverse an agency's action on appeal only if the
10 board finds the action to be arbitrary, capricious or otherwise contrary to
11 law.

12 D. The board may reduce the disciplinary penalty chosen by an agency
13 only if the board finds the penalty to be excessive or made for reasons that
14 are arbitrary, capricious or otherwise contrary to law.

15 E. Within ~~thirty~~ FORTY-FIVE days after the conclusion of the hearing,
16 the board shall enter its decision and shall at the same time send a copy of
17 the decision by registered CERTIFIED mail to the employing agency and to the
18 employee at his THE EMPLOYEE'S address as given at the hearing or to a
19 representative designated by him THE EMPLOYEE to receive A COPY OF the same
20 DECISION.

21 F. Any party may appeal the decision of the board pursuant to title
22 12, chapter 7, article 6 to the superior court in the employee's county of
23 residence on one or more of the following grounds, that the order was:

- 24 1. Founded on or contained error of law which shall specifically
25 include error of construction or application of any pertinent rules.
26 2. Unsupported by any evidence as disclosed by the entire record.
27 3. Materially affected by unlawful procedure.
28 4. Based on violation of any constitutional provision.
29 5. Arbitrary or capricious.

30 G. Appeal shall be available to the court of appeals from the order
31 of the superior court pursuant to title 12, chapter 7, article 6 as in other
32 civil cases.

33 H. An employee may represent himself or designate a representative,
34 not necessarily an attorney, before any board hearing or any quasi-judicial
35 hearing held pursuant to this section providing that no fee may be charged
36 for any services rendered in connection with such hearing by any such
37 designated representative who is not an attorney admitted to practice.

APPROVED BY THE GOVERNOR MARCH 20, 2000

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