

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 42

94TH GENERAL ASSEMBLY

Reported from the Committee on Economic Development, Tourism and Local Government, May 3, 2007, with recommendation that the Senate Committee Substitute do pass.

0488S.03C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 84.120, 84.170, and 84.240, RSMo, and to enact in lieu thereof two new sections relating to the board of police commissioners, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 84.120, 84.170, and 84.240, are repealed and two new sections enacted in lieu thereof, to be known as sections 84.120 and 84.170, to read as follows:

84.120. 1. No person shall be appointed or employed as policeman, turnkey, or officer of police who shall have been convicted of, or against whom any indictment may be pending, for any offense, the punishment of which may be confinement in the penitentiary; nor shall any person be so appointed who is not of good character, or who is not a citizen of the United States, or who is not able to read and write the English language, or who does not possess ordinary physical strength and courage. The patrolmen and turnkeys hereafter appointed shall serve while they shall faithfully perform their duties and possess mental and physical ability and be subject to removal only for cause after a hearing by the boards, who are hereby invested with the [exclusive] jurisdiction in the premises.

2. The board shall have the sole discretion whether to delegate portions of its jurisdiction to hearing officers. The board shall retain final and ultimate authority over such matters and over the person to whom the delegation may be made. In any hearing before the board under this section, the member involved may make application to the board to waive a hearing before the board and request that a hearing

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 be held before a hearing officer.

18 3. Nothing in this section or chapter shall be construed to
19 prohibit the board of police commissioners from delegating any task
20 related to disciplinary matters, disciplinary hearings, or any other
21 hearing or proceeding which could otherwise be heard by the board or
22 concerning any determination related to whether an officer is able to
23 perform the necessary functions of the position. Tasks related to the
24 preceding matter may be delegated by the board to a hearing officer
25 under the provisions of subsection 4 of this section.

26 4. (1) The hearing officer to whom a delegation has been made
27 by the board may, at the sole discretion of the board, perform certain
28 functions, including but not limited to the following:

29 (a) Presiding over a disciplinary matter from its inception
30 through to the final hearing;

31 (b) Preparing a report to the board of police commissioners; and

32 (c) Making recommendations to the board of police
33 commissioners as to the allegations and the appropriateness of the
34 recommended discipline.

35 (2) The board shall promulgate rules, which may be changed
36 from time to time as determined by the board, and shall make such
37 rules known to the hearing officer or others.

38 (3) The board shall at all times retain the authority to render the
39 final decision after a review of the relevant documents, evidence,
40 transcripts, videotaped testimony, or report prepared by the hearing
41 officer or others to whom the board has made such allegations.

42 5. Hearing officers shall be selected in the following manner:

43 (1) The board shall establish a panel of not less than five
44 persons, all who are to be licensed attorneys in good standing with the
45 Missouri Bar. The composition of the panel may change from time to
46 time at the board's discretion;

47 (2) From the panel, the relevant member or officer and a police
48 department representative shall alternatively and independently strike
49 names from the list with the last remaining name being the designated
50 hearing officer. The board shall establish a process to be utilized for
51 each hearing which will determine which party makes the first strike
52 and the process may change from time to time;

53 (3) After the hearing officer is chosen and presides over a

54 **matter, such hearing officer shall become ineligible until all hearing**
55 **officers listed have been utilized, at which time the list shall renew,**
56 **subject to officers' availability.**

84.170. 1. When any vacancy shall take place in any grade of officers, it
2 shall be filled from the next lowest grade; provided, however, that probationary
3 patrolmen shall serve at least six months as such before being promoted to the
4 rank of patrolman; patrolmen shall serve at least three years as such before being
5 promoted to the rank of sergeant; sergeants shall serve at least one year as such
6 before being promoted to the rank of lieutenant; lieutenants shall serve at least
7 one year as such before being promoted to the rank of captain; and in no case
8 shall the chief or assistant chief be selected from men not members of the force
9 or below the grade of captain. Patrolmen shall serve at least three years as such
10 before promotion to the rank of detective; the inspector shall be taken from men
11 in the rank not below the grade of lieutenant.

12 2. The boards of police are hereby authorized to make all such rules and
13 regulations, not inconsistent with sections 84.010 to 84.340, or other laws of the
14 state, as they may judge necessary, for the appointment, employment, uniforming,
15 discipline, trial and government of the police. The said boards shall also have
16 power to require of any officer or policeman bond with sureties when they may
17 consider it demanded by the public interests. All lawful rules and regulations of
18 the board shall be obeyed by the police force on pain of dismissal or such lighter
19 punishment, either by suspension, fine, reduction or forfeiture of pay, or
20 otherwise as the boards may adjudge.

21 **3. The authority possessed by the board of police includes, but**
22 **is not limited to, the authority to delegate portions of its powers**
23 **authorized in section 84.120, including presiding over a disciplinary**
24 **hearing, to a hearing officer as determined by the board.**

[84.240. The board of police commissioners shall establish
2 the Bertillon system of identification of criminals and others by
3 means of anthropometric indications, and they are further required
4 to employ such additional assistance as may be necessary to
5 properly conduct and manage this department.]