

SECOND REGULAR SESSION

# SENATE BILL NO. 700

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LAMPING.

Read 1st time January 25, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

5318S.011

## AN ACT

To repeal section 36.390, RSMo, and to enact in lieu thereof one new section relating to appeal procedures for nonmerit employees.

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

Section A. Section 36.390, RSMo, is repealed and one new section enacted  
2 in lieu thereof, to be known as section 36.390, to read as follows:

36.390. 1. An applicant whose request for admission to any examination  
2 has been rejected by the director may appeal to the administrative hearing  
3 commission in writing within fifteen days of the mailing of the notice of rejection  
4 by the director, and in any event before the holding of the examination. The  
5 commission's decision on all matters of fact shall be final.

6 2. Applicants may be admitted to an examination pending a consideration  
7 of the appeal, but such admission shall not constitute the assurance of a passing  
8 grade in education and experience.

9 3. Any applicant who has taken an examination and who feels that he or  
10 she has not been dealt with fairly in any phase of the examination process may  
11 request that the director review his or her case. Such request for review of any  
12 examination shall be filed in writing with the director within fifteen days after  
13 the date on which notification of the results of the examination was mailed to the  
14 applicant. A candidate may appeal the decision of the director in writing to the  
15 administrative hearing commission. This appeal shall be filed with the  
16 administrative hearing commission within fifteen days after date on which  
17 notification of the decision of the director was mailed to the applicant. The  
18 commission's decision with respect to any changes shall be final, and shall be  
19 entered in the minutes. A correction in the rating shall not affect a certification

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

20 or appointment which may have already been made from the register.

21           4. An eligible whose name has been removed from a register for any of the  
22 reasons specified in section 36.180 or in section 36.240 may appeal to the  
23 administrative hearing commission for reconsideration. Such appeal shall be filed  
24 in writing with the administrative hearing commission within fifteen days after  
25 the date on which notification was mailed to the eligible. The commission, after  
26 investigation, shall make its decision which shall be recorded in the minutes and  
27 the eligible shall be notified accordingly by the director.

28           5. Any regular employee who is dismissed or involuntarily demoted for  
29 cause or suspended for more than five working days may appeal in writing to the  
30 administrative hearing commission within thirty days after the effective date  
31 thereof, setting forth in substance the employee's reasons for claiming that the  
32 dismissal, suspension or demotion was for political, religious, or racial reasons,  
33 or not for the good of the service.

34           6. The provisions for appeals provided in subsection 5 of this section for  
35 dismissals of regular merit employees may be adopted by nonmerit agencies of the  
36 state for any or all employees of such agencies.

37           [7. Agencies not adopting the provisions for appeals provided in  
38 subsection 5 of this section shall adopt dismissal procedures substantially similar  
39 to those provided for merit employees.] However, these procedures need not apply  
40 to employees in policy-making positions, or to members of military or law  
41 enforcement agencies.

42           [8.] 7. Hearings under this section shall be deemed to be a contested case  
43 and the procedures applicable to the processing of such hearings and  
44 determinations shall be those established by chapter 536. Decisions of the  
45 administrative hearing commission shall be final and binding subject to appeal  
46 by either party. Final decisions of the administrative hearing commission  
47 pursuant to this subsection shall be subject to review on the record by the circuit  
48 court pursuant to chapter 536.

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