

REFERENCE TITLE: merit system council; law enforcement

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1659

Introduced by
Senator Gowan

AN ACT

AMENDING SECTIONS 38-1002, 38-1004 AND 38-1006, ARIZONA REVISED STATUTES;
REPEALING SECTION 38-1007, ARIZONA REVISED STATUTES; RELATING TO THE LAW
ENFORCEMENT OFFICERS MERIT SYSTEM.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 38-1002, Arizona Revised Statutes, is amended to read:

38-1002. Merit system council for law enforcement officers

A. ~~In each county coming within the provisions of this article, there shall be~~ THE BOARD OF SUPERVISORS OF EACH COUNTY SHALL APPOINT a merit system council ~~which shall consist~~ CONSISTING of five members, ~~appointed by the board of supervisors of the county. No~~ NOT more than three ~~members shall~~ OF WHOM belong to the same political party. ~~and~~ All members shall be persons having recognized knowledgeable interest in the merit principles of personnel administration, and are prohibited from delegating their authority.

B. EXCEPT PURSUANT TO SECTION 38-1006, in each city or town ~~adopting the provisions of this article~~, there shall be a merit system council ~~which~~ THAT shall consist of five members appointed by the governing body of such city or town. ~~No~~ NOT more than three members shall belong to the same political party and all members shall be persons having recognized knowledgeable interest in the merit principles of personnel administration.

C. The term of each member of a council shall be five years, one term to expire December 31 each year, except that a member shall continue to serve until his successor is duly appointed and qualified. Of the members of the council first appointed, one shall be appointed for a term ending December 31, 1970, and one each for terms ending one, two, three and four years thereafter. ~~Upon~~ ON the expiration of the term of a member a successor shall be appointed for a full term of five years. Appointment to fill a vacancy resulting other than from expiration of term shall be for the unexpired portion of the term only.

D. The council shall hold regular quarterly meetings and in addition, may hold such special meetings as the chairman of the council deems necessary. A chairman and ~~vice-chairman~~ VICE CHAIRMAN shall be elected by the members of the council in January of each year and the chairman shall not be permitted to succeed himself. Meetings of the council shall be open to the public and executive sessions may be held as provided by law.

E. Any one of the following shall constitute the resignation of a council member and authorize the appointing authority to appoint a new member to fill the unexpired portion of the term so vacated:

1. Absence from three consecutive quarterly meetings.
2. Becoming a candidate for any elective public office.
3. Accepting any appointive office or employment in the service of the state, or a county, city or town.

F. Members of the council shall receive subsistence and travel expenses incurred while traveling from their places of residence to the

place meetings are held or in the performance of other duties of the council in the same manner as is provided by law for state officers.

Sec. 2. Section 38-1004, Arizona Revised Statutes, is amended to read:

38-1004. Appeals; hearings

A. A classified law enforcement officer who is suspended, demoted or dismissed by the department head, after a hearing and review before the merit system council, may have the determination of the council reviewed pursuant to title 12, chapter 7, article 6 in the superior court of the county in which the law enforcement officer resides. If the determination of the council is overruled by the court, the law enforcement officer shall be reinstated in the officer's position and the officer shall be reimbursed for any compensation withheld pending determination by the council and court.

B. If the order of the department head was for a suspension greater than sixteen hours, demotion or dismissal and the court exonerates the officer, the court may award, in whole or in part, the reasonable costs and attorney fees that the law enforcement officer incurred or were incurred on behalf of the law enforcement officer in the court proceedings. The award of attorney fees by the court shall not exceed \$15,000. An award of attorney fees does not apply if either of the following applies:

1. The order of the department head was not for disciplinary purposes but was for administrative purposes such as a reduction in force.

2. The disciplinary action related to off-duty activities unrelated to the required duties of the law enforcement officer. If the department head appeals the decision of the court, the court's award of any costs or attorney fees to an officer shall be stayed pending the conclusion of the appeal. If the department head's decision is upheld on appeal, the award of costs or attorney fees in favor of the officer shall be reversed.

~~C. If a law enforcement officer of a county, city or town described in section 38-1007 appeals from a decision of a department head in connection with the law enforcement officer's suspension greater than sixteen hours, demotion or dismissal and the county, city or town maintains a merit system or civil service plan for its employees, and the merit system or civil service plan appeals board exonerates the officer, the merit system or civil service plan appeals board may award, in whole or in part, the reasonable costs and attorney fees that the law enforcement officer incurred or were incurred on behalf of the law enforcement officer in connection with the appeal. The amount of the award by the merit system or civil service plan appeals board shall not exceed \$10,000. If the department head appeals the decision of the merit system or civil service appeals board, the award of attorney fees shall be stayed pending the conclusion of the appeal. If the officer appeals to court the decision of the merit system or civil service plan appeals~~

~~board, or of the city or town council or board of supervisors if the city, town or county has no such board, and the court exonerates the officer, the court may award, in whole or in part, the reasonable costs and attorney fees that the law enforcement officer incurred or were incurred on behalf of the law enforcement officer in connection with the appeal. The award of attorney fees by the governing body or court shall not exceed \$15,000. An award of attorney fees under this subsection does not apply if either of the following applies:~~

~~1. The order of the department head was not for disciplinary purposes but was for administrative purposes such as a reduction in force.~~

~~2. The disciplinary action related to off-duty activities unrelated to the required duties of the law enforcement officer. If the department head appeals the decision of the court, the court's award of any costs or attorney fees to an officer shall be stayed pending the conclusion of the appeal. If the department head's decision is upheld on appeal, the award of costs or attorney fees in favor of the officer shall be reversed.~~

~~D.~~ C. A department head shall have the right to have all council policies and decisions reviewed pursuant to title 12, chapter 7, article 6 in the superior court of the county in which the law enforcement officer resides and legal counsel for the department head shall be provided by the county or city attorney in whose jurisdiction the department lies.

~~E.~~ D. Notwithstanding section 38-1106, subsection J, any appeal of a suspension, demotion or dismissal in which a single hearing officer or administrative law judge has been appointed by the merit system council or appeals board to conduct the appeal hearing shall be open to the public unless the hearing officer or administrative law judge determines that good cause exists to close the hearing.

Sec. 3. Section 38-1006, Arizona Revised Statutes, is amended to read:

38-1006. Authority of city or town to use county merit system council

A. Any city or town so desiring may use the services of the county merit system council, in lieu of appointing a merit council of its own, by applying to the county board of supervisors and paying their proportionate share of the expenses of the council.

~~B. In the event a county adopts by resolution a merit system for all of its employees, then~~ The provisions of this article as it pertains to county employees shall be administered by the county employee merit system commission.

Sec. 4. Repeal

Section 38-1007, Arizona Revised Statutes, is repealed.