

Hall of the House of Representatives
89th General Assembly - Regular Session, 2013
Amendment Form

Subtitle of House Bill No. 1205

AN ACT CONCERNING STATE EMPLOYEE GRIEVANCES AND POSSIBLE RELIEF FOR GRIEVANCES,
INCLUDING WITHOUT LIMITATION CREDIT UNDER A RETIREMENT SYSTEM.

Amendment No. 2 to House Bill No. 1205

Amend House Bill No. 1205 as engrossed, H3/7/13 (version: 03/07/2013 10:25:48 AM):

Page 1, delete lines 11 through 13 and substitute the following:
"WITH GROUNDS FOR A GRIEVANCE; AND FOR OTHER PURPOSES."

AND

Delete the subtitle in its entirety and substitute:

"CONCERNING STATE EMPLOYEE GRIEVANCES AND
POSSIBLE RELIEF FOR GRIEVANCES."

AND

Page 1, delete lines 25 through 36

AND

Page 2, delete lines 1 through 22

AND

Page 2, line 26 delete "Appeals of"

AND

Page 2, delete lines 32 through 34

AND

Page 2, line 35, delete "(4)" and substitute "(3)"

AND



Page 3, line 2, delete "(5)(A)" and substitute "(4)(A)"

AND

Page 3, delete line 9 and substitute the following:

"(B) "Employee" does not include a supervisory employee;
(5) "Party" means the employee affected by a state agency
decision or the state agency that made the decision at issue in the
grievance;"

AND

Page 3, delete lines 29 through 35 and substitute the following:

"21-1-702. Grievances.
(a) Each state agency shall promulgate rules instituting a procedure
for the filing, hearing, adjudication, and appeal of grievances.

21-1-703. Appeals.

The Office of Personnel Management of the Division of Management
Services of the Department of Finance and Administration shall promulgate
rules that:

(1) Provide a process for appeals of the grievance decisions of
state agencies; and

(2) Provide a procedure for the nonbinding mediation consistent
with this subchapter, including without limitation:

(A) The filing and form of a request for nonbinding
mediation;

(B) The method of notice of and the scheduling of the
nonbinding mediation to be provided to a party;

(C) Rules for conduct of the nonbinding mediation;

(D) Appropriate evidence to be considered at the
nonbinding mediation; and

(E) Considerations to be made in resolving the nonbinding
mediation.

21-1-704. Nonbinding mediation.

(a)(1) After a state agency hearing pursuant to a grievance filed by
an employee and before an appeal to the Office of Personnel Management of the
Division of Management Services of the Department of Finance and
Administration, a party may file a request for nonbinding mediation to
resolve the issue raised by the grievance if the grievance concerns an
allegation that the employee has been:"

AND

Page 4, line 20, delete "filing an appeal" and substitute "agreeing to
nonbinding mediation"

AND

Page 4, delete lines 23 through 36 and substitute the following:

"(2) Notice of the request for nonbinding mediation shall be

filed by the party requesting the nonbinding mediation for the grievance with the Office of Personnel Management no later than fifteen (15) business days after the grievance hearing or state agency decision.

(b)(1) The Office of Personnel Management shall:

(A) Maintain a roster of qualified mediators; and

(B) Provide by rule for the minimum qualifications of mediators.

(2) A mediator shall:

(A) Be a mediator from the Office of Personnel Management's roster of qualified mediators;

(B) Be certified in mediation by the Arkansas Alternative Dispute Resolution Commission;

(C) Not be employed by the state agency that is a party to the nonbinding mediation;

(D) Have a background in employer and employee relations; and

(E) Not be required to be an attorney."

AND

Page 5, delete lines 1 through 13 and substitute the following:

"(c)(1)(A) The nonbinding mediation may be resolved by the agreement of the parties.

(B) If the parties reach a resolution in the nonbinding mediation, the director of the state agency that is a party to the nonbinding mediation shall report the resolution in writing to the Office of Personnel Management, and the matter shall be considered resolved and final.

(2)(A) If there is no resolution after the nonbinding mediation:

(i) A party may file an appeal with the Office of Personnel Management within ten (10) days of the mediation; and

(ii) The mediator shall report within twenty (20) days of the nonbinding mediation his or her suggested resolution to the Director of the Department of Finance and Administration.

(B) In determining the proposed resolution, the mediator shall consider:

(i) What action, if any, is in the best interests of the efficient administration of the state agency;

(ii) Whether the"

AND

Page 5, line 15, delete "(i)" and substitute "(a)"

AND

Page 5, line 17, delete "(ii)" and substitute "(b)"

AND

Page 5, delete lines 18 through 20 and substitute the following:

"was based on factors other than an employee's unacceptable performance; and

(iii) Whether the employee shows:"

AND

Page 5, line 21, delete "(i)" and substitute "(a)"

AND

Page 5, line 23, delete "(ii)" and substitute "(b)"

AND

Page 5, line 25, delete "(iii)" and substitute "(c)"

AND

Page 5, line 27, delete "An employee appealing" and substitute "A party to nonbinding mediation"

AND

Page 5, line 28, delete "an arbitrator" and substitute "a mediator"

AND

Page 5, line 29, delete "appeal" and substitute "nonbinding mediation"

AND

Page 5, delete lines 30 through 36 and substitute the following:

"(e) The nonbinding mediation shall be conducted within forty-five (45) days of the request for mediation."

AND

Page 6, delete lines 1 through 36

AND

Page 7, delete lines 1 through 36

AND

Page 8, delete lines 1 through 5

AND

Page 8, line 9, delete "receiving appeals under Section 3 of this act on" and substitute "offering nonbinding mediation under this act on"

AND

Renumber the sections appropriately

The Amendment was read _____

By: Representative Nickels

JAW/JAW - 04-02-2013 13:37:13

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Chief Clerk