

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A Bill

HOUSE BILL

4 **By: Representatives Mitchell and McCoy**

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For An Act To Be Entitled

8 "AN ACT TO ESTABLISH AND MAINTAIN THE ARKANSAS PUBLIC
9 EMPLOYEE APPEAL BOARD; TO PRESCRIBE THE FUNCTIONS, DUTIES,
10 RESPONSIBILITIES AND THE AUTHORITY OF THE BOARD; TO GRANT
11 TO THE BOARD AUTHORITY TO APPROVE AN APPLICABLE EMPLOYEE
12 GRIEVANCE PROCEDURE; TO SET THE TERMS OF OFFICE AND
13 CONDITIONS FOR APPOINTMENT; TO PROVIDE LEGAL COUNSEL FOR
14 THE BOARD AND TO ESTABLISH SUBPOENA POWER; TO ESTABLISH
15 COMPENSATION FOR THE BOARD; TO ESTABLISH A METHOD OF
16 REMOVAL OF MEMBERS FOR NON-PERFORMANCE OF DUTIES; AND FOR
17 OTHER PURPOSES."

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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. (a) There is established the Arkansas Public Employee
22 Appeal Board to be composed of nine (9) members. Two (2) members shall be
23 appointed from each of the four (4) congressional districts of Arkansas and
24 one (1) member shall be selected from the state at large. The persons
25 appointed to the board shall be recognized public spirited individuals known
26 to have an interest in the improvement of public administration and
27 experienced in third party dispute resolution and shall be committed to the
28 impartial resolution of the issues presented to the board.

29 (b) Members of the board shall be appointed by the Governor and
30 confirmed by the Senate, and shall serve for a term of four (4) years and
31 thereafter until a successor has been appointed. The initial members of the
32 board shall choose by lot four (4) board members to serve an initial two (2)
33 year appointment.

34 (c) An appointment made to fill a vacancy prior to the expiration of a
35 term shall be for the remainder of such term.

1 (d) The member selected at large shall be the chair of the board.

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3 SECTION 2. During the twelve (12) months preceding appointment, no
4 board member shall have held political office, have been a candidate for any
5 elective public office, have been a participant in a political organization or
6 campaign or have been an employee of the State of Arkansas in any capacity.
7 Neither shall a board member hold any such office or employment or become a
8 candidate for elective public office in a partisan election.

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10 SECTION 3. (a) The board shall adopt procedures for the conduct of its
11 activities.

12 (b) Meetings of the board shall be held monthly and at such other times
13 as may be necessary upon the call of the chair.

14 (c) Five (5) members shall constitute a quorum.

15 (d) In the event members are unavailable to conduct official business
16 for a valid or just reason, the Governor shall have the power to appoint on an
17 interim basis a member to conduct such business.

18 (e) The agencies served shall have the right to be present at all
19 meetings of the board, but such representation will be without voting power.
20 All hearings shall be open to the public.

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22 SECTION 4. The board members shall receive seventy-five dollars
23 (\$75.00) per diem for each official meeting or appeal hearing and may receive
24 additional compensation for actual expenses for meals, lodging and travel for
25 the conduct of official business upon approval of the manager of the Arkansas
26 Public Employee Appeal Board.

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28 SECTION 5. (a) It shall be the duty of the board to promulgate, by
29 regulation, an employee grievance procedure for all state employees having
30 completed their probationary period and classified under the Uniform
31 Classification and Compensation Act, Arkansas Code 21-5-201 et seq. The
32 procedure shall:

33 (1) Incorporate established agency policy on promotions and
34 transfers.

35 (2) Incorporate the industrial relations concept of just cause on

1 matters of discipline.

2 (3) Incorporate the applicable judicial guidelines on matters of
3 discrimination.

4 (4) Incorporate established agency policy concerning probationary
5 periods. The term "probationary period" shall be defined as having worked for
6 ninety (90) days and receiving a satisfactory evaluation. The board shall
7 provide that employees who are beyond the probationary period may be
8 terminated only for cause.

9 (5) Provide for an initial step which will afford the employee and
10 his or her immediate supervisor to privately attempt to resolve the issue in
11 dispute. The immediate supervisor is that individual who has the authority to
12 direct the employee.

13 (6) Provide for a formal meeting of the employee and legal
14 counsel, organizational representative, or personal representative to meet
15 with the department head, facility administrator/superintendent, area
16 supervisor, or such agency representative to attempt to resolve the issue in
17 dispute. Such agency administrator or supervisor shall have the authority to
18 resolve the issue in dispute.

19 (7) Provide for the right of discovery and the exchange of
20 information prior to all formal meetings.

21 (8) Promulgate such rules of procedure which are consistent with
22 established labor relations practice and consistent with the laws of the State
23 of Arkansas.

24 (b) The board shall promulgate a procedure of submission of the agency
25 employee grievance procedure to the Arkansas Public Employee Appeal Board
26 within thirty (30) days of the board's initial meeting.

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28 SECTION 6. The board shall employ a manager of the Arkansas Public
29 Employee Appeal Board and such staff as authorized by the General Assembly.

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31 SECTION 7. (a) The manager of the Arkansas Public Employee Appeal
32 Board shall develop a rotating panel of three (3) board members, identifying
33 one of the three as chair. They shall act as an impartial panel to hear the
34 issue in dispute. In the event that a board member feels that he or she may
35 not be able to render an impartial decision, the board member may excuse

1 himself or herself and the next available board member will sit on the panel.

2 (b) It shall be the duty of the panel to render a decision in writing
3 within seven (7) days of the close of the hearing.

4 (c) The decision of the panel of the board shall be final and binding
5 on the agency and employee. However, judicial review of the decision may be
6 obtained pursuant Arkansas Code 25-15-212.

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8 SECTION 8. The board shall be provided legal counsel from the legal
9 staff of the Department of Finance and Administration, except where an
10 employee of the Department of Finance and Administration is the aggrieved
11 party. Outside legal representation will be used in such cases.

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13 SECTION 9. (a) All rules, regulations and proceedings of the board
14 shall be subject to the Administrative Procedure Act, Arkansas Code 25-15-101
15 et seq.

16 (b) The board shall hold and conduct meetings in accordance with the
17 Freedom of Information Act of 1967, Arkansas Code 25-19-101 et seq.

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19 SECTION 10. (a) In the performance of its duties, the board is
20 empowered to issue subpoenas and compel the attendance of persons before it
21 for the purpose of examining any facts or conditions properly pending before
22 the board for its action.

23 (b) All subpoenas issued by the board shall be served in the manner
24 prescribed by law for the service of subpoenas issuing from the courts, and
25 all persons so served shall obey the subpoenas or be subject to the penalties
26 provided by law for the disobedience of subpoenas issuing from the courts.

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28 SECTION 11. The administrator of the Office of Personnel Management,
29 Department of Finance and Administration shall serve as the manager of the
30 Arkansas Public Employee Appeal Board and provide technical support until such
31 time as appropriations become effective.

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33 SECTION 12. The provisions of this act shall not apply to any employees
34 of elected constitutional officers of the executive branch of the state of
35 Arkansas, the Arkansas State Highway and Transportation Department or the

1 Arkansas Game and Fish Commission.

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3 SECTION 13. All provisions of this act of a general and permanent
4 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
5 Code Revision Commission shall incorporate the same in the Code.

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7 SECTION 14. If any provision of this act or the application thereof to
8 any person or circumstance is held invalid, such invalidity shall not affect
9 other provisions or applications of the act which can be given effect without
10 the invalid provision or application, and to this end the provisions of this
11 act are declared to be severable.

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13 SECTION 15. All laws or parts of laws in conflict with this act are
14 hereby repealed.

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