

STATE OF ARIZONA  
1986 LEGISLATURE  
1st REGULAR SESSION

SENATE

S. B. 37  
INTRODUCED  
January 13, 1971

Bill Number: \_\_\_\_\_  
Author: \_\_\_\_\_  
Committee: \_\_\_\_\_  
Date: \_\_\_\_\_  
Title: \_\_\_\_\_  
Description: \_\_\_\_\_  
Sponsor: \_\_\_\_\_

Introduced by Senator O'Connor

AN ACT

RELATING TO PUBLIC OFFICERS AND EMPLOYEES; PROVIDING THAT THE STATE PERSONNEL COMMISSION MAY AFFIRM, REVERSE OR MODIFY ACTION OF THE EMPLOYING AGENCY, AND AMENDING SECTION 38-910, ARIZONA REVISED STATUTES.

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

2 Section 1. Section 38-910, Arizona Revised Statutes,  
3 is amended to read:

4 38-910. Appeals to the commission; hearings

5 A. Any employee who is dismissed, suspended or demoted,  
6 after completing his probationary period of service as pro-  
7 vided by the rules of the commission, shall have the right  
8 to appeal to the commission not later than thirty days after  
9 the effective date of such action. The employee shall be  
10 furnished with specified charges in writing when the action  
11 is taken. Such appeal shall be in writing and shall be  
12 heard by the commission within thirty days after its receipt.  
13 The commission shall furnish the employing agency with a  
14 copy of the appeal in advance of the hearing.

15 B. Hearings on such appeals shall be open to the public,  
16 except in cases where the employee requests a confidential  
17 hearing, and shall be informal with technical rules of evi-  
18 dence not applying to the proceedings except the rule of

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1 privilege recognized by law. Both the employee and his em-  
2 ploying agency shall be notified reasonably in advance of  
3 the hearing and may select representatives of their choosing,  
4 present and cross-examine witnesses, and give evidence before  
5 the commission. The commission, or a duly appointed hearing  
6 officer, shall conduct the hearing and is authorized to take  
7 evidence and exercise the rights prescribed by section 12-  
8 2212. The commission shall prepare an official record of  
9 the hearing, including all testimony recorded manually or by  
10 mechanical device, and exhibits, but it shall not be required  
11 to transcribe such record unless requested by the employee,  
12 who shall be furnished with a complete transcript upon the  
13 payment of the actual cost.

14 C. THE ORDER OF THE COMMISSION MAY AFFIRM, REVERSE OR  
15 MODIFY THE ACTION TAKEN BY THE EMPLOYING AGENCY. Within  
16 thirty days after the conclusion of the hearing, the commis-  
17 sion shall make and fully report in its permanent records,  
18 findings of fact, conclusions of law when the construction  
19 of a rule, regulation, or statute is in question, reasons  
20 for the action taken and its order based thereon, which shall  
21 be final subject to action by the court on appeal as provided  
22 in this section, at the same time sending a copy of the find-  
23 ings, conclusions, and order by registered mail to the em-  
24 ploying agency and to the employee at his address as given  
25 at the hearing or to a representative designated by him to  
26 receive the same.

27 D. Within thirty days after the recording of the order  
28 and the mailing thereof, the employee may appeal to the su-  
29 perior court of the county of residence on one or more of  
30 the following grounds, that the order was:

- 31 1. Founded on or contained error of law which shall  
32 specifically include error of construction or application  
33 of any pertinent rules.
- 34 2. Unsupported by any evidence as disclosed by the en-  
35 tire record.

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- 1 3. Materially affected by unlawful procedure.
- 2 4. Based on violation of any constitutional provision.
- 3 5. Arbitrary or capricious.

4 E. The grounds prescribed by subsection D, shall be  
5 stated in a written notice of appeal filed with the court,  
6 with copies served on the commission and on the employing  
7 agency. Within thirty days after service of such notice or  
8 within such further time as the court may allow, the commis-  
9 sion shall transmit to the court a certified transcript, with  
10 exhibits of the hearing. By stipulation between the employing  
11 agency and the employee, the transcript may be shortened and  
12 either party unreasonably refusing to stipulate to such limi-  
13 tation may be ordered by the court to pay the additional  
14 cost involved. The court may require or permit subsequent  
15 corrections or additions to the transcript.

16 F. The court shall review the hearing on the basis of the  
17 transcript and exhibits, except that in case of alleged irregu-  
18 larity in procedure by the commission not shown by the trans-  
19 script, the court may order further testimony. The court shall  
20 upon request by either party hear oral arguments and receive  
21 written briefs. The court may affirm the order of the commis-  
22 sion, remand the matter for further proceedings before the  
23 commission, or reverse or modify the order. Appeal shall be  
24 available to the courts of appeal from the order of the su-  
25 perior court as in other civil cases.