

FIRST REGULAR SESSION

# HOUSE BILL NO. 1007

96TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE LONG.

2126L.011

D. ADAM CRUMBLISS, Chief Clerk

---

## AN ACT

To repeal section 36.390, RSMo, and to enact in lieu thereof one new section relating to appeal procedures for dismissed nonmerit state 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Section A. Section 36.390, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 36.390, to read as follows: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 has been rejected by the director may appeal to the administrative hearing commission in writing within fifteen days of the mailing of the notice of rejection by the director, and in any event before the holding of the examination. The commission's decision on all matters of fact shall be final.

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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

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

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

32           7. Agencies not adopting the provisions for appeals provided in subsection 5 of this  
33 section shall adopt dismissal procedures substantially similar to those provided for merit  
34 employees. However, these procedures need not apply to employees in policy-making positions,  
35 or to members of military or law enforcement agencies.

36           8.] Hearings under this section shall be deemed to be a contested case and the procedures  
37 applicable to the processing of such hearings and determinations shall be those established by  
38 chapter 536. Decisions of the administrative hearing commission shall be final and binding  
39 subject to appeal by either party. Final decisions of the administrative hearing commission  
40 pursuant to this subsection shall be subject to review on the record by the circuit court pursuant  
41 to chapter 536.