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## State of Minnesota

## **HOUSE OF REPRESENTATIVES**

NINETY-SECOND SESSION

H. F. No. 3092

02/03/2022 Authored by Nelson, M.,

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The bill was read for the first time and referred to the Committee on State Government Finance and Elections

1.1 A bill for an act

relating to state government; amending procedures for discipline and discharge of certain state employees; amending Minnesota Statutes 2020, section 43A.33, subdivision 3.

## BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

- Section 1. Minnesota Statutes 2020, section 43A.33, subdivision 3, is amended to read:
- Subd. 3. **Procedures.** (a) Procedures for discipline and discharge of employees covered by collective bargaining agreements shall be governed by the agreements. Procedures for employees not covered by a collective bargaining agreement shall be governed by this subdivision and by the commissioner's and managerial plans.
- (b) For discharge, suspension without pay or demotion, no later than the effective date of such action, a permanent classified employee not covered by a collective bargaining agreement shall be given written notice by the appointing authority. The content of that notice as well as the employee's right to reply to the appointing authority shall be as prescribed in the grievance procedure contained in the applicable plan established pursuant to section 43A.18. The notice shall specify the effective date of the disciplinary action and also include a statement that the employee may elect to appeal the action to the Bureau of Mediation Services Office of Administrative Hearings within 30 calendar days following the effective date of the disciplinary action. A copy of the notice and the employee's reply, if any, shall be filed by the appointing authority with the commissioner no later than ten calendar days following the effective date of the disciplinary action. The commissioner shall have final authority to decide whether the appointing authority shall settle the dispute

Section 1.

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prior to the hearing provided under this subdivision 4, and shall represent the appointing authority at the hearing.

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- (c) For discharge, suspension, or demotion of an employee serving an initial probationary period, and for noncertification in any subsequent probationary period, grievance procedures shall be as provided in the plan established pursuant to section 43A.18.
- (d) Within ten <u>business</u> days of receipt of the employee's written notice of appeal, the <u>commissioner of the Bureau of Mediation Services</u> Chief Administrative Law Judge of the <u>Office of Administrative Hearings</u> shall <u>provide both parties with a list of potential arbitrators</u> according to the rules of the Bureau of Mediation Services to hear the appeal. The process of selecting the arbitrator from the list shall be determined by the plan assign a temporary administrative law judge as provided in section 14.49.

The hearing shall be conducted pursuant to the contested case procedures in chapter 14 and rules of the Bureau of Mediation Services Office of Administrative Hearings and shall be closed to the public. If the arbitrator judge finds, based on the hearing record, that the action appealed was not taken by the appointing authority for just cause, the employee shall be reinstated to the position, or an equal position in another division within the same agency, without loss of pay. If the arbitrator judge finds that there exists sufficient grounds for institution of the appointing authority's action but the hearing record establishes extenuating circumstances, the arbitrator judge may reinstate order the reinstatement of the employee, with full, partial, or no pay, or may modify the appointing authority's action. The judge's order shall be the final decision, but it may be appealed under the provisions of sections 14.63 to 14.69. The appointing authority shall bear the costs of the arbitrator Office of Administrative Hearings for hearings provided for in this section; each party shall bear their own attorney fees, costs, and expenses.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Section 1. 2