

1 SB24
2 196356-1
3 By Senator Scofield
4 RFD: Governmental Affairs
5 First Read: 05-MAR-19
6 PFD: 02/07/2019

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8 SYNOPSIS: Under existing law, a public employer in the
9 state may suspend a state employee without pay or
10 other compensation as punishment for improper
11 behavior and the total time of suspension may not
12 exceed 30 days in any year of service. The state
13 employee has 10 days to accept the suspension or
14 request a suspension hearing.

15 This bill would clarify that the suspension
16 of a state employee may not exceed 30 business days
17 in any year of service and would give the state
18 employee 10 business days to accept the suspension
19 or request a suspension hearing.
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21 A BILL
22 TO BE ENTITLED
23 AN ACT
24

25 Relating to state employees; to amend Section
26 36-26-28, Code of Alabama 1975, relating to suspensions
27 without pay; to clarify that the total time of suspension may

1 not exceed 30 business days in any year of service; and to
2 provide the state employee 10 business days to accept the
3 suspension or request a suspension hearing.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Section 36-26-28, Code of Alabama 1975,
6 is amended to read as follows:

7 "§36-26-28.

8 "(a) An appointing authority ~~may, from time to time,~~
9 may peremptorily suspend any employee without pay or other
10 compensation as punishment for improper behavior, but the
11 suspension or total suspension by the appointing authority of
12 the person shall not exceed 30 business days in any year of
13 service. The suspension with loss of pay may be effected only
14 by service upon the employee by the appointing authority of
15 written charges setting out clearly the reasons for which the
16 suspension is being considered. Within 10 business days, the
17 employee must accept the suspension or request a suspension
18 hearing. If the employee requests a suspension hearing, the
19 appointing authority shall appoint an independent hearing
20 officer to receive evidence and issue a recommendation on the
21 proposed suspension. The appointing authority may accept or
22 reject the recommendation of the hearing officer. If the
23 appointing authority rejects the recommendation, written
24 justification for the rejection must be provided to the
25 employee.

26 "(b) The appointing authority shall appoint an
27 independent hearing officer from a list of eligible hearing

1 officers which shall be maintained by the State Personnel
2 Department. The appointed hearing officer may be employed by
3 the appointing authority, but shall be independent of the
4 division or area in which the employee works. Any challenge as
5 to the appointment of the independent hearing officer shall be
6 made to the State Personnel Director within five days of
7 notification of the appointment. For the purposes of this
8 section, a hearing officer shall be any person or persons
9 approved by the State Personnel Department to hear a
10 suspension case. If it is the preference of the appointing
11 authority, a hearing officer may be appointed from the
12 Governmental Hearing Officer register, which is compiled and
13 maintained by the State Personnel Department.

14 "(c) Nothing in this section limits an appointing
15 authority's power to provide additional due process safeguards
16 to employees.

17 "(d) The burden of proof shall lie with the
18 appointing authority to prove the charges forming the basis of
19 the suspension.

20 "(e) Those departments or agencies currently having
21 an existing process for suspension hearings may continue to
22 use the existing process, provided that they observe tenents
23 of due process, including that the burden of proof shall lie
24 with the appointing authority.

25 "(f) ~~Further, this~~ This section shall not apply to
26 any department which currently employs and continues to employ
27 as a standard practice in such cases a pre-disciplinary

1 hearing before an independent hearing officer who makes a
2 recommendation for disciplinary action to the appointing
3 authority based upon a fair hearing of the matter."

4 Section 2. This act shall become effective
5 immediately following its passage and approval by the
6 Governor, or its otherwise becoming law.