

AMENDED IN SENATE AUGUST 4, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2032

Introduced by Assembly Member Bonta

February 20, 2014

An act to amend Section 18671.1 of the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2032, as amended, Bonta. Civil service: employee hearings.

Existing law authorizes the State Personnel Board to hold hearings and make investigations concerning matters relating to the administration of the civil service. These provisions require, among other things, that a hearing or investigation be commenced within a reasonable time after the filing of the petition whenever a hearing or investigation is conducted in regard to an appeal by an employee. Existing law also authorizes an employee to make a written request for a priority hearing by the board for an appeal of an action that resulted in the employee's termination if an evidentiary hearing has not commenced within 6 months of the filing of the appeal and requires the board to schedule an evidentiary hearing within 60 days. In an appeal to the board, the appointing power bears the burden of proof that the employee was discharged for good cause.

Under existing law, an employee, under certain circumstances, may seek a writ of mandate with the courts if the board does not render a decision within the statutory time limits. Under existing case law, the employee has the burden of proof in the writ of mandate proceedings that the adverse action against him or her was not supported by good cause.

This bill would ~~require~~ *provide* that the *appointing power has the* burden of proof ~~remain with the appointing power~~ in a proceeding for a writ of mandate brought by an employee when the board has not rendered a decision within the above-described time limit.

Vote: majority. Appropriation: no. Fiscal committee: no.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 18671.1 of the Government Code is
 2 amended to read:

3 18671.1. (a) If a hearing or investigation is conducted by the
 4 board or its authorized representative in regard to an appeal by an
 5 employee, the hearing or investigation shall be commenced within
 6 a reasonable time after the filing of the appeal. For appeals from
 7 actions resulting in the termination of an employee, if an
 8 evidentiary hearing has not commenced within six months of the
 9 filing of the appeal, the employee may make a written request for
 10 a priority hearing by the board. Upon receipt of the written request,
 11 the board shall schedule an evidentiary hearing within 60 days of
 12 the request at a hearing location designated by the board.

13 (b) The board shall render its decision within a reasonable time
 14 after the conclusion of the hearing or investigation, except that the
 15 period from the filing of the appeal to the decision of the board
 16 shall not exceed six months.

17 (c) The provisions described in subdivision (b) relating to the
 18 six-month period for a decision may be waived by the employee
 19 but if not so waived, a failure to render a timely decision is an
 20 exhaustion of all available administrative remedies.

21 (d) The board may order all of, or a portion of, any hearing to
 22 be conducted using electronic media pursuant to board rules.

23 ~~(e) Notwithstanding any other law, the burden of proof by~~
 24 ~~preponderance of the evidence that the employee engaged in~~
 25 ~~conduct on which the disciplinary charge is based and that the~~
 26 ~~conduct constitutes a cause of discipline under Section 19772,~~
 27 ~~remains with the appointing power in a proceeding for a writ of~~
 28 ~~mandate brought by an employee when the board has failed to~~
 29 ~~render a decision within the time limit established by this section.~~

30 (e) *In a proceeding for a writ of mandate brought by an*
 31 *employee when the board has failed to render a decision within*

1 *the time limit established by this section, the appointing power*
2 *has the burden of proof that the employee engaged in conduct on*
3 *which the disciplinary charge is based and that the conduct*
4 *constitutes a cause of discipline under Section 19572. For purposes*
5 *of this subdivision, proof shall be by a preponderance of the*
6 *evidence.*

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