

183 **17-30a-103. Application.**

184 This chapter applies to a county of the first class or a police interlocal entity in which a
 185 county of the first class is a party to an interlocal agreement to provide law enforcement
 186 service.

187 Section 6. Section **17-30a-104** is enacted to read:

188 **17-30a-104. Subordinate officers appointed, reappointed -- Officers serving on**
 189 **effective date considered qualified.**

190 (1) The appointing authority of a county or police interlocal ~~H~~→ [agency] entity ←~~H~~ subject
 190a to this
 191 chapter that regularly employs one or more peace officers shall:

192 (a) appoint a peace officer with the advice and consent of the county legislative body
 192a **~~H~~→ or police interlocal entity governing body ←~~H~~ .**
 193 subject to the rules and regulations of the commission:

194 (b) appoint each subordinate peace officer;

195 (c) fill a vacancy in the department; and

196 (d) further promote, transfer, reassign, reappoint, demote, suspend, or remove a peace
 197 officer in accordance with the provisions of this chapter.

198 (2) The commission shall adopt rules governing the appointment of peace officers
 199 through reappointment of a former employee who separated in good standing, within one year
 200 after separation.

201 (3) A peace officer appointed ~~H~~→ [on or after] before ←~~H~~ May 13, 2014, is considered
 201a to have been
 202 appointed to and hold the officer's position and classification pursuant to the provisions of this
 203 chapter.

204 Section 7. Section **17-30a-201** is enacted to read:

205 **Part 2. Merit System Commission Powers and Duties**

206 **17-30a-201. Title.**

207 This part is known as "Merit System Commission Powers and Duties."

208 Section 8. Section **17-30a-202** is enacted to read:

209 **17-30a-202. Establishment of merit commission -- Appointment, qualifications,**
 210 **and compensation of members.**

211 (1) (a) Except as provided in Subsection (1)(b), a county subject to this chapter shall
 212 establish a merit system commission consisting of three appointed members:

213 (i) two members appointed by the legislative body of the county; and

307 17-30a-302. Examinations -- How prepared, conducted, and graded -- Notice of
 308 examination.

309 (1) (a) If necessary, the commission shall give a competitive examination to determine
 310 the qualification of an applicant for a position as a merit system officer.

311 (b) The commission shall ensure that an examination:

312 (i) is practical in character; and

313 (ii) relates to matters that fairly test the mental and physical ability and knowledge of
 314 an applicant to discharge the duties of the position.

315 (c) (i) Except as provided in Subsection (1)(c)(ii), the commission shall direct the
 316 preparation, administration, and grading of the examination.

317 (ii) The commission may direct an impartial special examiner to prepare, administer,
 318 and grade the examination on behalf of the commission.

319 (2) (a) The commission shall publish notice of an examination internally and to the
 320 public.

321 (b) (i) The commission shall design the notice described in Subsection (2)(a) to
 322 encourage an applicant to participate in competitive appointments.

323 (ii) The notice shall set forth minimum qualifications, pay scale, physical and
 324 educational requirements, and passing grades.

325 (c) The commission or the commission's designee shall promptly notify a person of the
 326 person's final grade.

327 Section 16. Section **17-30a-303** is enacted to read:

328 **17-30a-303. Disqualification of applicant for examination -- Appeal to**
 329 **commission.**

330 (1) In accordance with this section and rules adopted by the commission, an applicant

331 ~~is~~ **→** [is] may be ← ~~is~~ disqualified if the applicant:

332 (a) does not meet minimum qualifications;

333 (b) has been convicted of a criminal offense inimical to the public service or involving
 334 moral turpitude;

335 (c) has practiced or attempted deception or fraud in the application or examination
 336 process or in securing eligibility for appointment; or

337 (d) is not a citizen of the United States.

338 (2) If an applicant is rejected, the applicant shall be promptly notified.

339 (3) At any time prior to the date of examination, an applicant may correct a defect in
340 the applicant's application.

341 (4) An applicant may file a written appeal regarding the application process with the
342 commission ~~H~~→ at any time before the date of the exam ←~~H~~ .

343 Section 17. Section **17-30a-304** is enacted to read:

344 **17-30a-304. Preservation and inspection of examination papers.**

345 (1) (a) Examination papers and related documents are the property of the commission
346 and the commission shall preserve them until the expiration of the eligible register for which an
347 examination is given.

348 (b) Preservation of examination papers and related documents after the time period
349 described in Subsection (1)(a) is subject to a retention schedule adopted by the commission.

350 (2) (a) Except as provided in Subsection (2)(b), examination papers and related
351 documents are not open to public inspection without a court order.

352 (b) An applicant may inspect the applicant's own papers at any time within 30 days
353 after the commission sends notice of the applicant's grade.

354 (c) The appointing authority may inspect the papers of any eligible applicant certified
355 for appointment.

356 Section 18. Section **17-30a-305** is enacted to read:

357 **17-30a-305. Preparation and expiration of eligible appointment register.**

358 (1) Upon completion of an examination, the commission shall prepare and adopt an
359 eligible appointment register containing the names of applicants receiving a passing grade
360 ranked in the order of grades earned, beginning with the highest.

361 (2) (a) An eligible appointment register shall expire not later than two years after the
362 date of the examination unless the commission, for good reason, extends the time not to exceed
363 one additional year.

364 (b) If the commission adopts a new eligible appointment register, a previous
365 appointment register for the same class or position is cancelled.

366 Section 19. Section **17-30a-306** is enacted to read:

367 **17-30a-306. Appointments from eligible appointment register -- Failure to accept**
368 **appointment.**

369 (1) If the appointment of a peace officer is an appointment based on an examination,
 370 the appointing authority shall request that the commission certify eligible applicants for each
 371 position.

372 (2) (a) The commission shall certify, to the appointing authority, a number of names
 373 equal to three times the number of allocations being filled.

374 (b) The names of the applicants shall be ranked in order of examination score,
 375 beginning with the name of the applicant standing highest on the eligible appointment register.

376 (3) The appointing authority shall select a person described in Subsection (2)(b) and
 377 appoint one person to each open position.

378 (4) If a certified applicant fails to accept a proffered appointment, the applicant:

379 (a) may request in writing that the applicant be able to retain the applicant's place on
 380 the eligible appointment register; and

381 (b) shall provide reasons sufficient, in the judgment of the commission, to justify the
 382 applicant's failure to accept.

383 Section 20. Section **17-30a-307** is enacted to read:

384 **17-30a-307. Probationary period of appointment.**

385 (1) A peace officer appointed under Section ~~H~~→ [17-30a-402] 17-30a-306 ←~~H~~ shall
 385a serve a probationary
 386 period of 12 consecutive months, during which time the officer may be discharged at the sole
 387 discretion of the appointing authority.

388 (2) (a) At the request of the appointing authority and with the approval of the
 389 commission, the probationary period may be extended beyond 12 months for an officer who
 390 has not yet satisfactorily completed an approved peace officer training program and received a
 391 certificate of completion under Title 53, Chapter 6, Peace Officer Standards and Training Act.

392 (b) At the request of the appointing authority and with the approval of the commission,
 393 the probationary period of an officer may be extended beyond 12 months for good cause
 394 shown.

395 (c) Service under a temporary or part-time appointment is not considered a part of the
 396 probationary period.

397 (3) If a peace officer is retained in a position after the expiration of the probationary
 398 period, the officer's retention constitutes appointment to merit status.

399 (4) A person removed from employment during the probationary period may not be

431 to a similar position in the same class and grade within the department.

432 (2) A merit system officer may be ~~H~~→ voluntarily ←~~H~~ reassigned, including to another
432a class and grade, in
433 accordance with rules adopted by the commission.

434 Section 23. Section **17-30a-310** is enacted to read:

435 **17-30a-310. Temporary and part-time appointment.**

436 (1) A department may appoint an employee to a temporary appointment for a period
437 not exceeding 120 days within any 12 month period.

438 (2) A temporary employee is not a merit system officer and may be appointed without
439 examination.

440 (3) A department may appoint an employee to a part-time appointment for a period not
441 to exceed 29 hours per week.

442 (4) A part-time employee is not a merit system officer and may be appointed without
443 examination.

444 Section 24. Section **17-30a-311** is enacted to read:

445 **17-30a-311. Temporary layoffs -- Reappointment register.**

446 (1) Subject to Subsections (2) and (3), and if necessary, because of lack of funds or
447 work, a department may temporarily lay off a merit system officer.

448 (2) A department that lays off a merit system officer under Subsection (1) shall lay off
449 the officer according to the seniority of the officers of the class of positions affected, following
450 the process prescribed by commission rule.

451 (3) A department shall lay off a person serving under temporary or part-time
452 appointment before a merit system officer.

453 (4) (a) If a merit system officer is laid off, the department shall place the officer on a
454 reappointment register to be reappointed in the inverse order in which the officer is laid off.

455 (b) The register described in Subsection (4)(a) takes precedence over all eligible
456 reappointment registers.

457 Section 25. Section **17-30a-312** is enacted to read:

458 **17-30a-312. Reappointment after temporary leave.**

459 (1) (a) Consistent with rules adopted by the commission and within the appointing
460 authority's discretion, a merit system officer may be granted a temporary leave of absence
461 outside the department.

462 (b) Leave granted under Subsection (1)(a) is without pay and for a period not to exceed
 463 one year.

464 (c) In accordance with applicable law or ordinance, the appointing authority may
 465 reappoint the officer without examination at the end of the leave.

466 (2) (a) In the event a merit system officer is elected sheriff or is appointed to any
 467 merit-exempt position in the department, the officer's merit system status shall automatically be
 468 suspended for the period of time the officer remains sheriff or in a merit-exempt appointment.

469 (b) At the end of the period of election to sheriff or suspension of merit status under
 470 Subsection (2)(a), the officer shall be returned to the officer's former position as a merit system
 471 officer without examination.

472 (3) The appointing authority shall authorize any leave required by federal law.

473 Section 26. Section **17-30a-313** is enacted to read:

474 **17-30a-313. Vacation, sick leave, and other benefits.**

475 For merit system officers, provisions regarding vacation, sick, other leave, or any other
 476 employment condition or benefit not covered by this chapter shall be established by $\hat{H} \rightarrow$:

476a (a) $\leftarrow \hat{H}$ applicable

477 law $\hat{H} \rightarrow$ [or by] :

477a (b) $\leftarrow \hat{H}$ county ordinance or regulation $\hat{H} \rightarrow$; or

477b (c) police interlocal entity rule or regulation $\leftarrow \hat{H}$.

478 Section 27. Section **17-30a-314** is enacted to read:

479 **17-30a-314. Prohibitions against political activities -- Penalties.**

480 $\hat{H} \rightarrow$ [(1) (a) As used in this Subsection (1), "person" means:

481 —— (i) an employee of a department;

482 —— (ii) a member of a department governing body;

483 —— (iii) an appointing authority;

484 —— (iv) a merit system officer; and

485 —— (v) a peace officer.

486 —— (b) A person is guilty of a misdemeanor if the person appoints, promotes, transfers,
 487 demotes, suspends, discharges, or changes the amount of compensation of a merit system
 488 officer.

489 —— (c) A person is guilty of a misdemeanor if the person seeks, aids, abets, promises or
 490 threatens the appointment, promotion, transfer, demotion, suspension, discharge, or change in
 491 the amount of compensation as a condition or result of a merit system officer giving,
 492 withholding, or neglecting to make a contribution to or provide service for a political purpose.

493 ~~— (d) Except as provided in Subsection (2), a person is guilty of a misdemeanor if the~~
 494 ~~person solicits, directly or indirectly, a contribution or service for a political purpose from a~~
 495 ~~merit system officer.]~~

495a (1)(a) An officer, employee, or member of a governing body of a county or a police
 495b interlocal entity, whether elected or appointed, may not directly or indirectly coerce,
 495c command, or advise a merit system officer to pay, lend, or contribute part of the officer's
 495d salary or compensation or anything else of value to a party, committee, organization, agency,
 495e or person for political purpose.

495f (b) A county or police interlocal entity officer, employee, or member of a governing
 495g body, whether elected or appointed, may not make or attempt to make a merit system officer's
 495h personnel status dependent upon the officer's support or lack of support for a political party,
 495i committee, organization, agency, or person engaged in a political activity. ←H

496 (2) Subsection (1) H→ ~~(d)~~ ←H does not apply to political speeches or use of mass
 497 communications media for political purposes by a person where a merit system officer is
 498 present, unless the purpose and intent of the speaker is to violate this section with direct respect
 499 to those merit system officers.

500 (3) (a) Except as provided in Subsection (3)(b), a merit system officer may not engage
 501 in a political activity or solicit political contributions from merit system officers during the
 502 hours of employment, or use employer resources at any time for political purposes.

503 (b) Subsection (3)(a) does not preclude a voluntary contribution by a merit system
 504 officer to the party or candidate of the officer's choice.

505 Section 28. Section **17-30a-401** is enacted to read:

506 **Part 4. Disciplinary Actions and Appeals**

507 **17-30a-401. Title.**

508 This part is known as "Disciplinary Actions and Appeals."

509 Section 29. Section **17-30a-402** is enacted to read:

510 **17-30a-402. Disciplinary charges -- Grounds -- Process.**

511 (1) An appointing authority may demote, suspend, discharge, or reduce a merit system
 512 officer's pay for:

513 (a) neglect of duty;

514 (b) disobedience of a reasonable order;

515 (c) misconduct;

516 (d) inefficiency or inability to satisfactorily perform assigned duties; or

517 (e) an act inimical to public service.

- 524 (1) The appointing authority:
525 (a) may impose disciplinary charges in accordance with a rule, policy, ordinance, or
526 law; and
527 (b) shall serve the merit system officer to be disciplined with a copy of the written
528 charges.
- 529 (2) (a) A disciplined merit system officer may file an appeal of the disciplinary charges
530 with the department, which shall conduct the appeal internally.
531 (b) The department shall conduct an appeal in accordance with rules or policies
532 adopted by the appointing authority.
- 533 (3) If the disciplinary charges are sustained on internal appeal, the merit system officer
534 may appeal to the commission in accordance with the provisions of this section and
535 commission rule.
- 536 (4) (a) A merit system officer disciplined in accordance with Subsection (1) may,
537 within 10 calendar days after the internal department appeal decision described in Subsection
538 (2), make an appeal in writing to the commission.
539 (b) If the merit system officer fails to make an internal appeal of the disciplinary action,
540 the officer may not appeal to the commission.
- 541 (5) The commission may hear appeals regarding demotion, reduction in pay,
542 suspension, or discharge of a merit system officer for any cause provided in Section
543 Ĥ→ [17-30a-313] 17-30a-402 ←Ĥ .
- 544 (6) In the absence of an appeal, a copy of the charges under Subsection (1) may not be
545 made public without the consent of the officer charged.
- 546 (7) (a) The commission shall:
547 (i) fix a time and place for a hearing on the appeal; and
548 (ii) give notice of the hearing to the parties.
549 (b) (i) Except as provided in Subsection (7)(b)(ii), the commission shall hold a hearing
550 under this Subsection (7) no less than 10 and no more than 90 days after an appeal is filed.
551 (ii) The commission may hold a hearing more than 90 days after an appeal is filed if:
552 (A) the parties agree; or
553 (B) the commission finds that the delay is for good cause.
554 (8) (a) The commission shall hold the hearing in accordance with Title 52, Chapter 4,

555 Open and Public Meetings Act.

556 (b) Notwithstanding Subsection (8)(a), if the commission proposes to and is authorized
 557 to close the hearing to the public in accordance with Title 52, Chapter 4, Open and Public
 558 Meetings Act, the commission shall open the meeting to the public if the aggrieved officer
 559 requests that the commission open the hearing.

560 (9) The parties may be represented by counsel at the hearing.

561 (10) The commission, on its own motion or at the request of the appointing authority,
 562 may dismiss an appeal for unjustified delay, removal to a court or other venue, or for other
 563 good cause shown.

564 (11) In resolving an appeal, the commission may sustain ~~H→~~ [or] , modify, or ~~←H~~ vacate
 564a a decision of the
 565 appointing authority.

566 (12) After the hearing, the commission shall publish a written decision, including
 567 findings of fact and conclusions of law, and shall notify each party.

568 Section 31. Section ~~17-30a-404~~ is enacted to read:

569 **17-30a-404. Appeal to ~~H→~~ [district court] Court of Appeals ~~←H~~ -- Scope of review.**

570 **~~H→~~ [(1) A party may appeal to the district court the commission's final decision regarding**
 571 **disciplinary charges under Section ~~17-30a-403~~.**

572 ~~———— (2) (a) The court:~~

573 ~~———— (i) shall conduct its review on the record of the hearing held by the commission; and~~

574 ~~———— (ii) may affirm or overturn the ruling;~~

575 ~~———— (b) The district court shall overturn the commission only if the commission's decision~~
 576 ~~is arbitrary or capricious.~~

577 ~~———— (3) An appeal to the district court shall be made within 30 days after the commission's~~
 578 ~~written decision.]~~

578a **(1) A person may appeal a final action or order of the commission to the Court of**
 578b **Appeals for review.**

578c **(2) A person shall file a notice of appeal within 30 days of the issuance of the final**
 578d **action or order of the commission.**

578e **(3) The Court of Appeals shall base its review on the record of the commission and for**
 578f **the purpose of determining if the commission has abused its discretion or exceeded its**
 578g **authority. ~~←H~~**

579 Section 32. Section ~~17-30a-501~~ is enacted to read:

580 **Part 5. Miscellaneous Provisions**

581 **17-30a-501. Title.**

582 This part is known as "Miscellaneous Provisions."

583 Section 33. Section ~~17-30a-502~~ is enacted to read:

584 **17-30a-502. More than one chief deputy in larger county departments.**

585 The sheriff, with the consent of the commission and the county legislative body, may