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HOUSE BILL 594

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Luciano "Lucky" Varela

AN ACT

RELATING TO STATE POLICE; PROVIDING NEW DISCIPLINARY AND APPEAL PROCEEDINGS FOR NEW MEXICO STATE POLICE OFFICERS; ELIMINATING THE REVIEW AND APPEAL PROCESS FOR OFFICERS SUSPENDED FOR NOT MORE THAN THIRTY DAYS; REQUIRING WRITTEN NOTIFICATION OF DISCIPLINARY ACTION BY THE SECRETARY OF PUBLIC SAFETY TO OFFICERS REMOVED, DEMOTED OR SUSPENDED FOR A PERIOD EXCEEDING THIRTY DAYS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-2-11 NMSA 1978 (being Laws 1941, Chapter 147, Section 11, as amended) is amended to read:

"29-2-11. DISCIPLINARY PROCEEDINGS--APPEAL.--

A. [~~No officer of the~~] A New Mexico state police officer holding a permanent commission shall not be removed from office, demoted or suspended except for incompetence,

underscored material = new
[bracketed material] = delete

underscored material = new
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1 neglect of duty, violation of a published rule of conduct,
2 malfeasance in office or conduct unbecoming an officer, except
3 as provided in this section. A probationary officer not
4 holding a permanent commission may be removed from office,
5 demoted or suspended in accordance with New Mexico state police
6 rules.

7 B. The secretary may suspend an officer for
8 disciplinary reasons for not more than thirty days in
9 accordance with New Mexico state police rules [~~Any officer~~
10 ~~holding a permanent commission who is suspended by the~~
11 ~~secretary has the right to have the suspension reviewed by the~~
12 ~~commission, but]~~ without further review or appeal.

13 C. In the event [~~the~~] an officer is [~~to be~~] removed
14 from office, demoted or suspended for a period of more than
15 thirty days [~~specific written charges shall be filed with the~~
16 ~~commission. Timely and adequate notice of the charges to the~~
17 ~~person charged shall be provided and a prompt hearing on the~~
18 ~~charges shall be held by the commission. The person charged~~
19 ~~has the right to be represented by counsel of his own choice~~
20 ~~and at his own expense at the hearings. A complete record of~~
21 ~~the hearing shall be made and, upon request, a copy of it shall~~
22 ~~be furnished to the person charged. The person may require~~
23 ~~that the hearing be public], the secretary shall provide
24 written notification of the grounds supporting the action to
25 the officer. The officer may appeal the secretary's action to~~

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[bracketed material] = delete

1 the commission within thirty days of the date of receipt of the
2 secretary's written notification. The appeal process shall be
3 public and conducted in accordance with New Mexico state police
4 rules.

5 D. In the event the commission finds that [~~the~~
6 ~~person charged shall be removed, demoted or suspended~~] there is
7 just cause for the removal, demotion or suspension of the
8 officer for a period in excess of thirty days, the [~~person~~]
9 officer may appeal [~~from~~] the decision of the commission to the
10 district court pursuant to the provisions of Section 39-3-1.1
11 NMSA 1978."

12 Section 2. EMERGENCY.--It is necessary for the public
13 peace, health and safety that this act take effect immediately.