

HOUSE BILL NO. 174

INTRODUCED BY CLARK, FELAND, VOGEL, DRISCOLL,
MOLNAR, COCCHIARELLA

IN THE HOUSE

JANUARY 14, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
	FIRST READING.
JANUARY 23, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
JANUARY 25, 1993	PRINTING REPORT.
JANUARY 26, 1993	SECOND READING, DO PASS.
JANUARY 27, 1993	ENGROSSING REPORT.
JANUARY 28, 1993	THIRD READING, PASSED. AYES, 100; NOES, 0.
	TRANSMITTED TO SENATE.

IN THE SENATE

JANUARY 30, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON LABOR & EMPLOYMENT RELATIONS.
	FIRST READING.
MARCH 19, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN AS AMENDED. REPORT ADOPTED.
MARCH 20, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY
MARCH 22, 1993	ON MOTION, CONSIDERATION PASSED FOR THE DAY
MARCH 23, 1993	SECOND READING, CONCURRED IN.
MARCH 24, 1993	THIRD READING, CONCURRED IN. AYES, 36; NOES, 14.
	RETURNED TO HOUSE WITH AMENDMENTS.

IN THE HOUSE

APRIL 1, 1993

SECOND READING, AMENDMENTS
CONCURRED IN.

APRIL 2, 1993

THIRD READING, AMENDMENTS
CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 174
 2 INTRODUCED BY Chuck Vogel
 3 House
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A POLICE
 5 OFFICER AND A SHERIFF'S DEPUTY COVERED BY A COLLECTIVE
 6 BARGAINING AGREEMENT TO APPEAL A DISCIPLINARY ACTION
 7 PURSUANT TO A GRIEVANCE PROCEDURE CONTAINED IN A COLLECTIVE
 8 BARGAINING AGREEMENT; AND AMENDING SECTIONS 7-32-2109,
 9 7-32-2110, AND 7-32-4164, MCA."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 **Section 1.** Section 7-32-2109, MCA, is amended to read:

13 "7-32-2109. Right to hearing on termination of deputy
 14 sheriff's employment. (1) Any A deputy sheriff whose
 15 employment is terminated may, within 30 days from the date
 16 of the termination of his employment, make application has a
 17 right of appeal:

18 (a) to the district court of the county wherein where
 19 the deputy was employed for a hearing before the court, with
 20 or without jury, on the charges resulting in the deputy's
 21 termination of employment or discharge; or

22 (b) pursuant to the terms of a grievance procedure
 23 contained in a collective bargaining agreement if the deputy
 24 sheriff is covered by a collective bargaining agreement.

25 (2) The appeal to the district court must be made

1 within 30 days from the date of the termination of
 2 employment."

3 **Section 2.** Section 7-32-2110, MCA, is amended to read:

4 "7-32-2110. Reinstatement of deputy sheriff. In the
 5 event that a deputy prevails at the hearing provided for in
 6 7-32-2109, he shall be entitled to a termination is reversed
 7 or modified, the deputy must be reinstated as a deputy
 8 sheriff at the same salary he received by the deputy prior
 9 to his the discharge or termination of employment, and he
 10 shall also be The deputy is also entitled to any rights that
 11 might have accrued to his the deputy's benefit prior to his
 12 the discharge or termination of employment, including that
 13 the salary which he that the deputy would have received but
 14 for the termination."

15 **Section 3.** Section 7-32-4164, MCA, is amended to read:

16 "7-32-4164. District court review Right to appeal. A
 17 member of the police force who is disciplined, suspended,
 18 removed, or discharged as a result of a decision by the
 19 police commission or an order of the mayor has a right of
 20 appeal:

21 (1) pursuant to the terms of a grievance procedure
 22 contained in a collective bargaining agreement if the member
 23 is covered by a collective bargaining agreement; or

24 (2) to The the district court of the proper county,
 25 shall have jurisdiction to review all questions of fact and

LC 0625/01

1 ~~all-questions-of-law-in-a-suit-brought-by-any-officer-or~~
2 ~~member-of-the-police-force, but no~~ A suit to review such
3 ~~hearing-or-trial~~ a decision or an order or for reinstatement
4 to office ~~shall~~ may not be maintained unless the ~~same~~ suit
5 is begun within a period of 60 days after the decision ~~of~~ by
6 the police commission or order of the mayor has been filed
7 with the city clerk."

-End-

APPROVED BY COMMITTEE
ON LABOR & EMPLOYMENT
RELATIONS

HOUSE BILL NO. 174

INTRODUCED BY CLARK, FELAND, VOGEL, DRISCOLL,

MOLNAR, COCCHIARELLA

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A POLICE OFFICER AND A SHERIFF'S DEPUTY COVERED BY A COLLECTIVE BARGAINING AGREEMENT TO APPEAL A DISCIPLINARY ACTION PURSUANT TO A GRIEVANCE PROCEDURE CONTAINED IN A COLLECTIVE BARGAINING AGREEMENT; AND AMENDING SECTIONS 7-32-2109, 7-32-2110, AND 7-32-4164, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-32-2109, MCA, is amended to read:

"7-32-2109. Right to hearing on termination of deputy sheriff's employment. (1) Any A deputy sheriff whose employment is terminated may, within 30 days from the date of the termination of his employment, make application has a right of appeal:

(a) to the district court of the county wherein where the deputy was employed for a hearing before the court, with or without jury, on the charges resulting in the deputy's termination of employment or discharge; or

(b) pursuant to the terms of a grievance procedure contained in a collective bargaining agreement if the deputy sheriff is covered by a collective bargaining agreement.

(2) The appeal to the district court must be made within 30 days from the date of the termination of employment."

Section 2. Section 7-32-2110, MCA, is amended to read:

"7-32-2110. Reinstatement of deputy sheriff. In the event that ~~a deputy prevails at the hearing provided for in 7-32-2109, he shall be entitled to a termination is reversed or modified, the deputy must be reinstated as a deputy sheriff at the same salary he received by the deputy prior to his the discharge or termination of employment, and he shall also be~~ The deputy is also entitled to any rights that might have accrued to his the deputy's benefit prior to his the discharge or termination of employment, including that the salary which he that the deputy would have received but for the termination."

Section 3. Section 7-32-4164, MCA, is amended to read:

"7-32-4164. ~~District court review~~ Right to appeal. A member of the police force who is disciplined, suspended, removed, or discharged as a result of a decision by the police commission or an order of the mayor, CITY MANAGER, OR CHIEF EXECUTIVE has a right of appeal:

(1) pursuant to the terms of a grievance procedure contained in a collective bargaining agreement if the member is covered by a collective bargaining agreement; or

(2) to The the district court of the proper county.

1 ~~shall have jurisdiction to review all questions of fact--and~~
2 ~~all--questions--of--law--in-a-suit-brought-by-any-officer-or~~
3 ~~member-of-the-police-force,-but-no~~ A suit to review such
4 ~~hearing-or-trial~~ a decision or an order or for reinstatement
5 to office ~~shall~~ may not be maintained unless the same suit
6 is begun within a period of 60 days after the decision of by
7 the police commission or order of the mayor, CITY MANAGER,
8 OR CHIEF EXECUTIVE has been filed with the city clerk."

-End-

HOUSE BILL NO. 174

INTRODUCED BY CLARK, PELAND, VOGEL, DRISCOLL,
MOLNAR, COCCHIARELLA

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A POLICE
OFFICER AND A SHERIFF'S DEPUTY COVERED BY A COLLECTIVE
BARGAINING AGREEMENT TO APPEAL A DISCIPLINARY ACTION
PURSUANT TO A GRIEVANCE PROCEDURE CONTAINED IN A COLLECTIVE
BARGAINING AGREEMENT; AND AMENDING SECTIONS 7-32-2109,
7-32-2110, AND 7-32-4164, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-32-2109, MCA, is amended to read:

"7-32-2109. Right to hearing on termination of deputy
sheriff's employment. (1) Any A deputy sheriff whose
employment is terminated may, within 30 days from the date
of the termination of his employment, make application has a
right of appeal:

(a) to the district court of the county wherein where
the deputy was employed for a hearing before the court, with
or without jury, on the charges resulting in the deputy's
termination of employment or discharge; or

(b) pursuant to the terms of a grievance procedure
contained in a collective bargaining agreement if the deputy
sheriff is covered by a collective bargaining agreement.

(2) The appeal to the district court must be made
within 30 days from the date of the termination of
employment."

Section 2. Section 7-32-2110, MCA, is amended to read:

"7-32-2110. Reinstatement of deputy sheriff. In the
event that ~~a deputy prevails at the hearing provided for in~~
~~7-32-2109, he shall be entitled to a termination is reversed~~
or modified, the deputy must be reinstated as a deputy
sheriff at the same salary he received by the deputy prior
to his the discharge or termination of employment, and he
~~shall also be~~ The deputy is also entitled to any rights that
might have accrued to his the deputy's benefit prior to his
the discharge or termination of employment, including that
the salary which he that the deputy would have received but
for the termination."

Section 3. Section 7-32-4164, MCA, is amended to read:

"7-32-4164. District court review Right to appeal. A
member of the police force who is disciplined, suspended,
removed, or discharged as a result of a decision by the
police commission or an order of the mayor, CITY MANAGER, OR
CHIEF EXECUTIVE has a right of appeal:

(1) pursuant to the terms of a grievance procedure
contained in a collective bargaining agreement if the member
is covered by a collective bargaining agreement; or

(2) to the the district court of the proper county.

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1 ~~shall have jurisdiction to review all questions of fact and~~
2 ~~all questions of law in a suit brought by any officer or~~
3 ~~member of the police force, but no~~ A suit to review such
4 ~~hearing or trial~~ a decision or an order or for reinstatement
5 to office ~~shall~~ may not be maintained unless the ~~same~~ suit
6 is begun within a period of 60 days after the decision of by
7 the police commission or order of the mayor, CITY MANAGER,
8 OR CHIEF EXECUTIVE has been filed with the city clerk."

-End-

MINORITY COMMITTEE REPORT
SENATE STANDING COMMITTEE REPORT

Page 1 of 4
March 19, 1993

MR. PRESIDENT:

We, a minority of your committee on Labor and Employment Relations having had under consideration House Bill No. 174 (first reading copy -- blue), respectfully report that House Bill No. 174 be amended as follows and as so amended be concurred in.

Signed:

J. D. Lynch
Senator John "J. D." Lynch

Signed:

Bill Wilson
Senator William "Bill" Wilson

Signed:

Chet Blaylock
Senator Chet Blaylock

That such amendments read:

1. Title, line 9.

Following: "AGREEMENT;"

Strike: "AND"

Insert: "PROVIDING THAT IN A CITY OR TOWN WITH A POLICE COMMISSION, THE MAYOR, CITY MANAGER, OR CHIEF EXECUTIVE, RATHER THAN THE POLICE COMMISSION, HAS THE AUTHORITY TO TAKE DISCIPLINARY ACTION AGAINST A MEMBER OF THE POLICE FORCE; PROVIDING FOR APPEALS TO THE POLICE COMMISSION;"

2. Title, line 10.

Following: "7-32-2110,"

Insert: "7-32-4152, 7-32-4153, 7-32-4155, 7-32-4156, 7-32-4157, 7-32-4158, 7-32-4160, 7-32-4161,"

Following: "MCA"

Insert: "; AND REPEALING SECTIONS 7-32-4162 AND 7-32-4163, MCA"

3. Page 2, line 16.

Following: line 15

Insert: "Section 3. Section 7-32-4152, MCA, is amended to read:
"7-32-4152. Term and compensation of members of police commission. (1) The appointees to the police commission shall hold office for 3 years, and one such member must be appointed annually at the first regular meeting of the city council or commission in May of each year. However, a member serving on the

Page 2 of 4
March 19, 1993

commission during the hearing or deciding of a case an appeal under 7-32-4155 shall continue to serve on the commission for that case appeal until a decision has been made; a new member may not sit on the commission for such business.

(2) The compensation of the members of such a board shall must be fixed by the city council or commission, not to exceed \$10 per day or more than \$50 per month for any month for each member in cities of the first and second class."

Section 4. Section 7-32-4153, MCA, is amended to read:
"7-32-4153. Meaning of word mayor. Wherever the word "mayor" is used in 7-32-4109, and 7-32-4160, through 7-32-4163 and 7-32-4161, it is intended to include "city manager", "city commissioner", or any other name or designation used to identify or designate the chief executive of any city or municipality."

Section 5. Section 7-32-4155, MCA, is amended to read:
"7-32-4155. Role of police commission in hearing and deciding charges against appeals brought by policemen. (1) The police commission shall have the has jurisdiction and it shall be is its duty to hear, try, and decide all charges appeals brought by any person or persons against any member or officer of the police department, including any charge that such member or officer:

(a) is incompetent or has become incapacitated, by age, disease, or otherwise, to discharge the duties of his office;
(b) has been guilty of neglect of duty, of misconduct in his office, or of conduct unbecoming a police officer;
(c) has been found guilty of any crime, or
(d) whose conduct has been such as to bring reproach upon the police force who has been disciplined, suspended, removed, or discharged by an order of the mayor, city manager, or chief executive.

(2) It is the duty of the police commission, at the time set for hearing a charge against an appeal of a police officer, to forthwith proceed to hear, try, and determine the charge appeal according to the rules of evidence applicable to courts of record in the state."

Section 6. Section 7-32-4156, MCA, is amended to read:
"7-32-4156. Charges Appeals to be in writing. Any charge An appeal brought against by any member of the police force must be in writing in the form required by the police commission, and a copy thereof must be served upon the accused officer or member mayor, city manager, or chief executive at least 15 30 days before the time fixed for the hearing of such charge the appeal."

SENATE
HB 174
620936SC.SAN

AM Amd. Coord.
W Sec. of Senate

Blaylock
Senator Carrying Bill

620936SC.SAN

Section 7. Section 7-32-4157, MCA, is amended to read:

"7-32-4157. ~~Rights of accused policeman~~ police officer. The ~~accused shall have appealing~~ police officer has the right to be present at the trial hearing in person and by counsel and to be heard and to give and furnish evidence in his defense the police officer's appeal."

Section 8. Section 7-32-4158, MCA, is amended to read:

"7-32-4158. ~~Police commission trials~~ hearings open to public. All ~~trials shall~~ hearings must be open to the public."

Section 9. Section 7-32-4160, MCA, is amended to read:

"7-32-4160. ~~Decision by police commission -- veto power of mayor. (1) The police commission must shall, after the conclusion of the hearing or trial, decide whether the charge was proven or not proven the appeal and shall must have the power, by a decision of a majority of the commission, to discipline, suspend, remove, or discharge any officer who shall have been found guilty of the charge filed against him sustain, modify, or overrule the disciplinary order of the mayor, city manager, or chief executive.~~

~~(2) Such action of the police commission shall, however, be subject to modification or veto by the mayor, made in writing and giving reasons therefor, which shall become a permanent record of the police commission; provided, however, that where and when the police commission decides the charge not proven, the decision is final and conclusive and is not subject to modification or veto by the mayor or to any review.~~

~~(3) Where the police commission decides the charge proven, the mayor, within 5 days from the date of the filing of such findings and decision with the city clerk, may modify or veto such findings and decision."~~

Section 10. Section 7-32-4161, MCA, is amended to read:

"7-32-4161. ~~Enforcement of decision. When a charge against a member of the police force is found proven by the board and is not vetoed by the mayor, the The mayor must shall make an order enforcing the decision of the board or the decision as modified if modified by the mayor police commission. Such The decision or order shall be is subject to review by the district court of the proper county on all questions of fact and all questions of law."~~

Renumber: subsequent section

4. Page 2, line 20.

Strike: "police commission or an order of the"

5. Page 2, line 25.

Following: "the"

Insert: "police commission. A final decision of the police commission may be appealed to the"

6. Page 3, line 3.

Following: "~~but no~~"

Insert: "The district court has jurisdiction to review all questions of fact and all questions of law in a suit brought by any officer or member of the police force."

7. Page 3, lines 7 and 8.

Following: "commission" on line 7

Strike: remainder of line 7 through "EXECUTIVE" on line 8

8. Page 3, line 9.

Following: line 8

Insert: "NEW SECTION. Section 12. Repealer. Sections 7-32-4162 and 7-32-4163, MCA, are repealed."

-END-

HOUSE STANDING COMMITTEE REPORT

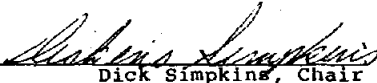
March 9, 1993

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March 9, 1993
Page 2 of 2

that give rise to the action."

Mr. Speaker: We, the committee on State Administration report that Senate Bill 174 (third reading copy -- blue) be concurred in as amended.

Signed: 

Dick Simpkins, Chair

And, that such amendments read:

Carried by: Rep. S. Rice

1. Page 2, line 14.

Following: "(c)"

Insert: "(i)"

2. Page 2, lines 15 through 17.

Strike: "is entitled to be reimbursed by the state for" on lines 15 and 16

Insert: ", at the discretion of the court, may be awarded the"

Following: "incurred" on line 16

Strike: ", provided that in the case of"

Insert: ". The court may order either the defendant or the state to pay the incurred costs and attorney fees. If the court orders the state to pay the costs and fees, the state shall pay the costs and fees from fines collected under the provisions of this title.

(ii) If"

Strike: both the first and second "that" on line 17

3. Page 2, line 18.

Following: "finds"

Insert: "that the action"

4. Page 2, line 20.

Strike: "and reasonable"

Insert: "fees"

Following: "fees"

Insert: ", and damages"

5. Page 2.

Following: line 21

Insert: "(4) A civil action may not be brought under this section more than 3 years after the occurrence of the facts

Committee Vote:

Yes 9, No 7.

531427SC.Hpf

HOUSE

SB174
531427SC.Hpf

HOUSE BILL NO. 174

INTRODUCED BY CLARK, FELAND, VOGEL, DRISCOLL,
MOLNAR, COCCHIARELLA

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A POLICE OFFICER AND A SHERIFF'S DEPUTY COVERED BY A COLLECTIVE BARGAINING AGREEMENT TO APPEAL A DISCIPLINARY ACTION PURSUANT TO A GRIEVANCE PROCEDURE CONTAINED IN A COLLECTIVE BARGAINING AGREEMENT; AND PROVIDING THAT IN A CITY OR TOWN WITH A POLICE COMMISSION, THE MAYOR, CITY MANAGER, OR CHIEF EXECUTIVE, RATHER THAN THE POLICE COMMISSION, HAS THE AUTHORITY TO TAKE DISCIPLINARY ACTION AGAINST A MEMBER OF THE POLICE FORCE; PROVIDING FOR APPEALS TO THE POLICE COMMISSION; AMENDING SECTIONS 7-32-2109, 7-32-2110, 7-32-4152, 7-32-4153, 7-32-4155, 7-32-4156, 7-32-4157, 7-32-4158, 7-32-4160, 7-32-4161, AND 7-32-4164, MCA; AND REPEALING SECTIONS 7-32-4162 AND 7-32-4163, MCA."

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(a) to the district court of the county wherein where the deputy was employed ~~for a hearing before the court, with or without jury, on the charges resulting in the deputy's termination of employment or discharge; or~~

(b) pursuant to the terms of a grievance procedure contained in a collective bargaining agreement if the deputy sheriff is covered by a collective bargaining agreement.

(2) The appeal to the district court must be made within 30 days from the date of the termination of employment."

Section 2. Section 7-32-2110, MCA, is amended to read:

"7-32-2110. Reinstatement of deputy sheriff. In the event that ~~a deputy prevails at the hearing provided for in 7-32-2109, he shall be entitled to a termination is reversed or modified, the deputy must be reinstated as a deputy sheriff at the same salary he received by the deputy prior to his the discharge or termination of employment. and--he shall also be~~ The deputy is also entitled to any rights that might have accrued to his the deputy's benefit prior to his the discharge or termination of employment, including that the salary which he that the deputy would have received but for the termination."

SECTION 3. SECTION 7-32-4152, MCA, IS AMENDED TO READ:

"7-32-4152. Term and compensation of members of police commission. (1) The appointees to the police commission

shall hold office for 3 years, and one such member must be appointed annually at the first regular meeting of the city council or commission in May of each year. However, a member serving on the commission during the hearing or deciding of ~~a--case an appeal~~ under 7-32-4155 shall continue to serve on the commission for that case appeal until a decision has been made; a new member may not sit on the commission for such business.

(2) The compensation of the members of such a board shall must be fixed by the city council or commission, not to exceed \$10 per day or more than \$50 per month for any month for each member in cities of the first and second class."

SECTION 4. SECTION 7-32-4153, MCA, IS AMENDED TO READ:

"7-32-4153. Meaning of word mayor. Wherever the word "mayor" is used in 7-32-4109, and 7-32-4160, through 7-32-4163 and 7-32-4161, it is intended to include "city manager", "city commissioner", or any other name or designation used to identify or designate the chief executive of any city or municipality."

SECTION 5. SECTION 7-32-4155, MCA, IS AMENDED TO READ:

"7-32-4155. Role of police commission in hearing and deciding charges-against appeals brought by policemen. (1) The police commission shall-have-the has jurisdiction and it shall--be is its duty to hear, try, and decide ~~all~~-charges

appeals brought by any-person-or-persons-against any member or officer of the police department,--including-any-charge that-such-member-or-officer;

(a)--is-incompetent-or-has-become-incapacitated,--by-age, disease,--or--otherwise,--to--discharge--the--duties--of--his officer;

(b)--has--been--guilty-of-neglect-of-duty,--of-misconduct in-his-office,--or-of-conduct-unbecoming-a-police-officer;

(c)--has-been-found-guilty-of-any-crime,--or

(d)--whose-conduct-has-been-such-as--to--bring--reproach upon--the--police-force who has been disciplined, suspended, removed, or discharged by an order of the mayor, city manager, or chief executive.

(2) It is the duty of the police commission, at the time set for hearing a-charge-against an appeal of a police officer, to forthwith--proceed-to hear, try, and determine the charge appeal according to the rules of evidence applicable to courts of record in the state."

SECTION 6. SECTION 7-32-4156, MCA, IS AMENDED TO READ:

"7-32-4156. Charges Appeals to be in writing. Any charge An appeal brought against by any member of the police force must be in writing in the form required by the police commission, and a copy thereof must be served upon the accused-officer-or-member mayor, city manager, or chief executive at least ~~15~~ 30 days before the time fixed for the

1 hearing of such charge the appeal."

2 **SECTION 7.** SECTION 7-32-4157, MCA, IS AMENDED TO READ:

3 "7-32-4157. Rights of accused-policeman police officer.
4 The accused-shall-have appealing police officer has the
5 right to be present at the trial hearing in person and by
6 counsel and to be heard and to give and furnish evidence in
7 his-defense the police officer's appeal."

8 **SECTION 8.** SECTION 7-32-4158, MCA, IS AMENDED TO READ:

9 "7-32-4158. Police commission trials hearings open to
10 public. All trials--shall hearings must be open to the
11 public."

12 **SECTION 9.** SECTION 7-32-4160, MCA, IS AMENDED TO READ:

13 "7-32-4160. Decision by police commission ---veto-power
14 of--mayor. {1} The police commission must shall, after the
15 conclusion of the hearing or--trial, decide whether--the
16 charge--was--proven--or-not-proven the appeal and shall must
17 have the power, by a decision of a majority of the
18 commission, to discipline, suspend, remove, or discharge any
19 officer who shall have been found guilty of the charge filed
20 against him sustain, modify, or overrule the disciplinary
21 order of the mayor, city manager, or chief executive.

22 {2}--Such---action---of--the--police--commission--shall;
23 however, be subject to modification or veto--by--the--mayor;
24 made--in--writing--and--giving--reasons--therefor, which shall
25 become--a--permanent--record--of--the---police---commission;

1 provided, however, that where and when the police commission
2 decides--the--charge--not--proven, the decision is final and
3 conclusive and is not subject to modification or veto by the
4 mayor or to any review;

5 {3}--Where the--police--commission--decides--the--charge
6 proven, the mayor, within 5 days from the date of the filing
7 of--such--findings--and--decision--with--the--city--clerk, may
8 modify or veto such findings and decision."

9 **SECTION 10.** SECTION 7-32-4161, MCA, IS AMENDED TO READ:

10 "7-32-4161. Enforcement of decision. When--a--charge
11 against a member of the police force is found proven by--the
12 board--and--is--not--vetoed--by--the--mayor, the The mayor must
13 shall make an order enforcing the decision of the board--or
14 the--decision--as--modified--if--modified--by--the--mayor police
15 commission. Such The decision or order shall-be is subject
16 to review by the district court of the proper county on all
17 questions of fact and all questions of law."

18 **Section 11.** Section 7-32-4164, MCA, is amended to read:

19 "7-32-4164. Bistrict-court-review Right to appeal. A
20 member of the police force who is disciplined, suspended,
21 removed, or discharged as a result of a decision by the
22 police commission or an order of the mayor, CITY MANAGER, OR
23 CHIEF EXECUTIVE has a right of appeal:

24 (1) pursuant to the terms of a grievance procedure
25 contained in a collective bargaining agreement if the member

1 is covered by a collective bargaining agreement; or
 2 (2) to The the POLICE COMMISSION. A FINAL DECISION OF
 3 THE POLICE COMMISSION MAY BE APPEALED TO THE district court
 4 of the proper county. ~~shall have jurisdiction to review all~~
 5 ~~questions of fact and all questions of law in a suit brought~~
 6 ~~by any officer or member of the police force, but no THE~~
 7 DISTRICT COURT HAS JURISDICTION TO REVIEW ALL QUESTIONS OF
 8 FACT AND ALL QUESTIONS OF LAW IN A SUIT BROUGHT BY ANY
 9 OFFICER OR MEMBER OF THE POLICE FORCE. A suit to review such
 10 ~~hearing or trial~~ a decision or an order or for reinstatement
 11 to office ~~shall~~ may not be maintained unless the ~~same~~ suit
 12 is begun within a period of 60 days after the decision of ~~by~~
 13 the police commission ~~or order of the mayor, city manager,~~
 14 ~~or chief executive~~ has been filed with the city clerk."
 15 NEW SECTION. SECTION 12. REPEALER. SECTIONS 7-32-4162
 16 AND 7-32-4163, MCA, ARE REPEALED.

-End-