

AMENDED IN SENATE APRIL 27, 1998

AMENDED IN SENATE APRIL 20, 1998

AMENDED IN SENATE MARCH 26, 1998

**SENATE BILL**

**No. 2215**

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**Introduced by Senator Lockyer**

February 20, 1998

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An act to amend Section 3304 of the Government Code, relating to public safety officers.

LEGISLATIVE COUNSEL'S DIGEST

SB 2215, as amended, Lockyer. Public safety officers: procedural bill of rights.

The Public Safety Officers Procedural Bill of Rights Act prohibits any punitive action, or denial of promotion on grounds other than merit of a public safety officer, as defined, without providing the public safety officer with an opportunity for administrative appeal.

This bill also would prohibit a punitive action or denial of probation on grounds other than merit with respect to a public safety officer who has successfully completed probation without a written notice and the *reason or* reasons therefor provided to the public safety officer. This additional requirement on local government would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State

Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 3304 of the Government Code is  
2 amended to read:

3 3304. (a) No public safety officer shall be subjected to  
4 punitive action, or denied promotion, or be threatened  
5 with any such treatment, because of the lawful exercise  
6 of the rights granted under this chapter, or the exercise  
7 of any rights under any existing administrative grievance  
8 procedure.

9 Nothing in this section shall preclude a head of an  
10 agency from ordering a public safety officer to cooperate  
11 with other agencies involved in criminal investigations. If  
12 an officer fails to comply with such an order, the agency  
13 may officially charge him or her with insubordination.

14 (b) No punitive action, nor denial of promotion on  
15 grounds other than merit, shall be undertaken by any  
16 public agency against any public safety officer who has  
17 successfully completed the probationary period that may  
18 be required by his or her employing agency without  
19 providing the public safety officer with written notice  
20 and the *reason or* reasons therefor and an opportunity for  
21 administrative appeal.

22 (c) Except as provided in this subdivision and  
23 subdivision (f), no punitive action, nor denial of  
24 promotion on grounds other than merit, shall be  
25 undertaken for any act, omission, or other allegation of  
26 misconduct if the investigation of the allegation is not  
27 completed within one year of the public agency's  
28 discovery by a person authorized to initiate an



1 investigation of the allegation of an act, omission, or other  
2 misconduct. This one-year limitation period shall apply  
3 only if the act, omission, or other misconduct occurred on  
4 or after January 1, 1998. In the event that the public  
5 agency determines that discipline may be taken, it shall  
6 complete its investigation and notify the public safety  
7 officer of its proposed disciplinary action within that year,  
8 except in any of the following circumstances:

9 (1) If the act, omission, or other allegation of  
10 misconduct is also the subject of a criminal investigation  
11 or criminal prosecution, the time during which the  
12 criminal investigation or criminal prosecution is pending  
13 shall toll the one-year time period.

14 (2) If the public safety officer waives the one-year time  
15 period in writing, the time period shall be tolled for the  
16 period of time specified in the written waiver.

17 (3) If the investigation is a multijurisdictional  
18 investigation that requires a reasonable extension for  
19 coordination of the involved agencies.

20 (4) If the investigation involves more than one  
21 employee and requires a reasonable extension.

22 (5) If the investigation involves an employee who is  
23 incapacitated or otherwise unavailable.

24 (6) If the investigation involves a matter in civil  
25 litigation where the public safety officer is named as a  
26 party defendant, the one-year time period shall be tolled  
27 while that civil action is pending.

28 (7) If the investigation involves a matter in criminal  
29 litigation where the complainant is a criminal defendant,  
30 the one-year time period shall be tolled during the period  
31 of that defendant's criminal investigation and  
32 prosecution.

33 (8) If the investigation involves an allegation of  
34 workers' compensation fraud on the part of the public  
35 safety officer.

36 (d) Where a predisciplinary response or grievance  
37 procedure is required or utilized, the time for this  
38 response or procedure shall not be governed or limited by  
39 this chapter.



1 (e) If, after investigation and any predisciplinary  
 2 response or procedure, the public agency decides to  
 3 impose discipline, the public agency shall notify the  
 4 public safety officer in writing of its decision to impose  
 5 discipline, including the date that the discipline will be  
 6 imposed, within 30 days of its decision, except if the public  
 7 safety officer is unavailable for discipline.

8 (f) Notwithstanding the one-year time period  
 9 specified in subdivision (c), an investigation may be  
 10 reopened against a public safety officer if both of the  
 11 following circumstances exist:

12 (1) Significant new evidence has been discovered that  
 13 is likely to affect the outcome of the investigation.

14 (2) One of the following conditions exist:

15 (A) The evidence could not reasonably have been  
 16 discovered in the normal course of investigation without  
 17 resorting to extraordinary measures by the agency.

18 (B) The evidence resulted from the public safety  
 19 officer's predisciplinary response or procedure.

20 (g) For those members listed in subdivision (a) of  
 21 Section 830.2 of the Penal Code, the 30-day time period  
 22 provided for in subdivision (e) shall not commence with  
 23 the service of a preliminary notice of adverse action,  
 24 should the public agency elect to provide the public  
 25 safety officer with such a notice.

26 SEC. 2. Notwithstanding Section 17610 of the  
 27 Government Code, if the Commission on State Mandates  
 28 determines that this act contains costs mandated by the  
 29 state, reimbursement to local agencies and school  
 30 districts for those costs shall be made pursuant to Part 7  
 31 (commencing with Section 17500) of Division 4 of Title  
 32 2 of the Government Code. If the statewide cost of the  
 33 claim for reimbursement does not exceed one million  
 34 dollars (\$1,000,000), reimbursement shall be made from  
 35 the State Mandates Claims Fund.

36 Notwithstanding Section 17580 of the Government  
 37 Code, unless otherwise specified, the provisions of this act



1 shall become operative on the same date that the act  
2 takes effect pursuant to the California Constitution.

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