Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 198

HOUSE BILL 2188

AN ACT

AMENDING TITLE 15, CHAPTER 5, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 15-534.01, 15-534.02 AND 15-534.03; AMENDING SECTION 41-1092.02, ARIZONA REVISED STATUTES; RELATING TO CERTIFICATION OF TEACHERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 15, chapter 5, article 3, Arizona Revised Statutes, is amended by adding sections 15-534.01, 15-534.02 and 15-534.03, to read:

15-534.01. Withdrawal of applications for administrative deficiencies; denial of applications for substantive deficiencies; certification timeframes

A. IF AN APPLICATION FOR CERTIFICATION IS ADMINISTRATIVELY INCOMPLETE, AS PRESCRIBED IN TITLE 41, CHAPTER 6, ARTICLE 7.1, THE DEPARTMENT OF EDUCATION OR THE STATE BOARD OF EDUCATION SHALL ISSUE A WRITTEN NOTICE REQUESTING THE APPLICANT TO SUPPLY MISSING DOCUMENTS OR OTHER INFORMATION. THE DEPARTMENT OF EDUCATION SHALL CONSIDER AN APPLICATION FOR CERTIFICATION WITHDRAWN IF, WITHIN SIXTY DAYS AFTER THE DATE OF THE NOTICE, THE APPLICANT DOES NOT SUPPLY THE DOCUMENTATION OR INFORMATION REQUESTED OR DOES NOT PROVIDE REASONABLE DOCUMENTED JUSTIFICATION FOR THE DELAY. ON RECEIPT OF DOCUMENTED JUSTIFICATION, THE DEPARTMENT OF EDUCATION SHALL PROVIDE AN ADDITIONAL THIRTY DAYS FOR THE REQUESTED DOCUMENTATION OR INFORMATION TO BE PROVIDED BEFORE CONSIDERING AN APPLICATION WITHDRAWN.

B. IF AN APPLICATION FOR CERTIFICATION IS SUBSTANTIVELY INCOMPLETE, AS PRESCRIBED IN TITLE 41, CHAPTER 6, ARTICLE 7.1, THE DEPARTMENT OF EDUCATION OR THE STATE BOARD OF EDUCATION MAY ISSUE A WRITTEN NOTICE REQUESTING THE APPLICANT TO SUPPLY ADDITIONAL DOCUMENTS OR OTHER INFORMATION. THE STATE BOARD OF EDUCATION SHALL DENY AN APPLICATION FOR CERTIFICATION IF, WITHIN SIXTY DAYS AFTER THE DATE OF THE NOTICE, THE APPLICANT DOES NOT SUPPLY THE DOCUMENTATION OR INFORMATION REQUESTED.

C. IF THE FINAL DAY OF A DEADLINE IMPOSED BY THIS SECTION FALLS ON A SATURDAY, SUNDAY OR OTHER LEGAL HOLIDAY, THE NEXT BUSINESS DAY IS THE FINAL DAY OF THE DEADLINE.

D. A NOTICE OF DENIAL OF AN APPLICATION FOR CERTIFICATION ISSUED BY THE STATE BOARD OF EDUCATION PURSUANT TO SUBSECTION B OF THIS SECTION SHALL COMPLY WITH SECTION 41-1076.

E. A PERSON WHO HAS HAD AN APPLICATION FOR CERTIFICATION DENIED BY THE STATE BOARD OF EDUCATION PURSUANT TO SUBSECTION B OF THIS SECTION MAY FILE A WRITTEN REQUEST FOR A HEARING WITH THE STATE BOARD OF EDUCATION WITHIN FIFTEEN DAYS AFTER RECEIVING THE NOTICE OF DENIAL. THE APPEAL SHALL BE CONDUCTED IN ACCORDANCE WITH TITLE 41, CHAPTER 6, ARTICLE 6.

15-534.02. Restrictions on applications for certification after the surrender, revocation or denial of certificate

A. A PERSON SHALL NOT SUBMIT AN APPLICATION FOR CERTIFICATION WITH THE STATE BOARD OF EDUCATION FOR A PERIOD OF FIVE YEARS IF ANY OF THE FOLLOWING OCCURS:

1. THE PERSON SURRENDERS A CERTIFICATE ISSUED BY THE STATE BOARD OF EDUCATION.

2. THE PERSON'S CERTIFICATE IS REVOKED BY THE STATE BOARD OF EDUCATION ON GROUNDS OF IMMORAL OR UNPROFESSIONAL CONDUCT PURSUANT TO RULES ADOPTED BY THE STATE BOARD OF EDUCATION PURSUANT TO SECTION 15-203.

3. THE PERSON'S APPLICATION FOR CERTIFICATION IS DENIED BY THE STATE BOARD OF EDUCATION ON GROUNDS OF IMMORAL OR UNPROFESSIONAL CONDUCT PURSUANT TO RULES ADOPTED BY THE STATE BOARD OF EDUCATION PURSUANT TO SECTION 15-203. THIS PARAGRAPH DOES NOT APPLY TO A PERSON WHO, AFTER DENIAL OF AN APPLICATION FOR CERTIFICATION, PROVIDES ADDITIONAL INFORMATION THAT WAS NOT PREVIOUSLY CONSIDERED BY THE STATE BOARD OF EDUCATION AND THAT ADDRESSES THE GROUNDS ON WHICH THE STATE BOARD OF EDUCATION DENIED THE APPLICATION FOR CERTIFICATION.

B. THE FIVE YEAR PERIOD PRESCRIBED IN SUBSECTION A BEGINS ON THE DATE THAT THE STATE BOARD OF EDUCATION ACCEPTS A SURRENDERED CERTIFICATE, MAKES A FINAL DECISION TO REVOKE A CERTIFICATE OR MAKES A FINAL DETERMINATION TO DENY AN APPLICATION FOR CERTIFICATION.

C. A PERSON WHO HAS HAD A CERTIFICATE REVOKED PURSUANT TO SECTION 15-550 IS NOT ELIGIBLE TO APPLY FOR CERTIFICATION WITH THE STATE BOARD OF EDUCATION.

D. THE DEPARTMENT OF EDUCATION SHALL NOT PROCESS AN APPLICATION FOR CERTIFICATION SUBMITTED BY A PERSON WHO IS PROHIBITED FROM SUBMITTING AN APPLICATION PURSUANT TO SUBSECTIONS A AND C OF THIS SECTION.

15-534.03. Service of documents

EVERY NOTICE OR DECISION ISSUED BY THE STATE BOARD OF EDUCATION PERTAINING TO THE DENIAL OF AN APPLICATION FOR INITIAL CERTIFICATION OR RENEWAL OF A CERTIFICATE OR PERTAINING TO DISCIPLINARY ACTION AGAINST A CERTIFICATED PERSON SHALL BE SERVED BY PERSONAL DELIVERY OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE APPLICANT OR CERTIFICATED PERSON'S LAST ADDRESS OF RECORD WITH THE DEPARTMENT OF EDUCATION OR BY ANY OTHER METHOD THAT IS REASONABLY CALCULATED TO GIVE ACTUAL NOTICE TO THE APPLICANT OR THE CERTIFICATED PERSON. EACH APPLICANT OR CERTIFICATED PERSON SHALL INFORM THE DEPARTMENT OF EDUCATION OF ANY CHANGE OF ADDRESS WITHIN THIRTY DAYS OF THE CHANGE OF ADDRESS.

Sec. 2. Section 41-1092.02, Arizona Revised Statutes, is amended to read:

41-1092.02. Appealable agency actions; application of procedural rules; exemption from article

A. This article applies to all contested cases as defined in section 41-1001 and all appealable agency actions, except contested cases with or appealable agency actions of:

1. The state department of corrections.
2. The board of executive clemency.
3. The industrial commission of Arizona.
4. The Arizona corporation commission.
5. The Arizona board of regents and institutions under its jurisdiction.
6. The state personnel board.
7. The department of juvenile corrections.
8. The department of transportation.

9. The department of economic security except as provided in sections 8-506.01 and 8-811.

10. The department of revenue regarding income tax, withholding tax or estate tax or any tax issue related to information associated with the reporting of income tax, withholding tax or estate tax.

11. The board of tax appeals.

12. The state board of equalization.

13. The state board of education, but only in connection with contested cases and appealable agency actions related to applications for issuance or renewal of a certificate and discipline of certificate holders pursuant to sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.

14. The board of fingerprinting.

B. Unless waived by all parties, an administrative law judge shall conduct all hearings under this article, and the procedural rules set forth in this article and rules made by the director apply.

C. Except as provided in subsection A of this section:

1. A contested case heard by the office of administrative hearings regarding taxes administered under title 42 shall be subject to the provisions under section 42-1251.

2. A final decision of the office of administrative hearings regarding taxes administered under title 42 may be appealed by either party to the director of the department of revenue, or a taxpayer may file and appeal directly to the board of tax appeals pursuant to section 42-1253.

D. Except as provided in subsections A, B, E, F and G of this section and notwithstanding any other administrative proceeding or judicial review process established in statute or administrative rule, this article applies to all appealable agency actions and to all contested cases.

E. Except for a contested case or an appealable agency action regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09 do not apply to the department of revenue.

F. The board of appeals established by section 37-213 is exempt from:

1. The time frames for hearings and decisions provided in section 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

2. The requirement in section 41-1092.06, subsection A to hold an informal settlement conference at the appellant's request if the sole subject of an appeal pursuant to section 37-215 is the estimate of value reported in an appraisal of lands or improvements.

G. Auction protest procedures pursuant to title 37, chapter 2, article 4.1 are exempt from this article.

APPROVED BY THE GOVERNOR MAY 6, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2004.