

By: Muñoz, Jr., Frazier

H.B. No. 993

A BILL TO BE ENTITLED

AN ACT

1
2 relating to sheriff's department civil service systems in certain
3 counties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Sec. 158.012, Local Government Code, is amended
6 by amending Subsection (a) to read as follows:

7 APPEALS. (a) A county employee who, on a final decision by
8 the commission, is demoted, suspended, or removed from the
9 employee's position may appeal the decision by filing a petition in
10 a district court in the county within 30 days after the date of the
11 decision.—unless the employee chooses to appeal to a third-party
12 hearing examiner.

13 (b) An appeal under this section is under the substantial
14 evidence rule, and the judgment of the district court is appealable
15 as in other civil cases.

16 (c) If the district court renders judgment for the
17 petitioner, the court may order reinstatement of the employee,
18 payment of back pay, or other appropriate relief.

19 SECTION 2: Chapter 158, Local Government Code is amended by
20 adding Section 158.013 to read as follows:

21 Sec. 158.013. HEARING EXAMINERS. (a) A written notice for
22 a promotional bypass, demotion, or notice of disciplinary action,
23 as applicable, issued to an employee must state that in an appeal of
24 a termination, a suspension, a promotional bypass, or a recommended

1 demotion, the appealing employee may elect to appeal to an
2 independent third-party hearing examiner instead of to the
3 commission. The letter must also state that if the employee elects
4 to appeal to a hearing examiner, the employee waives all rights to
5 appeal to a district court except as provided by Subsection (j).

6 (b) To exercise the choice of appealing to a hearing
7 examiner, the appealing employee must submit to the commission a
8 written request as part of the original notice of appeal required
9 under this subchapter stating the employee's decision to appeal to
10 an independent third-party hearing examiner.

11 (c) The hearing examiner's decision is final and binding on
12 all parties. If the employee decides to appeal to an independent
13 third-party hearing examiner, the employee waives all rights to
14 appeal to a district court except as provided by Subsection (j).

15 (d) If the employee chooses to appeal to a hearing examiner,
16 the employee and the sheriff, or their designees, shall first
17 attempt to agree on the selection of an impartial hearing examiner.
18 If the parties do not agree on the selection of a hearing examiner
19 on or within 10 days after the date the appeal is filed, the
20 commission shall immediately request a list of seven qualified
21 neutral arbitrators from the American Arbitration Association or
22 the Federal Mediation and Conciliation Service, or their successors
23 in function. The employee and the sheriff, or their designees, may
24 agree on one of the seven neutral arbitrators on the list. If they
25 do not agree within five working days after the date they received
26 the list, each party or the party's designee shall alternate
27 striking a name from the list and the name remaining is the hearing

1 examiner. The parties or their designees shall agree on a date for
2 the hearing.

3 (e) The appeal hearing shall begin as soon as the hearing
4 examiner can be scheduled. If the hearing examiner cannot begin the
5 hearing within 45 calendar days after the date of selection, the
6 employee may, within two days after learning of that fact, call for
7 the selection of a new hearing examiner using the procedure
8 prescribed by Subsection (d).

9 (f) In each hearing conducted under this section, the
10 hearing examiner has the same duties and powers as the commission,
11 including the right to issue subpoenas.

12 (g) In a hearing conducted under this section, the parties
13 may agree to an expedited hearing procedure. Unless otherwise
14 agreed by the parties, in an expedited procedure the hearing
15 examiner shall render a decision on the appeal within 10 days after
16 the date the hearing ended.

17 (h) In an appeal that does not involve an expedited hearing
18 procedure, the hearing examiner shall make a reasonable effort to
19 render a decision on the appeal within 30 days after the date the
20 hearing ends or the briefs are filed. The hearing examiner's
21 inability to meet the time requirements imposed by this section
22 does not affect the hearing examiner's jurisdiction, the validity
23 of the disciplinary action, or the hearing examiner's final
24 decision.

25 (i) The hearing examiner's fees and expenses are shared
26 equally by the appealing employee and by the department. The costs
27 of a witness are paid by the party who calls the witness.

1 (j) A district court may hear an appeal of a hearing
2 examiner's award only on the grounds that the hearing examiner was
3 without jurisdiction or exceeded the hearing examiner's
4 jurisdiction or that the order was procured by fraud, collusion, or
5 other unlawful means or the ruling was arbitrary or capricious. An
6 appeal must be brought in the district court having jurisdiction in
7 the county in which the department is located. An appeal under this
8 Subsection is under the substantial evidence rule, and the judgment
9 of the district court is appealable as in other civil cases. An
10 appeal to district court must:

11 Be filed with the district court with proper jurisdiction
12 within 45 days after the hearing examiner issued their final
13 ruling; and

14 State clearly the basis for the appeal.

15 (k) The hearing examiner may uphold, reduce, or overturn the
16 discipline imposed on the employee.

17 (l) No evidence of lost compensation shall be required by
18 the hearing examiner to award the employee compensation. If the
19 suspension, termination, or demotion is overturned or reduced, the
20 employee is entitled to:

21 (1) full compensation for the actual time lost as a
22 result of the suspension at the rate of pay provided for the
23 position or class of service from which the employee was suspended
24 or terminated; restoration of or credit for any other benefits lost
25 as a result of the suspension, including sick leave, vacation
26 leave, and service credit in a retirement system. Standard payroll
27 deductions, if any, for retirement and other benefits restored

1 shall be made from the compensation paid, and the county shall make
2 its standard corresponding contributions, if any, to the retirement
3 system or other applicable benefit systems; and

4 (2) In the case of an overturning of a demotion, the
5 employee is entitled to the difference in compensation between the
6 position they were demoted from and the position they held between
7 the demotion and the ruling of the hearing examiners.

8 (m) If an employee is owed a monetary award for backpay
9 after the final decision of the hearing examiner is rendered, the
10 county's obligations are the same as those provided by Section
11 158.0372.

12 SECTION 5. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2023.