

By: Alvarado

S.B. No. 2482

A BILL TO BE ENTITLED

AN ACT

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

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

SECTION 1. Sections 158.034(a) and (e), Local Government Code, are amended to read as follows:

(a) In a county with a population of less than 2.8 million, if a majority of the employees voting at the election approve the creation of a sheriff's department civil service system, the sheriff, commissioners court, and district attorney shall each appoint one person to serve as a member of the civil service commission that administers the system. In a county with a population of at least 2.8 million and less than 3.3 million ~~or more~~, if a majority of the employees voting at the election approve the creation of a sheriff's department civil service system, the sheriff, commissioners court, and district attorney shall each appoint two persons to serve as members of the civil service commission that administers the system, and the three appointing authorities shall appoint one member by joint action requiring the affirmative vote of each of the authorities. In a county with a population of 3.3 million or more, if a majority of the employees voting at the election approve the creation of a sheriff's department civil service system, the sheriff, commissioners court, and district attorney shall each appoint three persons to serve as

members of the civil service commission that administers the system, and the three appointing authorities shall appoint two members by joint action requiring the affirmative vote of each of the authorities.

(e) To be eligible for appointment to the commission, a person must:

(1) be at least 25 years old; ~~and~~

(2) have resided in the county for the three years immediately preceding the date on which the person's term will begin; and

(3) not have been finally convicted of a felony.

SECTION 2. Section 158.035, Local Government Code, is amended by amending Subsection (a) and adding Subsection (c-1) to read as follows:

(a) The commission shall:

(1) adopt, publish, and enforce rules regarding:

(A) ~~[(1)]~~ selection and classification of employees;

(B) ~~[(2)]~~ competitive examinations;

(C) ~~[(3)]~~ promotions, seniority, and tenure;

(D) ~~[(4)]~~ layoffs and dismissals;

(E) ~~[(5)]~~ disciplinary actions;

(F) ~~[(6)]~~ grievance procedures;

(G) ~~[(7)]~~ the rights of employees during an internal investigation; and

(H) ~~[(8)]~~ other matters relating to the selection of employees and the procedural and substantive rights,

1 advancement, benefits, and working conditions of employees; and

2 (2) hold hearings regarding matters described by
3 Subdivision (1).

4 (c-1) This subsection applies only to a county with a
5 population of 3.3 million or more. A majority of the commission
6 shall constitute a quorum for the adoption or amendment of rules
7 under this chapter. A panel of three commissioners may hear and
8 decide any case arising under rules adopted under this chapter. The
9 commission shall adopt rules prescribing procedures for assigning
10 members to a panel.

11 SECTION 3. Subchapter B, Chapter 158, Local Government
12 Code, is amended by adding Section 158.0356 to read as follows:

13 Sec. 158.0356. THIRD-PARTY HEARING EXAMINERS IN CERTAIN
14 COUNTIES. (a) This section applies only to a county with a
15 population of 3.3 million or more.

16 (b) The written notice of termination issued to an employee
17 must state that the employee may elect to appeal the termination to
18 an independent third-party hearing examiner instead of to the
19 commission. The notice must also state that if the employee elects
20 to appeal to a hearing examiner, the employee waives all rights to
21 appeal to a district court except as provided by Subsection (k).

22 (c) To appeal to a hearing examiner under Subsection (b),
23 the appealing employee must submit to the commission a written
24 request as part of an original notice of appeal stating the
25 employee's election to appeal to a hearing examiner.

26 (d) The hearing examiner's decision is final and binding on
27 all parties. If the employee elects to appeal to a hearing

examiner, the employee waives all rights to appeal to a district court except as provided by Subsection (k).

(e) In an appeal to a hearing examiner, the parties shall first attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner on or within 10 days after the date the appeal is filed, the commission shall immediately request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service, or their successors in function. The parties may agree on one of the seven neutral arbitrators on the list. If the parties do not agree within five working days after the date they received the list, each party or the party's designee shall alternate striking a name from the list and the name remaining is the hearing examiner. The parties or their designees shall agree on a date for the hearing.

(f) The hearing must begin as soon as the hearing examiner can be scheduled. If the hearing examiner cannot begin the hearing within 45 calendar days after the date of selection of the hearing examiner, the employee may, within two days after learning of that fact, require the selection of a new hearing examiner using the procedure prescribed by Subsection (e).

(g) In each hearing conducted under this section, the hearing examiner has the same duties and powers as the commission, including the power to issue subpoenas.

(h) In a hearing conducted under this section, the parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure the hearing

1 examiner shall render a decision on the appeal within 10 days after
2 the date the hearing ended.

3 (i) In an appeal that does not involve an expedited hearing
4 procedure, the hearing examiner shall make a reasonable effort to
5 render a decision on the appeal within 30 days after the date the
6 hearing ends or the briefs are filed. The hearing examiner's
7 inability to meet the time requirements imposed by this section
8 does not affect the hearing examiner's jurisdiction, the validity
9 of the termination, or the hearing examiner's final decision. The
10 hearing examiner may uphold or overturn the termination or reduce
11 the discipline imposed on the employee.

12 (j) The hearing examiner's fees and expenses are shared
13 equally by the appealing employee and by the department. The costs
14 of a witness are paid by the party who calls the witness.

15 (k) A district court may hear an appeal of a hearing
16 examiner's award only on the grounds that the hearing examiner was
17 without jurisdiction or exceeded the hearing examiner's
18 jurisdiction or that the order was procured by fraud, collusion, or
19 other unlawful means or the decision was arbitrary or capricious.
20 An appeal under this subsection is under the substantial evidence
21 rule, and the judgment of the district court is appealable as in
22 other civil cases. An appeal must:

23 (1) be brought in the district court having
24 jurisdiction in the county in which the department is located;

25 (2) be filed with the district court with proper
26 jurisdiction not later than the 45th day after the date the hearing
27 examiner issued a final decision; and

1 (3) clearly state the basis for the appeal.

2 (1) The hearing examiner may not require evidence of lost
3 compensation to award the employee compensation. If the termination
4 is overturned by the hearing examiner or the district court, the
5 employee is entitled to:

6 (1) full compensation for the actual time lost as a
7 result of the termination at the rate of pay provided for the
8 position or class of service the employee held before the
9 termination; and

10 (2) restoration of or credit for any benefits lost as a
11 result of the termination, including sick leave, vacation leave,
12 and service credit in a retirement system.

13 (m) If a law requires a retirement system to make
14 appropriate adjustments to a person's service credit or benefits
15 with that system based on a judgment or order issued by the
16 commission or a settlement agreement executed in connection with a
17 complaint or grievance filed with the commission, such as Section
18 842.113, Government Code, that law applies to the final decision of
19 a hearing examiner issued under this section or a settlement
20 agreement executed in connection with an appeal filed with the
21 hearing examiner in the same manner as that law applies to a
22 judgment, order, or settlement agreement described by this
23 subsection with respect to the commission.

24 (n) If an employee is entitled to restored benefits under
25 Subsection (l), standard payroll deductions for retirement and
26 other benefits must be made from the compensation paid and the
27 county shall make any standard corresponding contributions to the

1 retirement system or other applicable benefit systems.

2 SECTION 4. Section 158.038(c), Local Government Code, is
3 amended to read as follows:

4 (c) The sheriff of a county with a population of more than
5 3.3 million may designate as exempt from the civil service system:

6 (1) the position of chief deputy;

7 (2) one or more positions in the office of
8 departmental legal counsel; and

9 (3) additional positions in the department, not to
10 exceed 32 ~~[25]~~ in number, that have been determined by the civil
11 service commission to be administrative or supervisory positions;
12 provided, however, that the sheriff may not designate as exempt any
13 position in the deputy classifications of captain or below. The
14 designation of any such additional exempt position by the sheriff
15 shall not diminish the number of positions within the deputy
16 classifications of captain or below.

17 SECTION 5. Subchapter B, Chapter 158, Local Government
18 Code, is amended by adding Section 158.043 to read as follows:

19 Sec. 158.043. INVESTIGATION OF EMPLOYEES. (a) This
20 section applies only to a county with a population of 3.3 million or
21 more.

22 (b) In this section:

23 (1) "Complainant" means a person claiming to be the
24 victim of misconduct by an employee.

25 (2) "Investigation" means an administrative
26 investigation, conducted by the department, of alleged misconduct
27 by an employee that could result in punitive action against that

1 employee.

2 (3) "Investigator" means an employee of the department
3 who is assigned to conduct an investigation.

4 (4) "Normally assigned working hours" includes those
5 hours during which an employee is actually at work or at the
6 employee's assigned place of work, but does not include any time
7 when the employee is off duty on authorized leave, including sick
8 leave.

9 (5) "Punitive action" means a disciplinary
10 suspension, termination, demotion in rank, reprimand, or any
11 combination of those actions.

12 (c) An investigator may interrogate an employee who is the
13 subject of an investigation only during the employee's normally
14 assigned working hours unless:

15 (1) the seriousness of the investigation, as
16 determined by the sheriff or the sheriff's designee, requires
17 interrogation at another time; and

18 (2) the employee is compensated for the interrogation
19 time on an overtime basis.

20 (d) The sheriff may not consider work time missed from
21 regular duties by an employee due to participation in the conduct of
22 an investigation in determining whether to impose a punitive action
23 or in determining the severity of a punitive action.

24 (e) An investigator may not interrogate an employee who is
25 the subject of an investigation or conduct any part of the
26 investigation at that employee's home without that employee's
27 permission.

1 (f) A person may not be assigned to conduct an investigation
2 if the person is the complainant, the ultimate decision maker
3 regarding disciplinary action, or a person who has any personal
4 involvement regarding the alleged misconduct. An employee who is
5 the subject of an investigation has the right to inquire and, on
6 inquiry, to be informed of the identities of each investigator
7 participating in an interrogation of the employee.

8 (g) Not later than the 30th day after the date a complaint is
9 received by an investigator, the investigator must inform the
10 employee in writing of the nature of the investigation and the name
11 of each person who complained about the employee, if known,
12 concerning the matters under investigation unless:

13 (1) a criminal investigation has been initiated as a
14 result of the complaint; or

15 (2) the disclosure of information concerning the name
16 of the complainant or the matters under investigation would hinder
17 a criminal investigation.

18 (h) An investigator may not conduct an interrogation of an
19 employee based on a complaint by a complainant who is not a peace
20 officer unless the complainant verifies the complaint in writing
21 before a public officer who is authorized by law to take statements
22 under oath. In an investigation authorized under this subsection,
23 an investigator may interrogate an employee about events or conduct
24 reported by a witness who is not a complainant without disclosing
25 the name of the witness. Not later than the 48th hour before the
26 hour on which an investigator begins to interrogate an employee
27 regarding an allegation based on a complaint, affidavit, or

1 statement, the investigator shall give the employee a copy of the
2 affidavit, complaint, or statement, any witness statements, and any
3 other evidence against the employee. An interrogation may be based
4 on a complaint from an anonymous complainant if the departmental
5 employee receiving the anonymous complaint certifies in writing,
6 under oath, that the complaint was anonymous. This subsection does
7 not apply to an on-the-scene investigation that occurs immediately
8 after an incident being investigated if the limitations of this
9 subsection would unreasonably hinder the essential purpose of the
10 investigation or interrogation. If the limitation would hinder the
11 investigation or interrogation, the employee under investigation
12 must be furnished, as soon as practicable, a written statement of
13 the nature of the investigation, the name of each complaining
14 party, and the complaint, affidavit, or statement.

15 (i) An interrogation session of an employee who is the
16 subject of an investigation may not be unreasonably long. In
17 determining reasonableness, the gravity and complexity of the
18 investigation must be considered. The investigators shall allow
19 reasonable interruptions to permit the employee to attend to
20 personal physical necessities.

21 (j) An investigator may not threaten an employee who is the
22 subject of an investigation with punitive action during an
23 interrogation. However, an investigator may inform an employee
24 that failure to truthfully answer reasonable questions directly
25 related to the investigation or to fully cooperate in the conduct of
26 the investigation may result in punitive action.

27 (k) If prior notification of intent to record an

1 interrogation is given to the other party, either the investigator
2 or the employee who is the subject of an interrogation may record
3 the interrogation.

4 (1) If an investigation does not result in punitive action
5 against an employee but does result in a reprimand recorded in
6 writing or an adverse finding or determination regarding that
7 employee, the reprimand, finding, or determination may not be
8 placed in that employee's personnel file unless the employee is
9 first given an opportunity to read and sign the document. If the
10 employee refuses to sign the reprimand, finding, or determination,
11 it may be placed in the personnel file with a notation that the
12 employee refused to sign it. An employee may respond in writing to
13 a reprimand, finding, or determination that is placed in the
14 employee's personnel file under this subsection by submitting a
15 written response to the commission within 10 days after the date the
16 employee is asked to sign the document. The response must be placed
17 in the personnel file. An employee who receives a punitive action
18 and who elects not to appeal the action may file a written response
19 as prescribed by this subsection within 10 days after the date the
20 employee is given written notice of the punitive action from the
21 department.

22 (m) If the department or any investigator violates any of
23 the provisions of this section while conducting an investigation,
24 the commission shall reverse any punitive action taken pursuant to
25 the investigation, including a reprimand or disciplinary action,
26 and any information obtained during the investigation shall be
27 specifically excluded from introduction into evidence in any

S.B. No. 2482

1 proceeding against the employee.

2 SECTION 6. This Act takes effect September 1, 2025.