

By: Gallegos

S.B. No. 1733

A BILL TO BE ENTITLED

AN ACT

relating to the creation of an appeals process for the termination or suspension of deputy constables in certain counties.

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

SECTION 1. Chapter 160, Local Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. APPEALS PROCESS FOR DEPUTY CONSTABLES

IN CERTAIN COUNTIES

Sec. 160.051. DEFINITION. In this subchapter, "termination or suspension" means the revocation of a deputy constable's appointment or the temporary, indefinite, or permanent suspension of a deputy constable from duty.

Sec. 160.052. COUNTIES AND DEPUTY CONSTABLES AFFECTED. This subchapter applies only to the termination or suspension of a deputy constable in a county with a population of more than three million.

Sec. 160.053. TERMINATION OR SUSPENSION. (a) A deputy constable may be terminated or suspended only for inadequate performance or a violation of workplace rules.

(b) A constable must notify a deputy constable in writing of a termination or suspension. The notification must specifically identify the incident that is the cause for the termination or suspension.

(c) A deputy constable may not be terminated or suspended

1 for a reason related to:

2 (1) the election or appointment of a new constable;

3 (2) the end of a constable's term of office; or

4 (3) the death of a constable.

5 Sec. 160.054. APPEALS COMMISSION. (a) The constables of a
6 county by collective agreement shall annually appoint three persons
7 to serve as members of the appeals commission.

8 (b) A member of the appeals commission is not personally
9 liable for damages resulting from a decision of the appeals
10 commission.

11 (c) A member of the appeals commission may not be employed
12 by the county.

13 (d) The constables of the county collectively shall provide
14 the facilities and support staff necessary for the operation of the
15 appeals commission.

16 Sec. 160.055. RULES OF PROCEDURE. The appeals commission
17 shall adopt, publish, and enforce rules regarding the procedure for
18 an appeal under this subchapter.

19 Sec. 160.056. APPEAL OF TERMINATION OR SUSPENSION.

20 (a) Not later than the fifth day after the date a deputy constable
21 receives written notification of termination or suspension of
22 employment, the deputy constable may appeal a termination or
23 suspension by:

24 (1) filing a written appeal with the constable; or

25 (2) directly filing a written appeal with or appearing
26 in person before the appeals commission.

27 (b) Not later than the fifth day after the date a deputy

1 constable receives written notification of a constable's decision
2 on appeal under Subsection (a)(1), the deputy constable may appeal
3 the constable's decision to the appeals commission by filing a
4 written appeal with or appearing in person before the appeals
5 commission.

6 (c) The appeals commission shall make a just and fair
7 decision in writing not later than the 30th day after the date the
8 deputy constable receives written notification of termination or
9 suspension or receives written notification of a constable's
10 decision under Subsection (a)(1), as applicable.

11 (d) In its decision, the appeals commission may:

12 (1) affirm the termination or suspension of the deputy
13 constable for cause;

14 (2) grant the relief requested by the deputy constable
15 and reinstate the deputy constable to the job assignment held
16 before the termination or suspension without loss of compensation
17 or benefits, including back pay and benefits; or

18 (3) modify the constable's disciplinary action from
19 which the appeal is taken.

20 (e) A decision of the appeals commission is final and
21 binding and may not be appealed. This subsection does not affect a
22 deputy constable's right to contest a termination or suspension in
23 another forum under federal law.

24 (f) A deputy constable may not appeal any other personnel
25 action under this subchapter, including a written reprimand,
26 transfer, promotion, or demotion.

27 Sec. 160.057. EXEMPTIONS. A constable may designate as

1 exempt from the application of this subchapter not more than eight
2 deputy constables.

3 SECTION 2. Sections 160.001 through 160.007, Local
4 Government Code, are redesignated as Subchapter A, Chapter 160,
5 Local Government Code, and amended to read as follows:

6 SUBCHAPTER A. GRIEVANCE PROCEDURE FOR CERTAIN COUNTIES

7 Sec. 160.001. POLICY. The purpose of this subchapter
8 [~~chapter~~] is to provide reasonable, standardized grievance
9 procedures for certain counties and their employees because:

10 (1) it is the policy of this state that the right of
11 public employees to present, individually or through a
12 representative that does not claim the right to strike, grievances
13 concerning their wages, hours of work, or conditions of work should
14 continue unimpaired; and

15 (2) the application of that policy creates a need for
16 reasonable, standardized procedures for certain populous counties
17 and their employees.

18 Sec. 160.002. COUNTIES AND EMPLOYEES AFFECTED. This
19 subchapter [~~chapter~~] applies only to a county with a population of
20 more than 2.4 million and its employees, including but not limited
21 to the employees of road and bridge districts, flood control
22 districts, adult probation departments, and juvenile probation
23 departments in the county. However, this subchapter [~~chapter~~] does
24 not apply to the employees of a sheriff's department.

25 Sec. 160.003. DEFINITION. In this subchapter [~~chapter~~],
26 "grievance" means a claim by an employee that the employee was
27 adversely affected by a violation, misinterpretation,

1 misapplication, or disparity in the application of a specific law,
2 ordinance, resolution, written or unwritten policy, or rule
3 regarding wages, hours of work, or conditions of work.

4 Sec. 160.004. PROCEDURE IN GENERAL. A grievance must be
5 presented and adjusted in accordance with the grievance procedures
6 prescribed by this subchapter [~~chapter~~].

7 Sec. 160.005. STANDARDIZED GRIEVANCE PROCEDURE. (a) The
8 commissioners court of the county shall enact orders to provide
9 for:

- 10 (1) filing of written grievances;
- 11 (2) written responses to the grievance allegations;
- 12 (3) procedures for appeal to an appointed county
13 grievance resolutions committee;
- 14 (4) further appeal to the commissioners court;
- 15 (5) presentation of grievances by an employee's
16 requested representative;
- 17 (6) reasonable leave with pay for the presentation of
18 grievances; and
- 19 (7) other necessary procedures to permit effective
20 implementation of this subchapter [~~chapter~~].

21 (b) The orders and procedures shall apply equally to all
22 employees of the county, including employees of independent elected
23 officials, and shall provide for reasonable timetables for filing
24 and responding to grievances.

25 Sec. 160.006. NO RETALIATION OR REPRISAL. (a) An employee
26 may not be made subject to retaliation, reprisal, or discrimination
27 on account of having exercised any right or participated in any

1 procedure established by this subchapter [~~chapter~~]. A supervisor
2 or management official may not be made subject to retaliation,
3 reprisal, or discrimination because of any grievance adjustment
4 offered under this subchapter [~~chapter~~] to an employee with a
5 grievance or because of testifying on any employee's behalf during
6 a grievance procedure under this subchapter [~~chapter~~].

7 (b) A district court of appropriate venue may enjoin a
8 violation of this section. The court may order, in addition to
9 other relief, the mandatory reinstatement and the payment of back
10 pay for individuals discharged, suspended, or demoted in violation
11 of this section.

12 (c) An individual suffering retaliation, reprisal, or
13 discrimination in violation of this section is entitled to
14 reasonable attorney's fees as a result of successful court action
15 regarding the retaliation, reprisal, or discrimination.

16 Sec. 160.007. PROSPECTIVE APPLICATION OF SUBCHAPTER
17 [~~CHAPTER~~] AND AMENDED ORDER. (a) This subchapter [~~Act~~] applies
18 only to a grievance based on events that occur on or after June 20,
19 1987.

20 (b) If the commissioners court amends an order adopted under
21 this subchapter [~~chapter~~], the amended order does not apply to a
22 grievance alleged to have occurred before the date of the amended
23 order.

24 SECTION 3. (a) The change in law made by Subchapter B,
25 Chapter 160, Local Government Code, as added by this Act, applies
26 only to a deputy constable who is terminated or suspended from duty
27 on or after the effective date of this Act.

1 (b) A deputy constable who is terminated or suspended from
2 duty before the effective date of this Act is covered by the law in
3 effect when the deputy constable was terminated or suspended, and
4 the former law is continued in effect for that purpose.

5 SECTION 4. This Act takes effect September 1, 2003.