

By: Gallegos S.B. No. 1733  
(In the Senate - Filed March 14, 2003; March 20, 2003, read first time and referred to Committee on Intergovernmental Relations; May 2, 2003, reported favorably by the following vote: Yeas 4, Nays 0; May 2, 2003, sent to printer.)

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 for a reason related to:

- (1) the election or appointment of a new constable;
- (2) the end of a constable's term of office; or
- (3) the death of a constable.

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

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

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

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

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

Sec. 160.056. APPEAL OF TERMINATION OR SUSPENSION. (a) Not later than the fifth day after the date a deputy constable receives written notification of termination or suspension of employment, the deputy constable may appeal a termination or suspension by:

- (1) filing a written appeal with the constable; or
- (2) directly filing a written appeal with or appearing in person before the appeals commission.

(b) Not later than the fifth day after the date a deputy constable receives written notification of a constable's decision on appeal under Subsection (a)(1), the deputy constable may appeal the constable's decision to the appeals commission by filing a written appeal with or appearing in person before the appeals commission.

(c) The appeals commission shall make a just and fair decision in writing not later than the 30th day after the date the

deputy constable receives written notification of termination or suspension or receives written notification of a constable's decision under Subsection (a)(1), as applicable.

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

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

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

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

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

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

Sec. 160.057. EXEMPTIONS. A constable may designate as exempt from the application of this subchapter not more than eight deputy constables.

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

#### SUBCHAPTER A. GRIEVANCE PROCEDURE FOR CERTAIN COUNTIES

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

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

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

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

Sec. 160.003. DEFINITION. In this subchapter ~~[chapter]~~, "grievance" means a claim by an employee that the employee was adversely affected by a violation, misinterpretation, misapplication, or disparity in the application of a specific law, ordinance, resolution, written or unwritten policy, or rule regarding wages, hours of work, or conditions of work.

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

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

(1) filing of written grievances;

(2) written responses to the grievance allegations;

(3) procedures for appeal to an appointed county grievance resolutions committee;

(4) further appeal to the commissioners court;

(5) presentation of grievances by an employee's requested representative;

(6) reasonable leave with pay for the presentation of grievances; and

(7) other necessary procedures to permit effective implementation of this subchapter ~~[chapter]~~.

(b) The orders and procedures shall apply equally to all employees of the county, including employees of independent elected

officials, and shall provide for reasonable timetables for filing and responding to grievances.

Sec. 160.006. NO RETALIATION OR REPRISAL. (a) An employee may not be made subject to retaliation, reprisal, or discrimination on account of having exercised any right or participated in any procedure established by this subchapter [~~chapter~~]. A supervisor or management official may not be made subject to retaliation, reprisal, or discrimination because of any grievance adjustment offered under this subchapter [~~chapter~~] to an employee with a grievance or because of testifying on any employee's behalf during a grievance procedure under this subchapter [~~chapter~~].

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

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

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

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

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

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

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

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