

AN ACT

relating to municipal civil service for firefighters and police officers in certain municipalities.

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

SECTION 1. Section 143.025, Local Government Code, is amended by adding Subsection (k) to read as follows:

(k) This section does not apply to a police department located in a municipality with a population of 1.5 million or more.

SECTION 2. Section 143.057(d), Local Government Code, is amended to read as follows:

(d) If the appealing fire fighter or police officer chooses to appeal to a hearing examiner, the fire fighter or police officer and the department head, or their designees, 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 director shall immediately request a list of seven qualified neutral independent third party hearing examiners [~~arbitrators~~] from the American Arbitration Association or the Federal Mediation and Conciliation Service, or their successors in function. The fire fighter or police officer and the department head, or their designees, may agree on one of the seven neutral independent third party hearing examiners [~~arbitrators~~] on the list. If they do not agree within five working days after the date they received the

1 list, each party or the party's designee shall alternate striking a
2 name from the list and the name remaining is the hearing examiner.
3 The parties or their designees shall agree on a date for the
4 hearing.

5 SECTION 3. Sections 143.1015(e), (f), and (i), Local
6 Government Code, are amended to read as follows:

7 (e) The hearing relating to the reasons for the fire
8 fighter's or police officer's subpoena request shall be held on the
9 date set for the original appeal hearing. If the commission
10 overrules the subpoena request at the hearing:

11 (1) the commission may hear the fire fighter's or
12 police officer's appeal on that date; or

13 (2) if the commission finds that justice is served by a
14 continuance, the commission shall:

15 (A) reschedule the hearing to the commission's
16 next regularly scheduled meeting; and

17 (B) give the fire fighter or police officer at
18 least 15 days notice of that date.

19 (f) If the commission sustains the fire fighter's or police
20 officer's subpoena request at the hearing, the commission shall:

21 (1) reschedule the appeal hearing date to the
22 commission's next regularly scheduled meeting; and

23 (2) give the fire fighter or police officer at least 15
24 days notice of that date.

25 (i) A municipal employee who is subpoenaed to appear as a
26 fact witness in any appeal of a disciplinary decision is entitled to
27 applicable pay for the time the employee is required to be present

1 at the hearing. Witnesses whose testimony relates primarily to the
2 character or reputation of the employee shall be limited by the
3 hearing examiner or commission if the testimony is repetitious or
4 unduly prolongs the hearing. If the hearing examiner or commission
5 limits the number of character or reputation witnesses, additional
6 witness statements may be presented by affidavit. The character
7 witnesses are not entitled to applicable pay for the time they are
8 required to be present at the hearing.

9 SECTION 4. Section 143.1016, Local Government Code, is
10 amended by amending Subsections (a), (d), (e), (h), and (k) and
11 adding Subsection (l) to read as follows:

12 (a) In addition to the other notice requirements prescribed
13 by this chapter, the letter of disciplinary action issued to a fire
14 fighter or police officer must state that in an appeal of an
15 indefinite suspension, a suspension, a promotional pass over, or a
16 recommended demotion, the appealing fire fighter or police officer
17 may elect to appeal to a [~~an independent third party~~] hearing
18 examiner instead of to the commission. The hearing examiner must be
19 an independent third party hearing examiner. The letter must also
20 state that if the fire fighter or police officer elects to appeal to
21 a hearing examiner, the person waives all rights to appeal to a
22 district court except as provided by Subsection (j).

23 (d) This subsection applies only if the parties have not
24 established a selection procedure in an agreement pursuant to
25 Subchapter J. If the appealing fire fighter or police officer
26 chooses to appeal to a hearing examiner, the fire fighter or police
27 officer and the department head or their designees shall first

1 attempt to agree on the selection of an impartial hearing examiner.
2 If the parties do not agree on the selection of a hearing examiner
3 on or within 10 days after the date the appeal is filed and no motion
4 to consolidate is filed under Subsection (1) [~~(k) of this section~~],
5 the director shall on the next work day following notice that the
6 parties have failed to agree on a selection of a hearing examiner
7 request a list of seven qualified neutral hearing examiners
8 [~~arbitrators~~] from the American Arbitration Association or the
9 Federal Mediation and Conciliation Service or their successors in
10 function. The fire fighter or police officer and the department
11 head or their designees may agree on one of the seven neutral
12 hearing examiners [~~arbitrators~~] on the list. If they do not agree
13 within 25 days after the date the appeal was filed, each party or
14 the party's designee shall on the 25th day after the appeal was
15 filed alternate striking a name from the list and the name remaining
16 is the hearing examiner. In the event that the 25th day falls on a
17 Saturday, Sunday, or a legal holiday, then the parties shall strike
18 the list the next work day. The parties or their designees shall
19 agree on a date for the hearing that is within the time period
20 prescribed by Subsection (e). In the event that the director does
21 not request the list of seven qualified neutral hearing examiners
22 [~~arbitrators~~] within the time prescribed by this subsection or the
23 department head or his designee fails to strike the list within the
24 time prescribed by this subsection, the fire fighter or police
25 officer or his designee shall select the hearing examiner
26 [~~arbitrator~~] from the list provided. In the event that the fire
27 fighter or police officer or his designee fails to strike the list

1 within the time prescribed by this subsection, the department head
2 or his designee shall select the hearing examiner [~~arbitrator~~] from
3 the list provided.

4 (e) The appeal hearing must begin within 60 days after the
5 date the appeal is filed and shall begin as soon as the hearing
6 examiner can be scheduled. If the hearing examiner cannot begin the
7 hearing within 45 calendar days after the date of selection, the
8 fire fighter or police officer may, within two days after learning
9 of that fact, call for the selection of a new hearing examiner using
10 the procedure prescribed by Subsection (d) or a procedure
11 established in an agreement pursuant to Subchapter J. If the appeal
12 hearing is not begun within 60 days after the date the appeal is
13 filed, the indefinite suspension, suspension, promotional pass
14 over, or recommended demotion is upheld and the appeal is withdrawn
15 if the fire fighter or police officer is not ready to proceed, and
16 the appeal is sustained if the department head is not ready to
17 proceed. In computing the 60-day period, a period of delay not to
18 exceed 30 calendar days because of a continuance granted at the
19 request of the department head or his representative or the fire
20 fighter or police officer or his representative on good cause being
21 shown, or because of the unavoidable unavailability of the hearing
22 examiner on the date of the hearing, or because of the pendency of a
23 motion to consolidate with another hearing as provided in
24 Subsection (1) [~~(k) of this section~~] is excluded. In no event may a
25 hearing examiner grant a continuance beyond 30 days in an
26 indefinite suspension. A hearing examiner may grant a continuance
27 beyond the 30-day period upon good cause being shown in a

1 disciplinary suspension unless the fire fighter or police officer
2 has another disciplinary action pending.

3 (h) 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 legal 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 disciplinary action, or the hearing examiner's final
10 decision.

11 (k) In an appeal of an indefinite suspension, a suspension,
12 a promotional pass over, or a recommended demotion, each appealing
13 fire fighter or police officer or the appealing fire fighter's or
14 police officer's representative shall be entitled to the selection
15 of a hearing examiner to hear the case:

16 (1) pursuant to Subsection (d); or

17 (2) in accordance with a procedure established in an
18 agreement pursuant to Subchapter J [~~of this section to hear the~~
19 ~~case~~].

20 (1) The fire fighter, police officer, department head, or a
21 representative of any of those may, within 10 days of the date they
22 received notice of the appeal, file a motion with a copy to the
23 opposing side to consolidate the case with that of one or more other
24 fire fighters or police officers where the charges arise out of the
25 same incident. The motion to consolidate may be agreed to in
26 writing and filed with the director. If a motion to consolidate the
27 cases is filed and not agreed to, a hearing examiner shall be chosen

1 to hear the motion pursuant to the provisions of Subsection (d) or
2 in accordance with a procedure established in an agreement pursuant
3 to Subchapter J [~~of this section to hear the motion~~]. The decision
4 of the hearing examiner shall be final and binding as to the issue
5 of consolidation. The hearing examiner chosen to hear the motion to
6 consolidate shall not hear the case, and the provisions of
7 Subsection (d) or of a selection procedure established in an
8 agreement pursuant to Subchapter J [~~of this section~~] shall be used
9 to choose the hearing examiner with the day the decision is rendered
10 being the equivalent of the date the appeal was filed.

11 SECTION 5. Subchapter G, Chapter 143, Local Government
12 Code, is amended by adding Section 143.1041 to read as follows:

13 Sec. 143.1041. ENTRANCE EXAMINATION FOR BEGINNING PEACE
14 OFFICER POSITION IN POLICE DEPARTMENT. (a) In this section,
15 "police officer training academy" means a police officer training
16 academy operated or sponsored by a municipality to which this
17 section applies.

18 (b) The commission shall provide for open, competitive, and
19 free entrance examinations to provide eligibility lists for
20 beginning peace officer positions in the police department. The
21 examinations are open to each person who:

22 (1) makes a proper application;

23 (2) has been admitted to or is enrolled in a police
24 officer training academy as an academy trainee; and

25 (3) meets the requirements prescribed by this chapter.

26 (c) The entrance examination may be administered to
27 examinees only after the examinees are admitted to a police officer

1 training academy and before the examinees graduate from the
2 academy.

3 (d) An eligibility list for a beginning peace officer
4 position in the police department may be created only as a result of
5 the examination. Except as provided by Subsection (f), the
6 examination must be held in the presence of each examinee. The
7 examination must be based on the examinee's general knowledge and
8 aptitude and must inquire into the examinee's general education and
9 mental ability. A person may not be appointed to the police
10 department except as a result of the examination.

11 (e) An examinee may not take an examination unless at least
12 one other examinee taking the examination is present.

13 (f) An entrance examination for beginning peace officer
14 positions in the police department must be held at one or more
15 locations in the municipality in which the police department is
16 located and may be held at additional locations outside the
17 municipality. An examination held at multiple locations must be
18 administered on the same day and at the same time at each location
19 at which it is given. To create one eligibility list, each member
20 of a police officer training academy class shall take the
21 examination at the same time and each examinee who takes that
22 examination shall:

23 (1) take the same examination; and

24 (2) be examined in the presence of other examinees.

25 (g) An additional five points shall be added to the
26 examination grade of an examinee who:

27 (1) served in the United States armed forces;

1 (2) received an honorable discharge from that service;

2 and

3 (3) made a passing grade on the examination.

4 (h) The grade to be placed on the eligibility list for each
5 examinee shall be computed by adding an examinee's points under
6 Subsection (g), if any, to the examinee's grade on the written
7 examination. Each examinee's grade on the written examination is
8 based on a maximum grade of 100 percent and is determined entirely
9 by the correctness of the examinee's answers to the questions. The
10 minimum passing grade on the examination is 70 percent. An examinee
11 must pass the examination to be placed on an eligibility list.

12 SECTION 6. Section 143.105, Local Government Code, is
13 amended to read as follows:

14 Sec. 143.105. ELIGIBILITY FOR BEGINNING POSITION IN POLICE
15 DEPARTMENT. In addition to meeting the eligibility requirements
16 prescribed by Section 143.023, to be certified as eligible for a
17 beginning position with a police department, a person must ~~+~~

18 ~~(1)~~ be at least 21 years of age at the end of the
19 probationary period and have: ~~+~~

20 (1) ~~(2) have~~ served in the United States armed
21 forces and received an honorable discharge; ~~or~~

22 (2) ~~(3) have~~ earned at least 60 hours' credit in any
23 area of study at an accredited college or university; or

24 (3) been employed full-time for at least five years as
25 a peace officer licensed by:

26 (A) the Commission on Law Enforcement Officer
27 Standards and Education; or

1 (B) an acceptable licensing entity in another
2 state that has law enforcement officer licensing requirements
3 substantially equivalent to those of Chapter 1701, Occupations
4 Code.

5 SECTION 7. Section 143.352(2), Local Government Code, is
6 amended to read as follows:

7 (2) "Police employee group" means an organization:

8 (A) in which at least three percent of the police
9 officers of the municipality participate [~~and pay dues via~~
10 ~~automatic payroll deduction~~]; and

11 (B) which exists for the purpose, in whole or
12 part, of dealing with the municipality concerning grievances, labor
13 disputes, wages, rates of pay, benefits other than pension
14 benefits, hours of employment, or conditions of work affecting
15 police officers.

16 SECTION 8. Subchapter J, Chapter 143, Local Government
17 Code, is amended by adding Section 143.355 to read as follows:

18 Sec. 143.355. AUTOMATIC PAYROLL DEDUCTION OF POLICE
19 EMPLOYEE GROUP DUES. A public employer that has recognized a police
20 employee group as the sole and exclusive bargaining agent under
21 Section 143.354 shall deduct police employee group dues via
22 automatic payroll deduction for members of the employee group that
23 has been recognized as the bargaining agent. Automatic payroll
24 deduction for members of other police employee groups may be
25 authorized by agreement between the chief executive officer of the
26 public employer and the recognized bargaining agent.

27 SECTION 9. The changes in law made by this Act to Sections

1 143.057(d), 143.1015, and 143.1016, Local Government Code, apply
2 only to an appeal initiated by a firefighter or police officer on or
3 after the effective date of this Act. An appeal initiated before
4 the effective date of this Act is governed by the law in effect
5 immediately before the effective date of this Act, and the former
6 law is continued in effect for that purpose.

7 SECTION 10. Section 143.1041, Local Government Code, as
8 added by this Act, and the changes in law made by this Act to Section
9 143.025, Local Government Code, apply only to an examination
10 administered for a position as a beginning peace officer on or after
11 the effective date of this Act. An examination administered before
12 the effective date of this Act and matters dependent on the
13 examination are governed by the law in effect at the time the
14 examination was administered, and the prior law is continued in
15 effect for this purpose.

16 SECTION 11. The change in law made by this Act to Section
17 143.105, Local Government Code, applies only to a certification of
18 eligibility for a beginning position in a police department that
19 occurs on or after the effective date of this Act.

20 SECTION 12. This Act takes effect September 1, 2007.

President of the Senate

Speaker of the House

I certify that H.B. No. 3352 was passed by the House on April 25, 2007, by the following vote: Yeas 141, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3352 on May 23, 2007, by the following vote: Yeas 140, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3352 was passed by the Senate, with amendments, on May 18, 2007, by the following vote: Yeas 30, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor