

By: Gallegos

S.B. No. 2265

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the disciplinary suspension or demotion of a
3 firefighter or police officer under municipal civil service.

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

5 SECTION 1. Section 143.053(d), Local Government Code, is
6 amended to read as follows:

7 (d) The commission may deliberate the decision in a closed
8 session attended only by members of the commission but may not
9 consider evidence that was not presented at the hearing. The
10 commission shall vote in open session.

11 SECTION 2. Section 143.054, Local Government Code, is
12 amended to read as follows:

13 Sec. 143.054. DEMOTIONS. (a) If the head of the fire or
14 police department wants a fire fighter or police officer under his
15 supervision or jurisdiction to be involuntarily demoted, the
16 department head may recommend in writing to the commission that
17 ~~[the commission demote]~~ the fire fighter or police officer be
18 demoted.

19 (b) The department head must include in the recommendation
20 for demotion the reasons the department head recommends the
21 demotion ~~[and a request that the commission order the demotion]~~.
22 The department head must immediately furnish a copy of the
23 recommendation in person to the affected fire fighter or police
24 officer.

1 (c) On request, a fire fighter or police officer who is the
2 subject of a recommendation for demotion is entitled to an appeal
3 before the commission or a third party hearing examiner. If the
4 fire fighter or police officer requests a hearing before the
5 commission [~~The commission may refuse to grant the request for~~
6 ~~demotion. If the commission believes that probable cause exists~~
7 ~~for ordering the demotion~~], the commission shall give the fire
8 fighter or police officer written notice to appear before the
9 commission for a public hearing at a time and place specified in the
10 notice. The commission shall give the notice before the 10th day
11 before the date the hearing will be held.

12 (d) A fire fighter or police officer who requests an appeal
13 to the commission or a third party hearing examiner under
14 Subsection (c) [~~The fire fighter or police officer is entitled to a~~
15 ~~full and complete public hearing, and the commission~~] may not be
16 demoted unless the commission or third party hearing examiner finds
17 probable cause for the demotion [~~demote a fire fighter or police~~
18 ~~officer without that public hearing~~].

19 (d-1) If a fire fighter or police officer who is the subject
20 of a recommendation for demotion does not request an appeal under
21 Subsection (c), the fire fighter or police officer waives all
22 rights to an appeal of the demotion.

23 (e) A [~~voluntary demotion in which the~~] fire fighter or
24 police officer who has accepted the terms of a voluntary [~~the~~]
25 demotion in writing is not entitled to an appeal under this section
26 [~~subject to this section~~].

27 SECTION 3. Section 143.053(d), Local Government Code, as

1 amended by this Act, applies only to an appeal of a disciplinary
2 suspension filed on or after the effective date of this Act. An
3 appeal of a disciplinary suspension filed before the effective date
4 of this Act is governed by the law in effect immediately before that
5 date, and the former law is continued in effect for that purpose.

6 SECTION 4. Section 143.054, Local Government Code, as
7 amended by this Act, applies only to a demotion recommended on or
8 after the effective date of this Act. A demotion recommended before
9 the effective date of this Act is governed by the law in effect
10 immediately before that date, and the former law is continued in
11 effect for that purpose.

12 SECTION 5. This Act takes effect September 1, 2009.