

BILL ANALYSIS

Senate Research Center
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H.B. 2516
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Chapter 143 (Municipal Civil Service For Firefighters and Police Officers), Local Government Code, provides administrative review of indefinite suspensions imposed upon police officers and fire fighters upon local adoption by voters. The reviewing body, either the local civil service commission or an independent hearing examiner may sustain the department head's decision, reverse it, or reduce the suspension to a definite temporary period. In March 2010, the Fourteenth Court of Appeals in Houston held that an independent hearing examiner exceeded his jurisdiction by reducing a Houston police lieutenant's indefinite suspension to reinstatement without back pay for the 92 days he had been off work. *See Miller v. City of Houston*, 309 S.W.3d 681 (Tex. App.—Houston [14th Dist] 2010, no pet.). The *Miller* court held that the commission or a hearing examiner was limited to a reduction of no more than 15 days of temporary suspension in instances where the facts did not warrant termination. This ignores the legislature's clear intent to provide for periods of 16 to 90-day temporary suspensions in lieu of termination, Section 143.119(f), Local Government Code. Furthermore, no commission or independent hearing examiner has ever been so restricted in the past. Unfortunately many other state courts are following this decision, as are most, if not all, independent hearing examiners.

This bill would clarify that local civil service commissions or independent hearing examiners may reduce indefinite suspensions of police officers or fire fighters to temporary suspensions that do not exceed 90 days. In doing so, this bill would make clear the Civil Service Act's intent to provide reviewing bodies (i.e., civil service commissions and independent hearing examiners) the same latitude that department heads possess, by providing for periods up to 90-day temporary suspensions in lieu of termination on appeal.

H.B. 2516 amends current law relating to the appeal of an indefinite suspension of a municipal firefighter or police officer.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 143.120(c), Local Government Code, as follows:

(c) Requires the Fire Fighters' and Police Officers' Civil Service Commission, in its decision, to state whether the suspended fire fighter or police officer is:

- (1) permanently dismissed from the fire or police department;
- (2) temporarily suspended from fire or police department, for a period not to exceed 90 calendar days; or
- (3) restored to the person's former position or status in fire or police department's classified service.

SECTION 2. Effective date: upon passage or September 1, 2011.