| **House Bill 3788**  Senate Amendments  Section-by-Section Analysis | | |
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| HOUSE VERSION | SENATE VERSION (IE) | CONFERENCE |
| SECTION 1. Subchapter A, Chapter 158, Local Government Code, is amended by adding Section 158.0095 to read as follows:  Sec. 158.0095. AUTHORITY TO ISSUE SUBPOENAS AND ADMINISTER OATHS. (a) In a proceeding before the commission under this subchapter, the chairman of the commission shall, on request of a person described by Subsection (b):  (1) administer oaths; and  (2) issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material.  (b) The affected employee, the county attorney, or a designee of the employee or county attorney may request the chairman of the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the requestor considers pertinent to the case. The request must be made before the 10th day before the date a commission proceeding will be held.  (c) An oath administered under this section has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity.  (d) A response to a subpoena duces tecum under this section is considered to have been made under oath.  (e) A person who is subpoenaed commits an offense if the person fails to appear as required by the subpoena. An offense under this section is a misdemeanor punishable by a fine up to $1,000, confinement in the county jail for not more than 30 days, or both the fine and confinement. | SECTION 1. Subchapter A, Chapter 158, Local Government Code, is amended by adding Section 158.0095 to read as follows:  Sec. 158.0095. AUTHORITY TO ISSUE SUBPOENAS AND ADMINISTER OATHS. (a) In a proceeding before the commission under this subchapter, the chairman of the commission shall, on request of a person described by Subsection (b):  (1) administer oaths; and  (2) issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material.  (b) The affected employee, the county attorney, or a designee of the employee or county attorney may request the chairman of the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the requestor considers relevant to the case. The request must be made before the 15th day before the date a commission proceeding will be held.  (c) An oath administered under this section has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity.  (d) A response to a subpoena duces tecum under this section is considered to have been made under oath.  (e) A person who is subpoenaed commits an offense if the person fails to appear as required by the subpoena. An offense under this section is a misdemeanor punishable by a fine up to $1,000, confinement in the county jail for not more than 30 days, or both the fine and confinement. [FA1(1),(2)] |  |
| SECTION 2. Subchapter B, Chapter 158, Local Government Code, is amended by adding Section 158.0355 to read as follows:  Sec. 158.0355. AUTHORITY TO ISSUE SUBPOENAS AND ADMINISTER OATHS. (a) In a proceeding before the commission under this subchapter, the chairman of the commission shall, on request of a person described by Subsection (b):  (1) administer oaths; and  (2) issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material.  (b) The affected employee, the county attorney, or a designee of the employee or the county attorney may request the chairman of the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the requestor considers pertinent to the case. The request must be made before the 10th day before the date a commission proceeding will be held.  (c) An oath administered under this section has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity.  (d) A response to a subpoena duces tecum under this section is considered to have been made under oath.  (e) A person who is subpoenaed commits an offense if the person fails to appear as required by the subpoena. An offense under this section is a misdemeanor punishable by a fine up to $1,000, confinement in the county jail for not more than 30 days, or both the fine and confinement. | SECTION 2. Subchapter B, Chapter 158, Local Government Code, is amended by adding Section 158.0355 to read as follows:  Sec. 158.0355. AUTHORITY TO ISSUE SUBPOENAS AND ADMINISTER OATHS. (a) In a proceeding before the commission under this subchapter, the chairman of the commission shall, on request of a person described by Subsection (b):  (1) administer oaths; and  (2) issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material.  (b) The affected employee, the county attorney, or a designee of the employee or the county attorney may request the chairman of the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the requestor considers relevant to the case. The request must be made before the 10th day before the date a commission proceeding will be held.  (c) An oath administered under this section has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity.  (d) A response to a subpoena duces tecum under this section is considered to have been made under oath.  (e) A person who is subpoenaed commits an offense if the person fails to appear as required by the subpoena. An offense under this section is a misdemeanor punishable by a fine up to $1,000, confinement in the county jail for not more than 30 days, or both the fine and confinement. [FA1(1)] |  |
| SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011. | SECTION 3. Same as House version. |  |