

By: Martinez

H.B. No. 1092

A BILL TO BE ENTITLED

AN ACT

relating to the disciplinary suspension of firefighters and police officers in certain municipalities.

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

SECTION 1. Section 143.052(g), Local Government Code, is amended to read as follows:

(g) If offered by the department head, the fire fighter or police officer may agree in writing to voluntarily accept, with no right of appeal, a suspension of 16 to 90 calendar days for the violation of a civil service rule. The department head may not impose any additional condition on the offer of suspension unless the right to appeal the condition is retained. The fire fighter or police officer must accept the offer within five working days after the date the offer is made. A [If the] person who refuses the offer and wants to appeal the suspension to the commission or a person who accepts the offer and wants to appeal an additional condition imposed to the commission[~~, the person~~] must file a written appeal with the commission within 15 days after the date the person receives the copy of the written statement of suspension.

SECTION 2. The heading to Section 143.053, Local Government Code, is amended to read as follows:

Sec. 143.053. APPEAL OF DISCIPLINARY SUSPENSION OR IMPOSITION OF ADDITIONAL CONDITION ON SUSPENSION.

SECTION 3. Section 143.053, Local Government Code, is

1 amended by amending Subsections (b) and (e) and adding Subsection
2 (e-1) to read as follows:

3 (b) If a suspended fire fighter or police officer appeals
4 the suspension or the imposition of an additional condition on a
5 suspension under Section 143.052(g) to the commission, the
6 commission shall hold a hearing and render a decision in writing
7 within 30 days after the date it receives notice of appeal. The
8 suspended person and the commission may agree to postpone the
9 hearing for a definite period.

10 (e) In its decision in an appeal on a suspension, the
11 commission shall state whether the suspended fire fighter or police
12 officer is:

13 (1) permanently dismissed from the fire or police
14 department;

15 (2) temporarily suspended from the department; or

16 (3) restored to the person's former position or status
17 in the department's classified service.

18 (e-1) In its decision in an appeal on the imposition of an
19 additional condition on a suspension, the commission shall state
20 whether the additional condition on the suspension may be imposed
21 or may not be imposed.

22 SECTION 4. Section 143.057(a), Local Government Code, is
23 amended to read as follows:

24 (a) In addition to the other notice requirements prescribed
25 by this chapter, the written notice for a promotional bypass or the
26 letter of disciplinary action, as applicable, issued to a fire
27 fighter or police officer must state that in an appeal of an

1 indefinite suspension, a suspension, the imposition of an
2 additional condition on a suspension under Section 143.052(g), a
3 promotional bypass, or a recommended demotion, the appealing fire
4 fighter or police officer may elect to appeal to an independent
5 third party hearing examiner instead of to the commission. The
6 letter must also state that if the fire fighter or police officer
7 elects to appeal to a hearing examiner, the person waives all rights
8 to appeal to a district court except as provided by Subsection (j).

9 SECTION 5. The change in law made by this Act applies only
10 to a suspension voluntarily accepted on or after the effective date
11 of this Act. A suspension voluntarily accepted before the
12 effective date of this Act is governed by the law as it existed
13 immediately before the effective date of this Act, and that law is
14 continued in effect for that purpose.

15 SECTION 6. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2013.