

BILL ANALYSIS

C.S.H.B. 3711
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Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties have raised concerns regarding arbitration proceedings under The Fire and Police Employee Relations Act and, specifically, the lack of authority of an arbitrator or hearing officer to administer oaths and subpoena documents and witnesses at the request of a party to the arbitration or such a party's designee. C.S.H.B. 3711 seeks to provide a framework for this authority.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 3711 amends the Local Government Code to establish that an arbitrator or hearing officer authorized to hear a grievance proceeding under a collective bargaining agreement under The Fire and Police Employee Relations Act has the authority to administer oaths and issue subpoenas in the manner and to the extent authorized for an arbitration board under that act. The bill establishes that a person who is actively engaged in providing representation to a party to the proceeding and notes and other documents prepared by that person in the scope of the person's representation are not subject to a subpoena issued by such an arbitrator or hearing officer. The bill requires a request for a subpoena by such an arbitrator or hearing officer to be made not later than the 10th day before the date the proceeding will be held, except for good cause shown. The bill establishes that an oath administered by such an arbitrator or hearing officer has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity and that a response to a subpoena duces tecum under these provisions is considered to have been made under oath.

C.S.H.B. 3711 makes it a misdemeanor offense 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 if a person who is subpoenaed by such an arbitrator or hearing officer fails to appear as required by the subpoena.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3711 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 158.0095, Local Government Code, is amended by adding Subsection (f) to read as follows:

(f) An arbitrator or hearing officer authorized to hear a grievance proceeding under a collective bargaining agreement between a county and an employee association under Chapter 174 has the authority to administer oaths and issue subpoenas in the manner and to the extent authorized for the chairman of a commission under this section, except that:

(1) except for good cause shown, a request under this subsection must be made not later than the 10th day before the date the proceeding will be held; and

(2) the following are not subject to a subpoena under this subsection:

(A) a person who is actively engaged in providing representation to a party to the proceeding; and

(B) notes and other documents prepared by a person described by Paragraph (A) in the scope of the person's representation.

SECTION 2. Section 158.0355, Local Government Code, is amended by adding Subsection (f) to read as follows:

(f) An arbitrator or hearing officer authorized to hear a grievance proceeding

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Subchapter A, Chapter 174, Local Government Code, is amended by adding Section 174.009 to read as follows:

Sec. 174.009. OATHS AND SUBPOENAS IN GRIEVANCE PROCEEDINGS. (a) An arbitrator or hearing officer authorized to hear a grievance proceeding under a collective bargaining agreement has the authority to administer oaths and issue subpoenas in the manner and to the extent authorized for an arbitration board under Section 174.157, except that:

(1) a request for a subpoena under this subsection must be made not later than the 10th day before the date the proceeding will be held, except for good cause shown; and

(2) the following are not subject to a subpoena under this subsection:

(A) a person who is actively engaged in providing representation to a party to the proceeding; and

(B) notes and other documents prepared by a person described by Paragraph (A) in the scope of the person's representation.

(b) 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.

(c) A response to a subpoena duces tecum under this section is considered to have been made under oath.

(d) A person who is subpoenaed under this section 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.

No equivalent provision.

under a collective bargaining agreement between a department and an employee association under Chapter 174 has the authority to administer oaths and issue subpoenas in the manner and to the extent authorized for the chairman of a commission under this section, except that the following are not subject to a subpoena under this subsection:

(1) a person who is actively engaged in providing representation to a party to the proceeding; and

(2) notes and other documents prepared by a person described by Subdivision (1) in the scope of the person's representation.

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, 2015.

SECTION 2. Same as introduced version.