

By: Neave

H.B. No. 1756

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of one or more supplemental county civil service commissions in certain counties.

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

SECTION 1. Section 158.001, Local Government Code, is amended by adding Subdivision (4) to read as follows:

(4) "Supplemental commission" means a supplemental commission established under Section 158.0085.

SECTION 2. Subchapter A, Chapter 158, Local Government Code, is amended by adding Section 158.0085 to read as follows:

Sec. 158.0085. SUPPLEMENTAL COMMISSION. (a) The commissioners court of a county in which a civil service system has been created under this subchapter may establish one or more supplemental commissions to assist the commission in administering the system.

(b) The commissioners court shall appoint three individuals to serve as members of each supplemental commission and shall designate one of the members as chair of the supplemental commission.

(c) Sections 158.008(b)-(e) apply to the appointment of a member of a supplemental commission in the same manner that those provisions apply to the appointment of a member of the commission.

SECTION 3. Section 158.009, Local Government Code, is amended to read as follows:

1 Sec. 158.009. POWERS OF THE COMMISSION AND SUPPLEMENTAL
2 COMMISSIONS. (a) Except as provided by Subsection (a-1) and
3 Section 158.010, the commission shall, and has exclusive authority
4 to, adopt, publish, and enforce rules regarding:

- 5 (1) the definition of a county employee;
- 6 (2) selection and classification of county employees;
- 7 (3) competitive examinations;
- 8 (4) promotions, seniority, and tenure;
- 9 (5) layoffs and dismissals;
- 10 (6) disciplinary actions;
- 11 (7) grievance procedures; and
- 12 (8) other matters relating to the selection of county
13 employees and the procedural and substantive rights, advancement,
14 benefits, and working conditions of county employees.

15 (a-1) Notwithstanding any other provision of this
16 subchapter, a supplemental commission shall, and has exclusive
17 authority to, adopt, publish, or enforce a rule regarding a matter
18 described by Subsection (a) only if the adoption, publication, or
19 enforcement of the rule is specifically delegated to the
20 supplemental commission by the commissioners court.

21 (b) The commission or a supplemental commission may adopt or
22 use as a guide any civil service law or rule of the United States,
23 this state, or a political subdivision in this state to the extent
24 that the law or rule promotes the purposes of this subchapter and
25 serves the needs of the county.

26 (c) The commission or a supplemental commission may not
27 adopt or enforce a rule requiring a county employee to retire

1 because of age. The commission or a supplemental commission may
2 adopt a rule requiring a county employee, on reaching an age set by
3 the commission, to submit annually to the commission an affidavit
4 from a physician stating that the employee is physically and
5 mentally capable of continuing employment.

6 SECTION 4. Sections 158.0095(a) and (b), Local Government
7 Code, are amended to read as follows:

8 (a) In a proceeding before the commission or a supplemental
9 commission under this subchapter, the chair [~~chairman~~] of the
10 commission or of the supplemental commission, as applicable, shall,
11 on request of a person described by Subsection (b):

12 (1) administer oaths; and

13 (2) issue subpoenas and subpoenas duces tecum for the
14 attendance of witnesses and for the production of documentary
15 material.

16 (b) The affected employee, the county attorney, or a
17 designee of the employee or county attorney may request the chair
18 [~~chairman~~] of the commission or of the supplemental commission, as
19 applicable, to subpoena any books, records, documents, papers,
20 accounts, or witnesses that the requestor considers relevant to the
21 case. The request must be made before the 15th day before the date
22 the applicable [~~a~~] commission or supplemental commission
23 proceeding will be held.

24 SECTION 5. Section 158.010(e), Local Government Code, is
25 amended to read as follows:

26 (e) The rules adopted by the commission or a supplemental
27 commission under Section 158.009 relating to the selection and

1 classification of county employees and to competitive examinations
2 for selection apply to the initial hiring of personnel under this
3 section.

4 SECTION 6. Section 158.011, Local Government Code, is
5 amended to read as follows:

6 Sec. 158.011. COMPENSATION AND STAFF. The members of the
7 commission and of a supplemental commission serve without
8 compensation, but the commissioners court shall reimburse each
9 member for all necessary expenses incurred in performing the
10 member's duties. The commissioners court shall provide the
11 commission with adequate office space for the commission and each
12 supplemental commission and sufficient funds to employ an adequate
13 staff and to purchase necessary supplies and equipment.

14 SECTION 7. Section 158.012(a), Local Government Code, is
15 amended to read as follows:

16 (a) A county employee who, on a final decision by the
17 commission or a supplemental commission, is demoted, suspended, or
18 removed from the employee's position may appeal the decision by
19 filing a petition in a district court in the county within 30 days
20 after the date of the decision.

21 SECTION 8. Section 158.0121, Local Government Code, is
22 amended to read as follows:

23 Sec. 158.0121. REVIEW UNDER SUBSTANTIAL EVIDENCE RULE. In
24 an appeal under Section 158.012, the district court may not
25 substitute its judgment for the judgment of the commission or a
26 supplemental commission on the weight of the evidence on questions
27 committed to the commission or supplemental commission's

1 discretion but:

2 (1) may affirm the commission or supplemental
3 commission's decision in whole or in part; and

4 (2) shall reverse or remand the case for further
5 proceedings if substantial rights of the petitioner have been
6 prejudiced because the commission or supplemental commission's
7 findings, inferences, conclusions, or decisions are:

8 (A) in violation of a constitutional or statutory
9 provision;

10 (B) in excess of the commission or supplemental
11 commission's authority;

12 (C) made through unlawful procedure;

13 (D) affected by other error of law;

14 (E) not reasonably supported by substantial
15 evidence considering the reliable and probative evidence in the
16 record as a whole; or

17 (F) arbitrary or capricious, characterized by
18 abuse of discretion, or clearly an unwarranted exercise of
19 discretion.

20 SECTION 9. Section [158.0122](#), Local Government Code, is
21 amended to read as follows:

22 Sec. 158.0122. PROCEDURES FOR REVIEW UNDER SUBSTANTIAL
23 EVIDENCE RULE. (a) After service of the petition on the commission
24 or a supplemental commission and within the time permitted for
25 filing an answer or within additional time allowed by the court, the
26 commission or supplemental commission, as applicable, shall send to
27 the reviewing court the original or a certified copy of the entire

1 record of the proceeding under review. The record shall be filed
2 with the clerk of the court. The record may be shortened by
3 stipulation of all parties to the review proceedings. The court may
4 assess additional costs against a party who unreasonably refuses to
5 stipulate to limit the record, unless the party pays all costs of
6 record preparation. The court may require or permit later
7 corrections or additions to the record.

8 (b) A party may apply to the court to present additional
9 evidence. If the court is satisfied that the additional evidence is
10 material and that there were good reasons for the failure to present
11 it in the proceeding before the commission or supplemental
12 commission, the court may order that the additional evidence be
13 taken before the commission or supplemental commission, as
14 applicable, on conditions determined by the court. The commission
15 or supplemental commission, as applicable, may change its findings
16 and decisions by reason of the additional evidence and shall file
17 the additional evidence and any changes, new findings, or decisions
18 with the reviewing court.

19 (c) The party seeking judicial review shall offer, and the
20 reviewing court shall admit, the commission or supplemental
21 commission record, as applicable, into evidence as an exhibit.

22 (d) The court shall conduct the review sitting without a
23 jury and is confined to the commission or supplemental commission
24 record, as applicable, except that the court may receive evidence
25 of procedural irregularities alleged to have occurred before the
26 commission or supplemental commission that are not reflected in the
27 record.

1 SECTION 10. The heading to Section 158.0123, Local
2 Government Code, is amended to read as follows:

3 Sec. 158.0123. COST OF PREPARING [~~COMMISSION~~] RECORD OF
4 PROCEEDING.

5 SECTION 11. Section 158.0123(a), Local Government Code, is
6 amended to read as follows:

7 (a) The commission or supplemental commission, as
8 applicable, may require a party who appeals a final decision under
9 Section 158.012 to pay one-half of the cost of preparation of the
10 original or a certified copy of the record of the [~~commission~~]
11 proceeding that is required to be sent to the reviewing court.

12 SECTION 12. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas Constitution.
15 If this Act does not receive the vote necessary for immediate
16 effect, this Act takes effect September 1, 2017.