

Amend **HB 3910** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering the SECTIONS of the bill accordingly:

SECTION _____. Chapter 158, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. CONSTABLE'S DEPARTMENT CIVIL SERVICE SYSTEM IN
CERTAIN COUNTIES

Sec. 158.101. DEFINITIONS. In this subchapter:

(1) "Commission" means a civil service commission for all of a county's employees.

(2) "Department" means a constable's department.

(3) "Employee" means an employee of a department. The term includes a deputy constable.

Sec. 158.102. ELIGIBLE COUNTIES. A county with a population of more than 3.3 million may, in accordance with this subchapter, create a civil service system for all of the county's employees.

Sec. 158.103. ESTABLISHMENT BY PETITION AND ELECTION. (a) If at least 20 percent of a county's employees sign a petition requesting an election under this section and present the petition to the county judge, the judge shall order an election on the question of the creation of a civil service system for all employees in the county.

(b) The county judge shall hold the election after the 15th day but on or before the 45th day after the date the petition is submitted. The election must be by secret ballot and each employee is entitled to vote at the election.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "Creation of a civil service system for all constable's department employees in the county."

(d) The county judge shall canvass the votes and declare the result.

Sec. 158.104. ESTABLISHMENT BY ORDER. The commissioners court of a county may by order create a civil service system for all employees in the county.

Sec. 158.105. APPOINTMENT OF COMMISSION. (a) If a majority

of the employees voting at the election approve the creation of a civil service system, each constable, the commissioners court, and the district attorney shall each appoint one person to serve as a member of the commission.

(b) The members of the commission shall elect one of the members as chair of the commission.

(c) Each member of the commission is appointed for a term of two years.

(d) The entity that appointed a member of the commission whose position becomes vacant shall appoint a person to serve the unexpired part of the member's term.

(e) To be eligible for appointment to the commission, a person must:

(1) be at least 25 years old; and

(2) have resided in the county for the three years immediately preceding the date on which the person's term will begin.

Sec. 158.106. POWERS OF COMMISSION. (a) The commission shall adopt, publish, and enforce rules regarding:

(1) selection and classification of employees;

(2) competitive examinations;

(3) promotions, seniority, and tenure;

(4) layoffs and dismissals;

(5) disciplinary actions;

(6) grievance procedures;

(7) the rights of employees during an internal investigation; and

(8) other matters relating to the selection of employees and the procedural and substantive rights, advancement, benefits, and working conditions of employees.

(b) The commission may adopt or use as a guide any civil service law or rule of the United States, this state, or a political subdivision in this state to the extent that the law or rule promotes the purposes of this subchapter and is consistent with the needs and circumstances of the departments.

(c) A panel of three commissioners shall preside at the hearing and vote on the commission's final decision in any case

involving termination, demotion, or recovery of back pay. A panel's decision is the final decision of the commission for purposes of Sections 158.107 and 158.110. The commission shall adopt rules prescribing the commission's procedures for assigning members to a panel. A panel may not include the member who was appointed to the commission by a constable when the hearing involves an employee from that constable's department.

(d) In rendering a final decision regarding a disciplinary action by the department, the commission may only sustain, overturn, or reduce the disciplinary action. The commission may not enhance a disciplinary action by the department.

Sec. 158.107. PROCEDURES AFTER FELONY INDICTMENT OR MISDEMEANOR COMPLAINT. (a) If an employee is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor, the constable may temporarily suspend the employee with or without pay for a period not to exceed 30 days after the date of final disposition of the specified felony indictment or misdemeanor complaint.

(b) The constable shall notify the suspended employee in writing that the person is being temporarily suspended for a specific period, with or without pay, as applicable, and that the temporary suspension is not intended to reflect an opinion on the merits of the indictment or complaint.

(c) An employee indicted for a felony or officially charged with the commission of a Class A or B misdemeanor who has also been charged by the constable with a civil service rule violation directly related to the indictment or complaint may delay the civil service hearing for not more than 30 days after the date of the final disposition of the indictment or complaint.

(d) If the constable temporarily suspends an employee under this section and the employee is not found guilty as charged in the indictment or complaint in a court of competent jurisdiction, the employee may appeal to the commission for recovery of back pay. The commission may:

(1) award all or part of the back pay; or

(2) modify or uphold the decision by the constable.

(e) Acquittal or dismissal of an indictment or a complaint

does not mean that an employee has not violated a civil service rule and does not negate the charges that may have been or may be brought against the employee by the constable.

(f) Conviction of a felony is cause for dismissal, and conviction of a Class A or B misdemeanor may be cause for disciplinary action or dismissal.

Sec. 158.108. AUTHORITY TO ISSUE SUBPOENAS AND ADMINISTER OATHS. (a) In a proceeding before the commission under this subchapter, the chair 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 chair 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.

Sec. 158.109. COMPENSATION AND STAFF. The members of the commission serve without compensation, but the commissioners court shall reimburse each member for actual and necessary expenses incurred in performing the member's duties. The commissioners court shall provide the commission with adequate office space and sufficient funds to employ an adequate staff and to purchase necessary supplies and equipment.

Sec. 158.110. APPEALS. (a) An employee who, on a final decision by the commission, is demoted, suspended, or removed from a position may appeal the decision by filing a petition in a district court in the county within 30 days after the date of the decision.

(b) An appeal under this section is under the substantial evidence rule, and the judgment of the district court is appealable as in other civil cases.

(c) If the district court renders judgment for the petitioner, the court may order reinstatement of the employee, payment of back pay, or other appropriate relief.

Sec. 158.111. REVIEW UNDER SUBSTANTIAL EVIDENCE RULE. (a) The same standards described by Section 158.0121 apply to an appeal under Section 158.110.

(b) The procedures for review under Section 158.110 are the same as provided by Section 158.0122.

(c) The commission may require a party who appeals a decision under Section 158.110 to pay the cost of preparing the commission record in the same manner provided by Section 158.0123.

Sec. 158.112. EXEMPTIONS. (a) A person who is an employee on the date that a civil service system is adopted under this subchapter may not be required to take a competitive examination or perform any other act under this subchapter to maintain the person's employment.

(b) Each constable of a county may designate as exempt from the civil service system:

(1) the position of chief deputy;

(2) four positions in the rank immediately under the rank of chief deputy;

(3) one or more positions in the office of departmental legal counsel; and

(4) additional positions in the department except that the constable may not designate as exempt a total of more than 10 positions.

(c) At the time a new constable takes office, an employee holding an exempt position may be transferred to the nonexempt position held by the employee immediately before being promoted to

an exempt position. A person who was not an officer in the department when appointed to an exempt position may be transferred only to an entry level position in accordance with the system's civil service rules.

Sec. 158.113. SYSTEM DISSOLUTION BY DEPARTMENT ELECTION.

(a) If, after a civil service system under this subchapter has been in effect in a county for at least one year, at least 20 percent of the employees in the county petition the county judge to dissolve the system, the judge shall order an election on the question of the dissolution of the civil service system.

(b) The county judge shall hold the election after the 15th day but on or before the 45th day after the date the petition is submitted. The election must be by secret ballot and each employee is entitled to vote at the election.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "Dissolution of the civil service system for all constable's department employees in the county."

(d) The county judge shall canvass the votes and declare the result.

(e) If the proposition is approved by a majority of the employees voting at the election, the county judge shall declare the civil service system dissolved.

Sec. 158.114. SYSTEM DISSOLUTION BY COUNTY ELECTION. (a) After a civil service system under this subchapter has been in effect in a county for at least one year, a person may file a petition signed by at least 10 percent of the registered voters of the county with the county judge for a countywide election on the dissolution of the civil service system.

(b) On receipt of a petition described by Subsection (a), the county judge shall order an election in the county on the question of the dissolution of the civil service system to be held in the county:

(1) on the next uniform election date that allows sufficient time to comply with applicable provisions of law; or

(2) at a special election called for that purpose.

(c) The ballots for the election described by Subsection (b)

shall be printed to provide for voting for or against the proposition: "Dissolution of the civil service system for all constable's department employees in the county."

(d) If a majority of the voters voting at the election described by Subsection (b) approve dissolution, the county judge shall declare the civil service system dissolved.

Sec. 158.115. EXCLUSIVITY. A civil service system created under this subchapter and in effect applies to employees and departments to the exclusion of a civil service system in that county created under Subchapter A or another law.