

By: Hinojosa

H.B. No. 3464

A BILL TO BE ENTITLED

AN ACT

1
2 relating to civil service commission hearings for certain
3 disciplinary actions against police officers in certain
4 municipalities.

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

6 SECTION 1. Section 142.067, Local Government Code, is
7 amended to read as follows:

8 Sec. 142.067. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

9 (a) Except as provided by Subsection (b), a [A] written meet and
10 confer agreement ratified under this subchapter preempts, during
11 the term of the agreement and to the extent of any conflict, all
12 contrary state statutes, local ordinances, executive orders, civil
13 service provisions, or rules adopted by the head of the law
14 enforcement agency or municipality or by a division or agent of the
15 municipality, such as a personnel board or a civil service
16 commission.

17 (b) A meet and confer agreement between a municipality or a
18 law enforcement agency of a municipality and a police officers
19 association under this subchapter may not conflict with and does
20 not supersede Section 143.010(b), (c-1), (e), or (g) or
21 143.054(c-1), (c-2), or (d-1) if the municipality has adopted
22 Chapter 143.

23 SECTION 2. Section 143.010, Local Government Code, is
24 amended by amending Subsections (b), (e), and (g) and adding

1 Subsection (c-1) to read as follows:

2 (b) The appeal must include the basis for the appeal and a
3 request for a commission hearing. The appeal must also contain a
4 statement denying the truth of the charge as made, a statement
5 taking exception to the legal sufficiency of the charge, a
6 statement alleging that the recommended action does not fit the
7 offense or alleged offense, or a combination of these statements.
8 An appeal by a police officer for a charge for an incident that
9 involves an individual who is a member of the public must also
10 include the name and address of each involved individual.

11 (c-1) Not later than the 30th day before the date of a
12 commission hearing, the commission shall notify each individual
13 listed in an appeal by a police officer of the date and time of the
14 hearing, the individual's right to attend, and instructions for
15 exercising the individual's rights relating to the hearing. Not
16 later than the fifth day before the date of the hearing, a member of
17 the public, whether listed in the appeal or not, may provide
18 evidence to the commission, including documentation in support of
19 an allegation against a police officer that is the basis of a
20 disciplinary action.

21 (e) The affected fire fighter or police officer or an
22 individual named by the police officer as directly involved in the
23 incident that is the basis of the disciplinary action may request
24 the commission to subpoena any books, records, documents, papers,
25 accounts, or witnesses that the fire fighter, ~~or~~ police officer,
26 or individual considers pertinent to the case. The fire fighter,
27 ~~or~~ police officer, or individual must make the request before the

1 10th day before the date the commission hearing will be held. If
2 the commission does not subpoena the material, the commission
3 shall, before the third day before the date the hearing will be
4 held, make a written report to the fire fighter, ~~or~~ police
5 officer, or individual stating the reason it will not subpoena the
6 requested material. This report shall be read into the public
7 record of the commission hearing.

8 (g) The commission shall conduct the hearing fairly and
9 impartially as prescribed by this chapter and shall render a just
10 and fair decision. The commission may consider only the evidence
11 submitted at the hearing and, if applicable, any evidence submitted
12 by a member of the public under Subsection (c-1) and any evidence
13 provided in response to that evidence.

14 SECTION 3. Section 143.054, Local Government Code, is
15 amended by amending Subsection (c) and adding Subsections (c-1),
16 (c-2), and (d-1) to read as follows:

17 (c) The commission may refuse to grant the request for
18 demotion of a fire fighter.

19 (c-1) Before the commission may refuse to grant a request
20 for demotion of a police officer, the commission shall request from
21 the department the contact information for any individual involved
22 in any incident leading the department to recommend demotion,
23 including a member of the public or another police officer. The
24 commission shall notify an involved individual that the individual
25 may request a public hearing and present reasons why the commission
26 should grant the department's request for demotion of the police
27 officer. If there are no involved individuals or the commission

1 does not receive a request for a public hearing from an involved
2 individual before the 10th day after the date notice was given to
3 the individual, the commission may refuse to grant the request for
4 demotion.

5 (c-2) If the commission believes that probable cause exists
6 for ordering the demotion, the commission shall give the fire
7 fighter or police officer written notice to appear before the
8 commission for a public hearing at a time and place specified in the
9 notice. The commission shall give the notice before the 10th day
10 before the date the hearing will be held.

11 (d-1) Before the 10th day before the date the public hearing
12 is held, the commission shall give an individual who is a member of
13 the public with knowledge of a specific incident that is the basis
14 of the recommendation of demotion of a police officer notice of the
15 time and place of the hearing and of the individual's right to
16 testify.

17 SECTION 4. Section 143.307, Local Government Code, is
18 amended by amending Subsections (a) and (b) and adding Subsection
19 (d) to read as follows:

20 (a) Except as provided by Subsection (d), an [An] agreement
21 under this subchapter supersedes a previous statute concerning
22 wages, salaries, rates of pay, hours of work, or other terms and
23 conditions of employment to the extent of any conflict with the
24 statute.

25 (b) Except as provided by Subsection (d), an [An] agreement
26 under this subchapter preempts any contrary statute, executive
27 order, local ordinance, or rule adopted by the state or a political

1 subdivision or agent of the state, including a personnel board, a
2 civil service commission, or a home-rule municipality.

3 (d) An agreement under this subchapter affecting police
4 officers may not conflict with and does not supersede Section
5 143.010(b), (c-1), (e), or (g) or 143.054(c-1), (c-2), or (d-1).

6 SECTION 5. Section 143.361, Local Government Code, is
7 amended by amending Subsections (a) and (b) and adding Subsection
8 (d) to read as follows:

9 (a) Except as provided by Subsection (d), a [A] written
10 agreement ratified under this subchapter between a public employer
11 and the bargaining agent supersedes a previous statute concerning
12 wages, salaries, rates of pay, hours of work, and other terms of
13 employment other than pension benefits to the extent of any
14 conflict with the previous statute.

15 (b) Except as provided by Subsection (d), a [A] written
16 agreement ratified under this subchapter preempts all contrary
17 local ordinances, executive orders, legislation, or rules adopted
18 by the state or a political subdivision or agent of the state, such
19 as a personnel board, a civil service commission, or a home-rule
20 municipality.

21 (d) An agreement under this subchapter may not conflict with
22 and does not supersede Section 143.010(b), (c-1), (e), or (g) or
23 143.054(c-1), (c-2), or (d-1).

24 SECTION 6. Section 174.005, Local Government Code, is
25 amended to read as follows:

26 Sec. 174.005. PREEMPTION OF OTHER LAW. (a) Except as
27 provided by Subsection (b), this [This] chapter preempts all

1 contrary local ordinances, executive orders, legislation, or rules
2 adopted by the state or by a political subdivision or agent of the
3 state, including a personnel board, civil service commission, or
4 home-rule municipality.

5 (b) This chapter does not authorize the adoption or
6 implementation of an agreement affecting police officers that
7 conflicts with Section 143.010(b), (c-1), (e), or (g) or
8 143.054(c-1), (c-2), or (d-1). An agreement adopted under this
9 chapter must implement those sections.

10 SECTION 7. The changes in law made by this Act apply only to
11 a disciplinary action for conduct that occurs on or after September
12 1, 2019. Conduct that occurs before that date is governed by the
13 law in effect immediately before that date, and the former law is
14 continued in effect for that purpose.

15 SECTION 8. Sections 142.067(b), 143.307(d), 143.361(d),
16 and 174.005(b), Local Government Code, as added by this Act, apply
17 only to an agreement entered into or renewed on or after September
18 1, 2019. An agreement entered into or renewed before September 1,
19 2019, is governed by the law in effect on the date the agreement was
20 entered into or renewed, and the former law is continued in effect
21 for that purpose.

22 SECTION 9. This Act takes effect September 1, 2019.