

By: Sherman, Sr.

H.B. No. 3910

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 IN CERTAIN COUNTIES. (a) This section applies only to a county:

(1) with a population of more than two million that is adjacent to a county with a population of more than one million; and

(2) in which a civil service system has been created under this subchapter.

(b) The commissioners court of a county may establish one or more supplemental commissions to assist the commission in administering the system.

(c) 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.

(d) Sections 158.008(b)-(e) apply to the appointment of a

1 member of a supplemental commission in the same manner that those
2 provisions apply to the appointment of a member of the commission.

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

5 Sec. 158.009. POWERS OF THE COMMISSION AND SUPPLEMENTAL
6 COMMISSIONS. (a) Except as provided by Subsection (a-1) and
7 Section 158.010, the commission shall adopt, publish, and enforce
8 rules regarding the following categories of matters:

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

19 (a-1) Notwithstanding any other provision of this
20 subchapter, a supplemental commission shall adopt, publish, or
21 enforce a rule regarding a category of matters listed under
22 Subsection (a) if the adoption, publication, or enforcement of the
23 rule is specifically delegated by category to the supplemental
24 commission by the commissioners court. If the commissioners court
25 has established more than one supplemental commission, the
26 commissioners court may not delegate the authority to adopt,
27 publish, or enforce a rule regarding a category of matters listed

1 under Subsection (a) to more than one of the supplemental
2 commissions. The commission may not adopt, publish, or enforce a
3 rule regarding a category of matters listed under Subsection (a) if
4 the commissioners court has delegated that authority to a
5 supplemental commission.

6 (b) The commission or a supplemental commission may adopt or
7 use as a guide any civil service law or rule of the United States,
8 this state, or a political subdivision in this state to the extent
9 that the law or rule promotes the purposes of this subchapter and
10 serves the needs of the county.

11 (c) The commission or a supplemental commission may not
12 adopt or enforce a rule requiring a county employee to retire
13 because of age. The commission or a supplemental commission may
14 adopt a rule requiring a county employee, on reaching an age set by
15 the commission, to submit annually to the commission an affidavit
16 from a physician stating that the employee is physically and
17 mentally capable of continuing employment.

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

20 (a) In a proceeding before the commission or a supplemental
21 commission under this subchapter, the chair [~~chairman~~] of the
22 commission or of the supplemental commission, as applicable, shall,
23 on request of a person described by Subsection (b):

24 (1) administer oaths; and

25 (2) issue subpoenas and subpoenas duces tecum for the
26 attendance of witnesses and for the production of documentary
27 material.

1 (b) The affected employee, the county attorney, or a
2 designee of the employee or county attorney may request the chair
3 [~~chairman~~] of the commission or of the supplemental commission, as
4 applicable, to subpoena any books, records, documents, papers,
5 accounts, or witnesses that the requestor considers relevant to the
6 case. The request must be made before the 15th day before the date
7 the applicable [a] commission or supplemental commission
8 proceeding will be held.

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

11 (e) The rules adopted by the commission or a supplemental
12 commission under Section 158.009 relating to the selection and
13 classification of county employees and to competitive examinations
14 for selection apply to the initial hiring of personnel under this
15 section.

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

18 Sec. 158.011. COMPENSATION AND STAFF. The members of the
19 commission and of a supplemental commission serve without
20 compensation, but the commissioners court shall reimburse each
21 member for all necessary expenses incurred in performing the
22 member's duties. The commissioners court shall provide the
23 commission with adequate office space for the commission and each
24 supplemental commission and sufficient funds to employ an adequate
25 staff and to purchase necessary supplies and equipment.

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

1 (a) A county employee who, on a final decision by the
2 commission or a supplemental commission, is demoted, suspended, or
3 removed from the employee's position may appeal the decision by
4 filing a petition in a district court in the county within 30 days
5 after the date of the decision.

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

8 Sec. 158.0121. REVIEW UNDER SUBSTANTIAL EVIDENCE RULE. In
9 an appeal under Section 158.012, the district court may not
10 substitute its judgment for the judgment of the commission or a
11 supplemental commission on the weight of the evidence on questions
12 committed to the commission's or supplemental commission's
13 discretion but:

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

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

20 (A) in violation of a constitutional or statutory
21 provision;

22 (B) in excess of the commission's or supplemental
23 commission's authority;

24 (C) made through unlawful procedure;

25 (D) affected by other error of law;

26 (E) not reasonably supported by substantial
27 evidence considering the reliable and probative evidence in the

1 record as a whole; or

2 (F) arbitrary or capricious, characterized by
3 abuse of discretion, or clearly an unwarranted exercise of
4 discretion.

5 SECTION 9. Section 158.0122, Local Government Code, is
6 amended to read as follows:

7 Sec. 158.0122. PROCEDURES FOR REVIEW UNDER SUBSTANTIAL
8 EVIDENCE RULE. (a) After service of the petition on the commission
9 or a supplemental commission and within the time permitted for
10 filing an answer or within additional time allowed by the court, the
11 commission or supplemental commission, as applicable, shall send to
12 the reviewing court the original or a certified copy of the entire
13 record of the proceeding under review. The record shall be filed
14 with the clerk of the court. The record may be shortened by
15 stipulation of all parties to the review proceedings. The court may
16 assess additional costs against a party who unreasonably refuses to
17 stipulate to limit the record, unless the party pays all costs of
18 record preparation. The court may require or permit later
19 corrections or additions to the record.

20 (b) A party may apply to the court to present additional
21 evidence. If the court is satisfied that the additional evidence is
22 material and that there were good reasons for the failure to present
23 it in the proceeding before the commission or supplemental
24 commission, the court may order that the additional evidence be
25 taken before the commission or supplemental commission, as
26 applicable, on conditions determined by the court. The commission
27 or supplemental commission, as applicable, may change its findings

1 and decisions by reason of the additional evidence and shall file
2 the additional evidence and any changes, new findings, or decisions
3 with the reviewing court.

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

7 (d) The court shall conduct the review sitting without a
8 jury and is confined to the commission or supplemental commission
9 record, as applicable, except that the court may receive evidence
10 of procedural irregularities alleged to have occurred before the
11 commission or supplemental commission that are not reflected in the
12 record.

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

15 Sec. 158.0123. COST OF PREPARING [~~COMMISSION~~] RECORD OF
16 PROCEEDING.

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

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

24 SECTION 12. This Act takes effect immediately if it
25 receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section 39, Article III, Texas Constitution.
27 If this Act does not receive the vote necessary for immediate

H.B. No. 3910

1 effect, this Act takes effect September 1, 2019.