

1-1 By: Sherman, Sr., et al. (Senate Sponsor - West) H.B. No. 3910  
 1-2 (In the Senate - Received from the House May 7, 2019;  
 1-3 May 8, 2019, read first time and referred to Committee on State  
 1-4 Affairs; May 19, 2019, reported favorably by the following vote:  
 1-5 Yeas 8, Nays 1; May 19, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13		X		
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the establishment of one or more supplemental county  
 1-20 civil service commissions in certain counties.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 158.001, Local Government Code, is  
 1-23 amended by adding Subdivision (4) to read as follows:

1-24 (4) "Supplemental commission" means a supplemental  
 1-25 commission established under Section 158.0085.

1-26 SECTION 2. Subchapter A, Chapter 158, Local Government  
 1-27 Code, is amended by adding Section 158.0085 to read as follows:

1-28 Sec. 158.0085. SUPPLEMENTAL COMMISSION IN CERTAIN  
 1-29 COUNTIES. (a) This section applies only to a county:

1-30 (1) with a population of more than 2.5 million that is  
 1-31 adjacent to a county with a population of more than one million; and

1-32 (2) in which a civil service system has been created  
 1-33 under this subchapter.

1-34 (b) The commissioners court of a county may establish one or  
 1-35 more supplemental commissions to assist the commission in  
 1-36 administering the system.

1-37 (c) The commissioners court shall appoint three individuals  
 1-38 to serve as members of each supplemental commission and shall  
 1-39 designate one of the members as chair of the supplemental  
 1-40 commission.

1-41 (d) Sections 158.008(b)-(e) apply to the appointment of a  
 1-42 member of a supplemental commission in the same manner that those  
 1-43 provisions apply to the appointment of a member of the commission.

1-44 SECTION 3. Section 158.009, Local Government Code, is  
 1-45 amended to read as follows:

1-46 Sec. 158.009. POWERS OF THE COMMISSION AND SUPPLEMENTAL  
 1-47 COMMISSIONS. (a) Except as provided by Subsection (a-1) and

1-48 Section 158.010, the commission shall adopt, publish, and enforce  
 1-49 rules regarding the following categories of matters:

- 1-50 (1) the definition of a county employee;
- 1-51 (2) selection and classification of county employees;
- 1-52 (3) competitive examinations;
- 1-53 (4) promotions, seniority, and tenure;
- 1-54 (5) layoffs and dismissals;
- 1-55 (6) disciplinary actions;
- 1-56 (7) grievance procedures; and
- 1-57 (8) other matters relating to the selection of county

1-58 employees and the procedural and substantive rights, advancement,  
 1-59 benefits, and working conditions of county employees.

1-60 (a-1) Notwithstanding any other provision of this  
 1-61 subchapter, a supplemental commission shall adopt, publish, or

2-1 enforce a rule regarding a category of matters listed under  
 2-2 Subsection (a) if the adoption, publication, or enforcement of the  
 2-3 rule is specifically delegated by category to the supplemental  
 2-4 commission by the commissioners court. If the commissioners court  
 2-5 has established more than one supplemental commission, the  
 2-6 commissioners court may not delegate the authority to adopt,  
 2-7 publish, or enforce a rule regarding a category of matters listed  
 2-8 under Subsection (a) to more than one of the supplemental  
 2-9 commissions. The commission may not adopt, publish, or enforce a  
 2-10 rule regarding a category of matters listed under Subsection (a) if  
 2-11 the commissioners court has delegated that authority to a  
 2-12 supplemental commission.

2-13 (b) The commission or a supplemental commission may adopt or  
 2-14 use as a guide any civil service law or rule of the United States,  
 2-15 this state, or a political subdivision in this state to the extent  
 2-16 that the law or rule promotes the purposes of this subchapter and  
 2-17 serves the needs of the county.

2-18 (c) The commission or a supplemental commission may not  
 2-19 adopt or enforce a rule requiring a county employee to retire  
 2-20 because of age. The commission or a supplemental commission may  
 2-21 adopt a rule requiring a county employee, on reaching an age set by  
 2-22 the commission, to submit annually to the commission an affidavit  
 2-23 from a physician stating that the employee is physically and  
 2-24 mentally capable of continuing employment.

2-25 SECTION 4. Sections 158.0095(a) and (b), Local Government  
 2-26 Code, are amended to read as follows:

2-27 (a) In a proceeding before the commission or a supplemental  
 2-28 commission under this subchapter, the chair [~~chairman~~]  
 2-29 of the commission or of the supplemental commission, as applicable,  
 2-30 on request of a person described by Subsection (b):

2-31 (1) administer oaths; and

2-32 (2) issue subpoenas and subpoenas duces tecum for the  
 2-33 attendance of witnesses and for the production of documentary  
 2-34 material.

2-35 (b) The affected employee, the county attorney, or a  
 2-36 designee of the employee or county attorney may request the chair  
 2-37 [~~chairman~~]  
 2-38 of the commission or of the supplemental commission, as  
 2-39 applicable, to subpoena any books, records, documents, papers,  
 2-40 accounts, or witnesses that the requestor considers relevant to the  
 2-41 case. The request must be made before the 15th day before the date  
 2-42 the applicable [a] commission or supplemental commission  
 2-43 proceeding will be held.

2-44 SECTION 5. Section 158.010(e), Local Government Code, is  
 2-45 amended to read as follows:

2-46 (e) The rules adopted by the commission or a supplemental  
 2-47 commission under Section 158.009 relating to the selection and  
 2-48 classification of county employees and to competitive examinations  
 2-49 for selection apply to the initial hiring of personnel under this  
 2-50 section.

2-51 SECTION 6. Section 158.011, Local Government Code, is  
 2-52 amended to read as follows:

2-53 Sec. 158.011. COMPENSATION AND STAFF. The members of the  
 2-54 commission and of a supplemental commission serve without  
 2-55 compensation, but the commissioners court shall reimburse each  
 2-56 member for all necessary expenses incurred in performing the  
 2-57 member's duties. The commissioners court shall provide the  
 2-58 commission with adequate office space for the commission and each  
 2-59 supplemental commission and sufficient funds to employ an adequate  
 2-60 staff and to purchase necessary supplies and equipment.

2-61 SECTION 7. Section 158.012(a), Local Government Code, is  
 2-62 amended to read as follows:

2-63 (a) A county employee who, on a final decision by the  
 2-64 commission or a supplemental commission, is demoted, suspended, or  
 2-65 removed from the employee's position may appeal the decision by  
 2-66 filing a petition in a district court in the county within 30 days  
 2-67 after the date of the decision.

2-68 SECTION 8. Section 158.0121, Local Government Code, is  
 2-69 amended to read as follows:

2-69 Sec. 158.0121. REVIEW UNDER SUBSTANTIAL EVIDENCE RULE. In

3-1 an appeal under Section 158.012, the district court may not  
 3-2 substitute its judgment for the judgment of the commission or a  
 3-3 supplemental commission on the weight of the evidence on questions  
 3-4 committed to the commission's or supplemental commission's  
 3-5 discretion but:

3-6 (1) may affirm the commission's or supplemental  
 3-7 commission's decision in whole or in part; and

3-8 (2) shall reverse or remand the case for further  
 3-9 proceedings if substantial rights of the petitioner have been  
 3-10 prejudiced because the commission's or supplemental commission's  
 3-11 findings, inferences, conclusions, or decisions are:

3-12 (A) in violation of a constitutional or statutory  
 3-13 provision;

3-14 (B) in excess of the commission's or supplemental  
 3-15 commission's authority;

3-16 (C) made through unlawful procedure;

3-17 (D) affected by other error of law;

3-18 (E) not reasonably supported by substantial  
 3-19 evidence considering the reliable and probative evidence in the  
 3-20 record as a whole; or

3-21 (F) arbitrary or capricious, characterized by  
 3-22 abuse of discretion, or clearly an unwarranted exercise of  
 3-23 discretion.

3-24 SECTION 9. Section 158.0122, Local Government Code, is  
 3-25 amended to read as follows:

3-26 Sec. 158.0122. PROCEDURES FOR REVIEW UNDER SUBSTANTIAL  
 3-27 EVIDENCE RULE. (a) After service of the petition on the commission  
 3-28 or a supplemental commission and within the time permitted for  
 3-29 filing an answer or within additional time allowed by the court, the  
 3-30 commission or supplemental commission, as applicable, shall send to  
 3-31 the reviewing court the original or a certified copy of the entire  
 3-32 record of the proceeding under review. The record shall be filed  
 3-33 with the clerk of the court. The record may be shortened by  
 3-34 stipulation of all parties to the review proceedings. The court may  
 3-35 assess additional costs against a party who unreasonably refuses to  
 3-36 stipulate to limit the record, unless the party pays all costs of  
 3-37 record preparation. The court may require or permit later  
 3-38 corrections or additions to the record.

3-39 (b) A party may apply to the court to present additional  
 3-40 evidence. If the court is satisfied that the additional evidence is  
 3-41 material and that there were good reasons for the failure to present  
 3-42 it in the proceeding before the commission or supplemental  
 3-43 commission, the court may order that the additional evidence be  
 3-44 taken before the commission or supplemental commission, as  
 3-45 applicable, on conditions determined by the court. The commission  
 3-46 or supplemental commission, as applicable, may change its findings  
 3-47 and decisions by reason of the additional evidence and shall file  
 3-48 the additional evidence and any changes, new findings, or decisions  
 3-49 with the reviewing court.

3-50 (c) The party seeking judicial review shall offer, and the  
 3-51 reviewing court shall admit, the commission or supplemental  
 3-52 commission record, as applicable, into evidence as an exhibit.

3-53 (d) The court shall conduct the review sitting without a  
 3-54 jury and is confined to the commission or supplemental commission  
 3-55 record, as applicable, except that the court may receive evidence  
 3-56 of procedural irregularities alleged to have occurred before the  
 3-57 commission or supplemental commission that are not reflected in the  
 3-58 record.

3-59 SECTION 10. The heading to Section 158.0123, Local  
 3-60 Government Code, is amended to read as follows:

3-61 Sec. 158.0123. COST OF PREPARING [~~COMMISSION~~] RECORD OF  
 3-62 PROCEEDING.

3-63 SECTION 11. Section 158.0123(a), Local Government Code, is  
 3-64 amended to read as follows:

3-65 (a) The commission or supplemental commission, as  
 3-66 applicable, may require a party who appeals a final decision under  
 3-67 Section 158.012 to pay one-half of the cost of preparation of the  
 3-68 original or a certified copy of the record of the [~~commission~~]  
 3-69 proceeding that is required to be sent to the reviewing court.

4-1 SECTION 12. This Act takes effect immediately if it  
4-2 receives a vote of two-thirds of all the members elected to each  
4-3 house, as provided by Section 39, Article III, Texas Constitution.  
4-4 If this Act does not receive the vote necessary for immediate  
4-5 effect, this Act takes effect September 1, 2019.

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