

BILL ANALYSIS

C.S.H.B. 1216
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Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

When a police officer is disciplined for misconduct, the officer can appeal the disciplinary action in a hearing before a civil service commission or a third-party examiner. However, the date and location of the public appeals hearings are typically not readily accessible, despite being open to the public. As a result, victims of police misconduct are often unaware that an appeals hearing is taking place. There have been calls to restore a spirit of transparency by informing these victims of the hearing. C.S.H.B. 1216 seeks to strengthen the relationship between the public and the police by providing greater public access to hearings for certain disciplinary actions against police officers in certain municipalities.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1216 amends the Local Government Code to provide for certain public involvement in disciplinary actions against police officers under the fire fighters' and police officers' civil service law. The bill requires an appeal by an applicable police officer to a municipal Fire Fighters' and Police Officers' Civil Service Commission for a charge for an incident that involves a member of the public to include the name and address of each impacted individual who was a victim of or direct witness to the alleged incident that is the basis of the charge. The bill requires the commission, not later than the 30th day before the date of a commission hearing, to notify each such impacted individual of the following:

- the date and time of the hearing;
- the individual's right to attend; and
- instructions for exercising the individual's right to testify at the hearing.

The bill authorizes an impacted individual to request the commission to subpoena any applicable documentation or witnesses that are pertinent to the case. The bill authorizes a representative to act on the behalf of an impacted individual who is deceased, incapacitated, or unwilling to appear.

C.S.H.B. 1216 authorizes an impacted individual to provide evidence to the commission not later than the fifth day before the hearing date, including documentation in support of the charge or the recommended action. The bill authorizes the commission to consider, in rendering a decision, any such evidence submitted by an impacted individual.

C.S.H.B. 1216 requires the commission, before it may refuse to grant a request for demotion of a police officer, to request from the police department the contact information for any impacted individual who was a victim of or direct witness to the alleged incident that is the basis of the request for demotion. The bill requires the commission to notify an impacted individual that the individual may request a public hearing and present reasons why the commission should grant the department's request for demotion. The bill authorizes the commission to refuse to grant the request for demotion if there are no impacted individuals or the commission does not receive such a request for a public hearing before the 10th day after the date of the notice. The bill requires the commission, before the 10th day before the date of a public hearing for a demotion, to notify an impacted individual of the time and place of the hearing and of the individual's right to testify. The bill authorizes a representative to act on behalf of an impacted individual who is deceased, incapacitated, or unwilling to appear.

C.S.H.B. 1216 establishes that certain agreements between a municipality and an employee group or organization may not conflict with and do not supersede the bill's provisions relating to commission appeal and demotion procedures. The bill requires an agreement adopted under The Fire and Police Employee Relations Act to implement those provisions and establishes that the act does not authorize the adoption or implementation of an agreement affecting police officers that conflicts with those provisions.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1216 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the original required an appeal by an applicable police officer for a charge for an incident involving a member of the public to include the name and address of each involved individual, the substitute requires that inclusion with respect to each impacted individual and defines that term as a victim or direct witness of the alleged incident that is the basis of the charge. Accordingly, while the original established requirements for notifying individuals listed in the appeal of certain information regarding the hearing on the appeal and for those individuals requesting related subpoenas, the substitute establishes the same notification and requesting requirements but instead for impacted individuals.

The substitute changes the original's requirement for the commission to notify the individual before an appeal hearing of instructions for exercising the individual's rights relating to the hearing by specifying that the instructions are for exercising the individual's right to testify at the hearing.

The original authorized a member of the public, whether listed in the appeal or not, to provide evidence to the commission before the hearing, including documentation in support of an allegation against a police officer that is the basis of a disciplinary action. The substitute instead authorizes only an impacted individual to provide that evidence before the hearing and specifies that the documentation includes documentation in support of the charge or the recommended action. The substitute clarifies that this evidence may be considered at the hearing, whereas the original clarified that this evidence and any evidence provided in response to this evidence may be considered.

Whereas the original required the commission to request the contact information for any individual involved in any incident leading to a police department's request for a police officer's demotion, including a member of the public or another police officer, the substitute requires that

request with respect to the contact information for any impacted individual and defines that term as a victim of or direct witness to the alleged incident that is the basis of the demotion request. The substitute changes the original's requirements for notifying an involved individual of their right to request a hearing on the demotion request to instead apply to an impacted individual. The substitute requires the commission to give notice of the hearing time and place and individual's right to testify to an impacted individual, whereas the original required that notice to be given to an individual who is a member of the public with knowledge of a specific incident that is the basis of the recommendation of demotion.

The substitute includes authorizations absent from the original for a representative to act in a hearing on an officer appeal or demotion on behalf of an impacted individual who is deceased, incapacitated, or unwilling to appear.