

BILL ANALYSIS

H.B. 2561
By: Martinez
County Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

There have been calls to ensure that there is a fair and timely process for deputy sheriffs to appeal certain disciplinary and employment-related actions by their sheriff's departments. Under current law, a deputy sheriff subject to such an action may appeal to the county civil service commission, which can be a lengthy and expensive process. H.B. 2561 seeks to address this issue by permitting a deputy sheriff instead to appeal certain employment actions to an independent hearing examiner if the appropriate commissioners court provides for that option.

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

H.B. 2561 amends the Local Government Code to authorize a county civil service commission, if authorized to do so by a commissioners court order, by rule to authorize deputy sheriffs to appeal the following employment actions to an independent hearing examiner instead of to the commission:

- a demotion or recommended demotion;
- a suspension of three days or more; or
- a termination.

The bill authorizes a commissioners court to repeal an order authorizing appeals to a hearing examiner at any time and establishes that if the order is repealed any pending appeal is governed by the bill's provisions until final resolution of the appeal. The bill requires a written notice issued to a deputy sheriff for a demotion or disciplinary action to state the deputy's authorization to appeal to an independent hearing examiner and to state that, if the deputy does so, the deputy waives the right to appeal to district court, subject to certain exceptions.

H.B. 2561 requires a deputy sheriff to submit to the civil service commission and the sheriff a written request, as part of any original notice of appeal required under the commission's rules, stating the deputy's preference to appeal to an independent hearing examiner. The bill provides for the selection of the hearing examiner, the date of the appeal hearing, and the decision deadline following the hearing, including a decision deadline applicable to an expedited procedure. The deadline in a non-expedited procedure is subject to the hearing examiner's reasonable effort, and a hearing examiner's inability to meet the time requirements imposed by the bill does not affect the hearing examiner's jurisdiction, the validity of the disciplinary action, or the final decision.

H.B. 2561 establishes that the hearing examiner in an appeal hearing has the same powers and duties as the commission, including any subpoena power, and that the hearing examiner's decision is final and binding. The bill makes a party who loses an appeal liable for the hearing examiner's fees and expenses and establishes that the costs of a witness are paid by the party who calls the witness. The bill authorizes a district court to hear an appeal of the award only on the grounds that the hearing examiner was without jurisdiction or exceeded the examiner's jurisdiction or that the order was procured by fraud, collusion, or other unlawful means. Such an appeal must be brought in the district court having jurisdiction in the county.

EFFECTIVE DATE

September 1, 2021.