87R18695 NC-F

By:  Hinojosa, Rose, J. Johnson of Harris H.B. No. 1216

Substitute the following for H.B. No. 1216:

By:  Bernal C.S.H.B. No. 1216

A BILL TO BE ENTITLED

AN ACT

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

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

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

Sec. 142.067.  AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a) Except as provided by Subsection (b), a [~~A~~] written meet and confer agreement ratified under this subchapter preempts, during the term of the agreement and to the extent of any conflict, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by the head of the law enforcement agency or municipality or by a division or agent of the municipality, such as a personnel board or a civil service commission.

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

SECTION 2.  Section 143.010, Local Government Code, is amended by amending Subsections (b), (e), and (g) and adding Subsections (c-1) and (j) to read as follows:

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

(c-1)  Not later than the 30th day before the date of a commission hearing, the commission shall notify each impacted individual of 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. Not later than the fifth day before the date of the hearing, an impacted individual may provide evidence to the commission, including documentation in support of the charge or the recommended action.

(e)  The affected fire fighter or police officer or an impacted individual may request the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the fire fighter, [~~or~~] police officer, or individual considers pertinent to the case. The fire fighter, [~~or~~] police officer, or individual must make the request before the 10th day before the date the commission hearing will be held. If the commission does not subpoena the material, the commission shall, before the third day before the date the hearing will be held, make a written report to the fire fighter, [~~or~~] police officer, or individual stating the reason it will not subpoena the requested material. This report shall be read into the public record of the commission hearing.

(g)  The commission shall conduct the hearing fairly and impartially as prescribed by this chapter and shall render a just and fair decision. The commission may consider only the evidence submitted at the hearing, including any evidence submitted by an impacted individual under Subsection (c-1).

(j)  In this section, "impacted individual" means an individual who was a victim of the alleged incident that is the basis of the charge or a direct witness to the alleged incident. If a victim is deceased, incapacitated, or unwilling to appear, a representative of the victim may act on behalf of the victim under this section.

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

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

(c-1)  Before the commission may refuse to grant a request for demotion of a police officer, the commission shall request from the department the contact information for any impacted individual. The commission shall 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 of the police officer. If there are no impacted individuals or the commission does not receive a request for a public hearing from an impacted individual before the 10th day after the date notice was given to the individual, the commission may refuse to grant the request for demotion.

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

(d-1)  Before the 10th day before the date the public hearing is held, the commission shall give an impacted individual notice of the time and place of the hearing and of the individual's right to testify.

(f)  In this section, "impacted individual" means an individual who was a victim of the alleged incident that is the basis of the request for demotion or a direct witness to the alleged incident. If a victim is deceased, incapacitated, or unwilling to appear, a representative of the victim may act on behalf of the victim under this section.

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

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

(b)  Except as provided by Subsection (d), an [~~An~~] agreement under this subchapter preempts any contrary statute, executive order, local ordinance, or rule adopted by the state or a political subdivision or agent of the state, including a personnel board, a civil service commission, or a home-rule municipality.

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

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

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

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

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

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

Sec. 174.005.  PREEMPTION OF OTHER LAW. (a) Except as provided by Subsection (b), this [~~This~~] chapter preempts all contrary local ordinances, executive orders, legislation, or rules adopted by the state or by a political subdivision or agent of the state, including a personnel board, civil service commission, or home-rule municipality.

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

SECTION 7.  The changes in law made by this Act apply only to a disciplinary action for conduct that occurs on or after September 1, 2021. Conduct that occurs before that date is governed by the law in effect immediately before that date, and the former law is continued in effect for that purpose.

SECTION 8.  Sections 142.067(b), 143.307(d), 143.361(d), and 174.005(b), Local Government Code, as added by this Act, apply only to an agreement entered into or renewed on or after September 1, 2021. An agreement entered into or renewed before September 1, 2021, is governed by the law in effect on the date the agreement was entered into or renewed, and the former law is continued in effect for that purpose.

SECTION 9.  This Act takes effect September 1, 2021.