87R1645 SMT-F

By:  Johnson S.B. No. 333

A BILL TO BE ENTITLED

AN ACT

relating to the disciplinary suspension of 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 143.052(b-1) or (i), 143.056(a-1), (c-1), or (i), 143.1017(a-1), (c-1), or (i), 143.117(a-1), (b-1), or (d-1), or 143.119(a-1) or (h) if the municipality has adopted Chapter 143.

SECTION 2.  Section 143.052, Local Government Code, is amended by adding Subsections (b-1) and (i) and amending Subsection (h) to read as follows:

(b-1)  The department head of a police department may not suspend a police officer under this section for an act that occurred earlier than the 730th day before the date the officer is suspended.

(h)  In the original written statement and charges and in any hearing conducted under this chapter involving a fire fighter, the department head may not complain of an act that occurred earlier than the 180th day preceding the date the department head suspends the fire fighter [~~or police officer~~]. If the act is allegedly related to criminal activity including the violation of a federal, state, or local law for which the fire fighter [~~or police officer~~] is subject to a criminal penalty, the department head may not complain of an act that is discovered earlier than the 180th day preceding the date the department head suspends the fire fighter [~~or police officer~~]. The department head must allege that the act complained of is related to criminal activity.

(i)  Subject to Subsection (b-1), in the original written statement and charges and in any hearing conducted under this chapter involving a police officer, the department head may not complain of an act that is discovered earlier than the 360th day preceding the date the department head suspends the police officer. The department head must allege that the act complained of is related to criminal activity. The department head is not required to prove that the police officer:

(1)  had the culpable mental state for the alleged criminal activity; or

(2)  committed the alleged criminal activity beyond a reasonable doubt.

SECTION 3.  Section 143.056, Local Government Code, is amended by adding Subsections (a-1), (c-1), and (i) and amending Subsections (c) and (h) to read as follows:

(a-1)  The department head of a police department may not suspend a police officer under this section for an act directly related to a felony indictment or misdemeanor complaint that occurred earlier than the 730th day before the date the officer is suspended.

(c)  If the action directly related to the felony indictment or misdemeanor complaint against a fire fighter occurred or was discovered on or after the 180th day before the date of the indictment or complaint, the department head may, within 30 days after the date of final disposition of the indictment or complaint, bring a charge against the fire fighter [~~or police officer~~] for a violation of civil service rules.

(c-1)  Subject to Subsection (a-1), if the action directly related to the felony indictment or misdemeanor complaint against a police officer was discovered on or after the 360th day before the date of the indictment or complaint, the department head may, within 30 days after the date of final disposition of the indictment or complaint, bring a charge against the police officer for a violation of civil service rules.

(h)  The department head may order an indefinite suspension of a fire fighter based on an act classified as a felony or a Class A or B misdemeanor after the 180-day period following the date of the discovery of the act by the department if the department head considers delay to be necessary to protect a criminal investigation of the fire fighter's [~~person's~~] conduct. If the department head intends to order an indefinite suspension of the fire fighter after the 180-day period, the department head must file with the attorney general a statement describing the criminal investigation and its objectives within 180 days after the date the act complained of occurred.

(i)  Subject to Subsection (a-1), the department head may order an indefinite suspension of a police officer based on an act classified as a felony or a Class A or B misdemeanor after the 360-day period following the date of the discovery of the act by the department if the department head considers delay to be necessary to protect a criminal investigation of the police officer's conduct. If the department head intends to order an indefinite suspension of the police officer after the 360-day period, the department head must file with the attorney general a statement describing the criminal investigation and its objectives within 360 days after the date of the discovery of the act by the department.

SECTION 4.  Section 143.1017, Local Government Code, is amended by adding Subsections (a-1), (c-1), and (i) and amending Subsections (c) and (h) to read as follows:

(a-1)  The department head of a police department may not suspend a police officer under this section for an act directly related to a felony indictment or misdemeanor complaint that occurred earlier than the 730th day before the date the officer is suspended.

(c)  If the action directly related to the felony indictment or misdemeanor complaint against a fire fighter occurred or was discovered on or after the 180th day before the date of the indictment or complaint, the department head may, within 60 days after the date of final disposition of the indictment or complaint, bring a charge against the fire fighter [~~or police officer~~] for a violation of civil service rules.

(c-1)  Subject to Subsection (a-1), if the action directly related to the felony indictment or misdemeanor complaint against a police officer was discovered on or after the 360th day before the date of the indictment or complaint, the department head may, within 60 days after the date of final disposition of the indictment or complaint, bring a charge against the police officer for a violation of civil service rules.

(h)  The department head may order an indefinite suspension of a fire fighter based on an act classified as a felony or any other crime involving moral turpitude after the 180-day period following the date of the discovery of the act by the department if the department head considers delay to be necessary to protect a criminal investigation of the person's conduct. If the department head intends to order an indefinite suspension of the fire fighter after the 180-day period, the department head must file with the attorney general a statement describing the criminal investigation and its objectives within 180 days after the date the act complained of occurred.

(i)  Subject to Subsection (a-1), the department head may order an indefinite suspension of a police officer based on an act classified as a felony or any other crime involving moral turpitude after the 360-day period following the date of the discovery of the act by the department if the department head considers delay to be necessary to protect a criminal investigation of the person's conduct. If the department head intends to order an indefinite suspension of the police officer after the 360-day period, the department head must file with the attorney general a statement describing the criminal investigation and its objectives within 360 days after the date of the discovery of the act by the department.

SECTION 5.  Section 143.117, Local Government Code, is amended by adding Subsections (a-1), (b-1), and (d-1) and amending Subsections (b) and (d) to read as follows:

(a-1)  The department head of a police department may not suspend a police officer under this section for an act that occurred earlier than the 730th day before the date the officer is suspended.

(b)  The department head may suspend a fire fighter [~~or police officer~~] under this section only if the fire fighter [~~person~~] violates a civil service rule. However, the department head may not suspend a fire fighter [~~or police officer~~] later than the 180th day after the date the department discovers or becomes aware of the civil service rule violation. If, during an investigation of an alleged civil service rule violation, it is alleged that the fire fighter [~~or police officer~~] under investigation committed another violation of a civil service rule connected with the first alleged violation, the 180-day period prescribed by this subsection does not begin again for purposes of a suspension of the fire fighter [~~or police officer~~] if the second violation in question does not involve untruthfulness or refusal to obey a valid order to make a statement, and therefore the department head may not suspend a fire fighter [~~or police officer~~] for the second violation later than the 180th day after the date the department discovers or becomes aware of the original violation.

(b-1)  The department head may suspend a police officer under this section only if the police officer violates a civil service rule. Subject to Subsection (a-1), the department head may not suspend a police officer later than the 360th day after the date the department discovers or becomes aware of the civil service rule violation.

(d)  The suspension of a fire fighter is void and the fire fighter [~~or police officer~~] is entitled to the fire fighter's [~~person's~~] full pay if:

(1)  the department head fails to file the statement during the required time; or

(2)  the suspension is imposed later than the 180th day after the date the department discovers or becomes aware of the violation that resulted in the suspension.

(d-1)  The suspension of a police officer is void and the police officer is entitled to the police officer's full pay if:

(1)  the department head fails to file the statement during the required time; or

(2)  the suspension is imposed later than:

(A)  the 730th day after the date the act for which the officer was suspended occurred; or

(B)  the 360th day after the date the department discovers or becomes aware of the violation that resulted in the suspension.

SECTION 6.  Section 143.119, Local Government Code, is amended by adding Subsections (a-1) and (h) and amending Subsection (g) to read as follows:

(a-1)  The department head of a police department may not suspend a police officer under this section for an act that occurred earlier than the 730th day before the date the officer is suspended.

(g)  In the original written statement and charges and in any hearing conducted under this chapter involving a fire fighter, the department head may not complain of an act that did not occur within the six-month period preceding the date on which the department head suspends the fire fighter [~~or police officer~~].

(h)  Subject to Subsection (a-1), in the original written statement and charges and in any hearing conducted under this chapter involving a police officer, the department head may not complain of an act that was not discovered within the 360-day period preceding the date on which the department head suspends the police officer.

SECTION 7.  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 143.052(b-1) or (i), 143.056(a-1), (c-1), or (i), 143.1017(a-1), (c-1), or (i), 143.117(a-1), (b-1), or (d-1), or 143.119(a-1) or (h).

SECTION 8.  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 143.052(b-1) or (i), 143.056(a-1), (c-1), or (i), 143.1017(a-1), (c-1), or (i), 143.117(a-1), (b-1), or (d-1), or 143.119(a-1) or (h).

SECTION 9.  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 municipal police officers that conflicts with Section 143.052(b-1) or (i), 143.056(a-1), (c-1), or (i), 143.1017(a-1), (c-1), or (i), 143.117(a-1), (b-1), or (d-1), or 143.119(a-1) or (h) if the municipality has adopted Chapter 143. An agreement adopted under this chapter must implement those sections in that municipality.

SECTION 10.  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 11.  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 12.  This Act takes effect September 1, 2021.