

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

1  
2 relating to civil service commission hearings for certain  
3 disciplinary actions against police officers in certain  
4 municipalities.

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

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

8 Sec. 142.067. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS.

9 (a) Except as provided by Subsection (b), a [A] written meet and  
10 confer agreement ratified under this subchapter preempts, during  
11 the term of the agreement and to the extent of any conflict, all  
12 contrary state statutes, local ordinances, executive orders, civil  
13 service provisions, or rules adopted by the head of the law  
14 enforcement agency or municipality or by a division or agent of the  
15 municipality, such as a personnel board or a civil service  
16 commission.

17 (b) A meet and confer agreement between a municipality or a  
18 law enforcement agency of a municipality and a police officers  
19 association under this subchapter may not conflict with and does  
20 not supersede Section 143.010(b), (c-1), (e), or (g) or  
21 143.054(c-1), (c-2), or (d-1) if the municipality has adopted  
22 Chapter 143.

23 SECTION 2. Section 143.010, Local Government Code, is  
24 amended by amending Subsections (b), (e), and (g) and adding

1 Subsections (c-1) and (j) to read as follows:

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

11 (c-1) Not later than the 30th day before the date of a  
12 commission hearing, the commission shall notify each impacted  
13 individual of the date and time of the hearing, the individual's  
14 right to attend, and instructions for exercising the individual's  
15 right to testify at the hearing. Not later than the fifth day  
16 before the date of the hearing, an impacted individual may provide  
17 evidence to the commission, including documentation in support of  
18 the charge or the recommended action.

19 (e) The affected fire fighter or police officer or an  
20 impacted individual may request the commission to subpoena any  
21 books, records, documents, papers, accounts, or witnesses that the  
22 fire fighter, ~~or~~ police officer, or individual considers  
23 pertinent to the case. The fire fighter, ~~or~~ police officer, or  
24 individual must make the request before the 10th day before the date  
25 the commission hearing will be held. If the commission does not  
26 subpoena the material, the commission shall, before the third day  
27 before the date the hearing will be held, make a written report to

1 the fire fighter, ~~[or]~~ police officer, or individual stating the  
2 reason it will not subpoena the requested material. This report  
3 shall be read into the public record of the commission hearing.

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

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

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

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

20 (c-1) Before the commission may refuse to grant a request  
21 for demotion of a police officer, the commission shall request from  
22 the department the contact information for any impacted individual.  
23 The commission shall notify an impacted individual that the  
24 individual may request a public hearing and present reasons why the  
25 commission should grant the department's request for demotion of  
26 the police officer. If there are no impacted individuals or the  
27 commission does not receive a request for a public hearing from an

1 impacted individual before the 10th day after the date notice was  
2 given to the individual, the commission may refuse to grant the  
3 request for demotion.

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

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

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

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

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

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

6           (d) An agreement under this subchapter affecting police  
7 officers may not conflict with and does not supersede Section  
8 143.010(b), (c-1), (e), or (g) or 143.054(c-1), (c-2), or (d-1).

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

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

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

24           (d) An agreement under this subchapter may not conflict with  
25 and does not supersede Section 143.010(b), (c-1), (e), or (g) or  
26 143.054(c-1), (c-2), or (d-1).

27           SECTION 6. Section 174.005, Local Government Code, is

1 amended to read as follows:

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

8           (b) This chapter does not authorize the adoption or  
9 implementation of an agreement affecting police officers that  
10 conflicts with Section 143.010(b), (c-1), (e), or (g) or  
11 143.054(c-1), (c-2), or (d-1). An agreement adopted under this  
12 chapter must implement those sections.

13           SECTION 7. The changes in law made by this Act apply only to  
14 a disciplinary action for conduct that occurs on or after September  
15 1, 2021. Conduct that occurs before that date is governed by the  
16 law in effect immediately before that date, and the former law is  
17 continued in effect for that purpose.

18           SECTION 8. Sections 142.067(b), 143.307(d), 143.361(d),  
19 and 174.005(b), Local Government Code, as added by this Act, apply  
20 only to an agreement entered into or renewed on or after September  
21 1, 2021. An agreement entered into or renewed before September 1,  
22 2021, is governed by the law in effect on the date the agreement was  
23 entered into or renewed, and the former law is continued in effect  
24 for that purpose.

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