

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:

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

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

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

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

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

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

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

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

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

23 (h) The department head may order an indefinite suspension
24 of a fire fighter based on an act classified as a felony or a Class A
25 or B misdemeanor after the 180-day period following the date of the
26 discovery of the act by the department if the department head
27 considers delay to be necessary to protect a criminal investigation

1 of the fire fighter's [~~person's~~] conduct. If the department head
2 intends to order an indefinite suspension of the fire fighter after
3 the 180-day period, the department head must file with the attorney
4 general a statement describing the criminal investigation and its
5 objectives within 180 days after the date the act complained of
6 occurred.

7 (i) Subject to Subsection (a-1), the department head may
8 order an indefinite suspension of a police officer based on an act
9 classified as a felony or a Class A or B misdemeanor after the
10 360-day period following the date of the discovery of the act by the
11 department if the department head considers delay to be necessary
12 to protect a criminal investigation of the police officer's
13 conduct. If the department head intends to order an indefinite
14 suspension of the police officer after the 360-day period, the
15 department head must file with the attorney general a statement
16 describing the criminal investigation and its objectives within 360
17 days after the date of the discovery of the act by the department.

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

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

26 (c) If the action directly related to the felony indictment
27 or misdemeanor complaint against a fire fighter occurred or was

1 discovered on or after the 180th day before the date of the
2 indictment or complaint, the department head may, within 60 days
3 after the date of final disposition of the indictment or complaint,
4 bring a charge against the fire fighter [~~or police officer~~] for a
5 violation of civil service rules.

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

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

24 (i) Subject to Subsection (a-1), the department head may
25 order an indefinite suspension of a police officer based on an act
26 classified as a felony or any other crime involving moral turpitude
27 after the 360-day period following the date of the discovery of the

1 act by the department if the department head considers delay to be
2 necessary to protect a criminal investigation of the person's
3 conduct. If the department head intends to order an indefinite
4 suspension of the police officer after the 360-day period, the
5 department head must file with the attorney general a statement
6 describing the criminal investigation and its objectives within 360
7 days after the date of the discovery of the act by the department.

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

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

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

1 head may not suspend a fire fighter [~~or police officer~~] for the
2 second violation later than the 180th day after the date the
3 department discovers or becomes aware of the original violation.

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

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

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

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

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

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

22 (2) the suspension is imposed later than:

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

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

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

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

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

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

18 SECTION 7. Section 143.307, Local Government Code, is
19 amended by amending Subsections (a) and (b) and adding Subsection
20 (d) to read as follows:

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

26 (b) Except as provided by Subsection (d), an [An] agreement
27 under this subchapter preempts any contrary statute, executive

1 order, local ordinance, or rule adopted by the state or a political
2 subdivision or agent of the state, including a personnel board, a
3 civil service commission, or a home-rule municipality.

4 (d) An agreement under this subchapter affecting police
5 officers may not conflict with and does not supersede Section
6 143.052(b-1) or (i), 143.056(a-1), (c-1), or (i), 143.1017(a-1),
7 (c-1), or (i), 143.117(a-1), (b-1), or (d-1), or 143.119(a-1) or
8 (h).

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

1 SECTION 9. Section 174.005, Local Government Code, is
2 amended to read as follows:

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

9 (b) This chapter does not authorize the adoption or
10 implementation of an agreement affecting municipal police officers
11 that conflicts with Section 143.052(b-1) or (i), 143.056(a-1),
12 (c-1), or (i), 143.1017(a-1), (c-1), or (i), 143.117(a-1), (b-1),
13 or (d-1), or 143.119(a-1) or (h) if the municipality has adopted
14 Chapter 143. An agreement adopted under this chapter must
15 implement those sections in that municipality.

16 SECTION 10. The changes in law made by this Act apply only
17 to a disciplinary action for conduct that occurs on or after
18 September 1, 2021. Conduct that occurs before that date is governed
19 by the law in effect immediately before that date, and the former
20 law is continued in effect for that purpose.

21 SECTION 11. Sections 142.067(b), 143.307(d), 143.361(d),
22 and 174.005(b), Local Government Code, as added by this Act, apply
23 only to an agreement entered into or renewed on or after September
24 1, 2021. An agreement entered into or renewed before September 1,
25 2021, is governed by the law in effect on the date the agreement was
26 entered into or renewed, and the former law is continued in effect
27 for that purpose.

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