

By: Johnson

S.B. No. 1805

A BILL TO BE ENTITLED

AN ACT

relating to municipal civil service for fire fighters and police officers.

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

SECTION 1. Section 143.003, Local Government Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Business day" means any day that is not a Saturday, Sunday, or national holiday described by Section 662.003, Government Code.

(1-a) "Commission" means the Fire Fighters' and Police Officers' Civil Service Commission.

SECTION 2. Sections 143.010(a) and (e), Local Government Code, are amended to read as follows:

(a) Except as otherwise provided by this chapter, if a fire fighter or police officer wants to appeal to the commission from an action for which an appeal or review is provided by this chapter, the fire fighter or police officer need only file an appeal with the commission within 10 business days after the date the action occurred.

(e) The affected fire fighter or police officer may request the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the fire fighter or police officer considers pertinent to the case. The fire fighter or police officer

1 must make the request before the 10th calendar day before the date
2 the commission hearing will be held. If the commission does not
3 subpoena the material, the commission shall, before the third
4 calendar day before the date the hearing will be held, make a
5 written report to the fire fighter or police officer stating the
6 reason it will not subpoena the requested material. This report
7 shall be read into the public record of the commission hearing.

8 SECTION 3. Section 143.014, Local Government Code, is
9 amended by amending Subsection (d) and adding Subsection (d-1) to
10 read as follows:

11 (d) Except as provided by Subsection (d-1), a [A] person
12 appointed to a position in the classification immediately below
13 that of the head of the police department must:

14 (1) be employed by the municipality's police
15 department as a sworn police officer;

16 (2) have at least two years' continuous service in that
17 department as a sworn police officer; and

18 (3) meet the requirements for appointment as head of a
19 police department prescribed by Section 143.013(b).

20 (d-1) The department head of a police department may appoint
21 a person that does not meet the requirements described by
22 Subsections (d)(1) and (2) to a position in the classification
23 immediately below that of the head of the police department if:

24 (1) the department head requests and is granted
25 approval for the appointment from the governing body of the
26 municipality; and

27 (2) the department head provides a justification for

1 hiring outside of the department to the commission and the
2 commission determines that:

3 (A) the justification is valid; and

4 (B) the appointment will improve the
5 department's operations.

6 SECTION 4. Section 143.015, Local Government Code, is
7 amended by amending Subsections (a) and (b) and adding Subsections
8 (a-1) and (b-1) to read as follows:

9 (a) A [~~If a~~] fire fighter or police officer may appeal [~~is~~
10 ~~dissatisfied with~~] any commission decision by filing [~~, the fire~~
11 ~~fighter or police officer may file~~] a petition in district court
12 asking that the decision be set aside. The petition must:

13 (1) be filed within 10 business days after the date the
14 fire fighter or police officer is notified of the final commission
15 decision; and [~~+~~

16 [~~(1) is sent to the fire fighter or police officer by~~
17 ~~certified mail; or~~]

18 (2) if filed by a police officer, establish that the
19 commission decision was arbitrary, unreasonable, not in accordance
20 with commission rules, or not in accordance with applicable law [~~is~~
21 ~~personally received by the fire fighter or police officer or by that~~
22 ~~person's designee~~].

23 (a-1) For purposes of Subsection (a)(1), a fire fighter or
24 police officer is considered notified on the date the final
25 commission decision is:

26 (1) sent to the fire fighter or police officer by
27 certified mail; or

1 (2) personally received by the fire fighter or police
2 officer or by that person's designee.

3 (b) Except as provided by Subsection (b-1), an ~~An~~ appeal
4 under this section is by trial de novo. The district court may
5 grant the appropriate legal or equitable relief necessary to carry
6 out the purposes of this chapter. The relief may include
7 reinstatement or promotion with back pay if an order of suspension,
8 dismissal, or demotion is set aside.

9 **(b-1) If the district court determines a petition by a**
10 **police officer does not fulfill the requirements of Subsection**
11 **(a)(2), the district court shall review the commission decision for**
12 **sufficiency of the evidence.**

13 SECTION 5. Section 143.016, Local Government Code, is
14 amended to read as follows:

15 Sec. 143.016. PENALTY FOR FAILURE TO COMPLY WITH SUBPOENA
16 AND CERTAIN VIOLATIONS ~~[VIOLATION]~~ OF CHAPTER. (a) A fire fighter
17 or police officer commits an offense if the person:

18 (1) fails to respond to a subpoena issued under
19 Section 143.009; or

20 (2) violates Section 143.086 or 143.087 ~~[this~~
21 ~~chapter]~~.

22 (b) An offense under this section ~~[or Section 143.009]~~ is a
23 Class C misdemeanor ~~[punishable by a fine of not less than \$10 or~~
24 ~~more than \$100, confinement in the county jail for not more than 30~~
25 ~~days, or both fine and confinement]~~.

26 SECTION 6. Section 143.024(a), Local Government Code, is
27 amended to read as follows:

1 (a) Before the 10th day before the date an entrance
2 examination is held, the commission shall cause a notice of the
3 examination to be posted in plain view in a conspicuous location [~~on~~
4 ~~a bulletin board located~~] in the main lobby of the city hall and in
5 the commission's office. The notice must show the position to be
6 filled or for which the examination is to be held, and the date,
7 time, and place of the examination.

8 SECTION 7. Sections 143.025(d) and (e), Local Government
9 Code, are amended to read as follows:

10 (d) Examinations for beginning positions [~~in the fire~~
11 ~~department~~] may be held at different locations if each applicant
12 takes the same examination and is examined in the presence of other
13 applicants.

14 (e) This subsection applies only in a municipality to which
15 Subchapter J does not apply. An examination for beginning
16 positions in the police department must be held at one or more
17 locations in the municipality in which the police department is
18 located and may be held at additional locations outside the
19 municipality. An examination held at multiple locations must be
20 administered on the same day [~~and at the same time~~] at each location
21 at which it is given. Only one eligibility list for a police
22 department may be created from that examination, and only one
23 eligibility list may be in effect at a given time. Each applicant
24 who takes the examination for the eligibility list shall:

25 (1) take the same examination; and

26 (2) be examined in the presence of other applicants
27 for that eligibility list.

1 SECTION 8. Section 143.029(b), Local Government Code, is
2 amended to read as follows:

3 (b) Before the 30th day before the date a promotional
4 examination is held, the commission shall post a notice of the
5 examination in a conspicuous location [~~plain view on a bulletin~~
6 ~~board located~~] in the main lobby of the city hall and in the
7 commission's office. The notice must show the position to be filled
8 or for which the examination is to be held, and the date, time, and
9 place of the examination. The commission shall also furnish
10 sufficient copies of the notice for posting in the stations or
11 subdepartments in which the position will be filled.

12 SECTION 9. The heading to Section 143.030, Local Government
13 Code, is amended to read as follows:

14 Sec. 143.030. ELIGIBILITY FOR FIRE DEPARTMENT PROMOTION AND
15 PROMOTIONAL EXAMINATION.

16 SECTION 10. Section 143.030, Local Government Code, is
17 amended by amending Subsection (b) and adding Subsections (b-1),
18 (g), and (h) to read as follows:

19 (b) Except as provided by this section, Section 143.013, and
20 Section 143.102, a fire fighter is eligible for promotion if the
21 fire fighter has continuously held a position in the classification
22 that is immediately below, in salary, the classification for which
23 the examination is to be held for at least two years before the
24 examination date.

25 (b-1) Each promotional examination is open to each fire
26 fighter who is eligible under Subsection (b) [~~at any time has~~
27 ~~continuously held for at least two years a position in the~~

1 ~~classification that is immediately below, in salary, the~~
2 ~~classification for which the examination is to be held].~~

3 (g) A fire fighter is not eligible for promotion to the rank
4 of captain or its equivalent unless the fire fighter has at least
5 four years of actual service in the fire department for which the
6 fire fighter would serve as that rank.

7 (h) If a fire fighter is recalled on active military duty
8 for not more than 60 months, the two-year service requirement under
9 Subsection (b) does not apply and the fire fighter is entitled to
10 have time spent on active military duty considered as duty in the
11 fire department.

12 SECTION 11. The heading to Section 143.031, Local
13 Government Code, is amended to read as follows:

14 Sec. 143.031. ELIGIBILITY FOR POLICE DEPARTMENT PROMOTION
15 AND PROMOTIONAL EXAMINATION.

16 SECTION 12. Section 143.031, Local Government Code, is
17 amended by amending Subsection (a) and adding Subsections (a-1),
18 (d), (e), and (f) to read as follows:

19 (a) Except as provided by this section, Section 143.013, and
20 Section 143.102, a police officer is eligible for promotion if the
21 police officer has continuously held a position in the
22 classification that is immediately below, in salary, the
23 classification for which the examination is to be held for at least
24 two years before the examination date.

25 (a-1) Each promotional examination is open to each police
26 officer who is eligible under Subsection (a) [~~for at least two years~~
27 ~~immediately before the examination date has continuously held a~~

1 ~~position in the classification that is immediately below, in~~
2 ~~salary, the classification for which the examination is to be~~
3 ~~held].~~

4 (d) If a police officer is serving in a beginning position
5 in a police department, the two-year service period described by
6 Subsection (a) begins on completion of the police officer's
7 probationary period.

8 (e) If a police officer is recalled on active military duty
9 for not more than 60 months, the two-year service requirement under
10 Subsection (a) does not apply and the police officer is entitled to
11 have time spent on active military duty considered as duty in the
12 police department.

13 (f) A demoted police officer is not eligible for promotion
14 unless the police officer has served continuously in the next lower
15 position for at least two years after the demotion.

16 SECTION 13. Section 143.035(g), Local Government Code, is
17 amended to read as follows:

18 (g) The commission shall canvass the votes within 30 days
19 after the date the election is held. An appeal alleging election
20 irregularity must be filed with the commission within five business
21 ~~working~~ days after the date the election closes. If approved by
22 the sworn police officers, the promotional system amendment becomes
23 effective after all election disputes have been ruled on and the
24 election votes have been canvassed by the commission.

25 SECTION 14. Section 143.045(d), Local Government Code, is
26 amended to read as follows:

27 (d) To facilitate the settlement of the accounts of deceased

1 fire fighters and police officers, all unpaid compensation,
2 including all accumulated sick leave, due at the time of death to an
3 active fire fighter or police officer who dies as a result of a
4 line-of-duty injury or illness, shall be paid to the legal
5 beneficiary designated in writing by the fire fighter or police
6 officer, or, if no legal beneficiary is designated, the person
7 determined to be entitled to the payment under Title 2, Estates Code
8 ~~[persons in the first applicable category of the following~~
9 ~~prioritized list:~~

10 ~~[(1) to the beneficiary or beneficiaries the fire~~
11 ~~fighter or police officer designated in writing to receive the~~
12 ~~compensation and filed with the commission before the person's~~
13 ~~death,~~

14 ~~[(2) to the fire fighter's or police officer's widow or~~
15 ~~widower,~~

16 ~~[(3) to the fire fighter's or police officer's child~~
17 ~~or children and to the descendants of a deceased child, by~~
18 ~~representation,~~

19 ~~[(4) to the fire fighter's or police officer's parents~~
20 ~~or to their survivors, or~~

21 ~~[(5) to the properly appointed legal representative of~~
22 ~~the fire fighter's or police officer's estate, or in the absence of~~
23 ~~a representative, to the person determined to be entitled to the~~
24 ~~payment under the state law of descent and distribution].~~

25 SECTION 15. Section 143.051, Local Government Code, is
26 amended to read as follows:

27 Sec. 143.051. CAUSE FOR REMOVAL OR SUSPENSION OF FIRE

1 FIGHTERS. A commission rule prescribing cause for removal or
2 suspension of a fire fighter [~~or police officer~~] is not valid unless
3 it involves one or more of the following grounds:

4 (1) conviction of a felony or other crime involving
5 moral turpitude;

6 (2) violations of a municipal charter provision;

7 (3) acts of incompetency;

8 (4) neglect of duty;

9 (5) discourtesy to the public or to a fellow employee
10 while the fire fighter [~~or police officer~~] is in the line of duty;

11 (6) acts showing lack of good moral character;

12 (7) drinking intoxicants while on duty or intoxication
13 while off duty;

14 (8) conduct prejudicial to good order;

15 (9) refusal or neglect to pay just debts;

16 (10) absence without leave;

17 (11) shirking duty or cowardice at fires, if
18 applicable; or

19 (12) violation of an applicable fire [~~or police~~]
20 department rule or special order.

21 SECTION 16. Subchapter D, Chapter 143, Local Government
22 Code, is amended by adding Section 143.0515 to read as follows:

23 Sec. 143.0515. CAUSE FOR REMOVAL, SUSPENSION, OR DEMOTION
24 OF POLICE OFFICERS. A commission rule prescribing cause for
25 removal, suspension, or demotion of a police officer is valid only
26 if it involves one or more of the following grounds:

27 (1) acts of incompetency, neglect, or failure to

1 perform a job function deemed essential to the position as set forth
2 in the police department's job description for the position;

3 (2) acts showing lack of good moral character,
4 including:

5 (A) discourtesy to the public or to a fellow
6 employee while the police officer is in the line of duty;

7 (B) intoxication while on duty or excessive
8 intoxication while off duty;

9 (C) conduct prejudicial to good order;

10 (D) refusal or neglect to pay just debts;

11 (E) absence without leave;

12 (F) excessive use of force; or

13 (G) making a false statement or substantive
14 omission during the employment application process, a police
15 department hearing, or a police department investigation;

16 (3) violation of a municipal charter provision;

17 (4) violation of an applicable police department rule
18 or special order;

19 (5) a plea of guilty, an adjudication of guilt, or a
20 verdict of guilty after a criminal trial of any felony offense or
21 any of the following misdemeanor offenses:

22 (A) an offense listed under Chapter 15, Penal
23 Code, that constitutes an attempt, conspiracy, or solicitation to
24 commit another offense under this subdivision;

25 (B) any offense listed under Chapter 21, Penal
26 Code (sexual offenses);

27 (C) any offense listed under Section 22.012,

1 Penal Code (indecent assault);
2 (D) any offense listed under Chapter 30, Penal
3 Code (burglary and criminal trespass);
4 (E) any offense listed under Chapter 31, Penal
5 Code (theft);
6 (F) any offense listed under Chapter 32, 35, or
7 35A, Penal Code (fraud);
8 (G) any offense listed under Chapter 36, Penal
9 Code (bribery and corrupt influence);
10 (H) any offense listed under Chapter 37, Penal
11 Code (perjury and other falsification);
12 (I) any offense listed under Chapter 39, Penal
13 Code (abuse of office);
14 (J) any offense listed under Chapter 43, Penal
15 Code (public indecency);
16 (K) any offense listed under Section 49.04,
17 49.05, or 49.06, Penal Code (intoxication offenses); or
18 (L) other misdemeanor crimes of moral turpitude;
19 or
20 (6) acts constituting an offense under Subdivision
21 (5), regardless of criminal prosecution, including any act in any
22 jurisdiction other than this state, which if committed in this
23 state would constitute such an offense unless a court has held the
24 offense as unconstitutional.

25 SECTION 17. The heading to Section 143.052, Local
26 Government Code, is amended to read as follows:

27 Sec. 143.052. DISCIPLINARY SUSPENSIONS OF FIRE FIGHTERS.

1 SECTION 18. Sections 143.052(b), (c), (d), (e), (f), (g),
2 and (h), Local Government Code, are amended to read as follows:

3 (b) The head of the fire [~~or police~~] department may suspend
4 a fire fighter [~~or police officer~~] under the department head's
5 supervision or jurisdiction for the violation of a civil service
6 rule. The suspension may be for a reasonable period not to exceed
7 15 calendar days or for an indefinite period. An indefinite
8 suspension is equivalent to dismissal from the department.

9 (c) If the department head suspends a fire fighter [~~or~~
10 ~~police officer~~], the department head shall, within 120 hours after
11 the hour of suspension, file a written statement with the
12 commission giving the reasons for the suspension. The department
13 head shall immediately deliver a copy of the statement in person to
14 the suspended fire fighter [~~or police officer~~].

15 (d) The copy of the written statement must inform the
16 suspended fire fighter [~~or police officer~~] that if the fire fighter
17 [~~person~~] wants to appeal to the commission, the fire fighter
18 [~~person~~] must file a written appeal with the commission within 10
19 business days after the date the fire fighter [~~person~~] receives the
20 copy of the statement.

21 (e) The written statement filed by the department head with
22 the commission must point out each civil service rule alleged to
23 have been violated by the suspended fire fighter [~~or police~~
24 ~~officer~~] and must describe the alleged acts of the fire fighter
25 [~~person~~] that the department head contends are in violation of the
26 civil service rules. It is not sufficient for the department head
27 merely to refer to the provisions of the rules alleged to have been

1 violated.

2 (f) If the department head does not specifically point out
3 in the written statement the act or acts of the fire fighter [~~or~~
4 ~~police officer~~] that allegedly violated the civil service rules,
5 the commission shall promptly reinstate the fire fighter [~~person~~].

6 (g) If offered by the department head, the fire fighter [~~or~~
7 ~~police officer~~] may agree in writing to voluntarily accept, with no
8 right of appeal, a suspension of 16 to 90 calendar days for the
9 violation of a civil service rule. The fire fighter [~~or police~~
10 ~~officer~~] must accept the offer within five business [~~working~~] days
11 after the date the offer is made. If the fire fighter [~~person~~]
12 refuses the offer and wants to appeal to the commission, the fire
13 fighter [~~person~~] must file a written appeal with the commission
14 within 15 business days after the date the fire fighter [~~person~~]
15 receives the copy of the written statement of suspension.

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

1 SECTION 19. Subchapter D, Chapter 143, Local Government
2 Code, is amended by adding Section 143.0525 to read as follows:

3 Sec. 143.0525. DISCIPLINARY SUSPENSIONS AND DEMOTIONS OF
4 POLICE OFFICERS. (a) This section does not apply to a municipality
5 with a population of 1.5 million or more.

6 (b) For purposes of this section, "civil service rule"
7 includes the underlying grounds described by Section 143.0515.

8 (c) If the head of a police department determines that a
9 police officer under the department head's supervision or
10 jurisdiction violated a civil service rule, the department head
11 may:

12 (1) suspend the police officer for a period not to
13 exceed 15 calendar days;

14 (2) suspend the police officer indefinitely, which is
15 equivalent to dismissal from the department; or

16 (3) recommend to the commission to demote the police
17 officer to any lower rank in the classified civil service.

18 (d) If the department head suspends or recommends to demote
19 a police officer under this section, the department head shall,
20 within five business days after the date of suspension or
21 recommended demotion, file a written statement with the commission.
22 The written statement must identify each civil service rule alleged
23 to have been violated by the police officer and describe the alleged
24 acts of the police officer that the department head contends are in
25 violation of the civil service rules. It is not sufficient for the
26 department head merely to refer to the provisions of the rules
27 alleged to have been violated.

1 (e) The department head shall deliver a copy of the
2 statement in person or by certified mail to the police officer
3 within five business days after the date the department head
4 suspends or recommends demotion of the police officer. The copy
5 must inform the police officer of the police officer's right to
6 appeal under Section 143.0535.

7 (f) A suspension under this section goes into effect
8 immediately.

9 (g) A recommended demotion under this section goes into
10 effect if the commission grants the request of the department head.
11 If the police officer exercises the police officer's right to
12 appeal under Section 143.0535, the commission may not grant the
13 demotion request until the appeal process is complete.

14 (h) In the original written statement and charges and in any
15 hearing conducted under this chapter, the department head may not
16 complain of an act that was discovered by the department before the
17 360th day preceding the date the department head suspends or
18 recommends demotion of the police officer.

19 SECTION 20. The heading to Section 143.053, Local
20 Government Code, is amended to read as follows:

21 Sec. 143.053. APPEAL OF DISCIPLINARY SUSPENSION OF FIRE
22 FIGHTERS.

23 SECTION 21. Section 143.053, Local Government Code, is
24 amended by amending Subsections (b), (e), (f), and (g) and adding
25 Subsection (f-1) to read as follows:

26 (b) If a suspended fire fighter [~~or police officer~~] appeals
27 the suspension to the commission, the commission shall hold a

1 hearing and render a decision in writing within 30 days after the
2 date it receives notice of appeal. The suspended fire fighter
3 [~~person~~] and the commission may agree to postpone the hearing for a
4 definite period.

5 (e) In its decision, the commission shall state whether the
6 suspended fire fighter [~~or police officer~~] is:

7 (1) permanently dismissed from the fire [~~or police~~]
8 department;

9 (2) temporarily suspended from the department; or

10 (3) restored to the fire fighter's [~~person's~~] former
11 position or status in the department's classified service.

12 (f) If the commission finds that the period of disciplinary
13 suspension should be reduced, the commission may order a reduction
14 in the period of suspension. If the suspended fire fighter [~~or~~
15 ~~police officer~~] is restored to the position or class of service from
16 which the person was suspended, the fire fighter [~~or police~~
17 ~~officer~~] is entitled to:

18 (1) full compensation for the actual time lost as a
19 result of the suspension at the rate of pay provided for the
20 position or class of service from which the fire fighter [~~person~~]
21 was suspended; and

22 (2) restoration of or credit for any other benefits
23 lost as a result of the suspension in accordance with Subsection
24 (f-1), including sick leave, vacation leave, and service credit in
25 a retirement system.

26 (f-1) Standard payroll deductions, if any, for retirement
27 and other benefits restored shall be made from the compensation

1 paid under Subsection (f)(1), and the municipality shall make its
2 standard corresponding contributions, if any, to the retirement
3 system or other applicable benefit systems.

4 (g) The commission may suspend or dismiss a fire fighter [~~or~~
5 ~~police officer~~] only for violation of civil service rules and only
6 after a finding by the commission of the truth of specific charges
7 against the fire fighter [~~or police officer~~].

8 SECTION 22. Subchapter D, Chapter 143, Local Government
9 Code, is amended by adding Section 143.0535 to read as follows:

10 Sec. 143.0535. APPEALS AND REJECTIONS OF DISCIPLINARY
11 SUSPENSIONS AND DEMOTIONS OF POLICE OFFICERS. (a) This section
12 does not apply to a municipality with a population of 1.5 million or
13 more.

14 (b) For purposes of this section, "civil service rule"
15 includes the underlying grounds described by Section 143.0515.

16 (c) A police officer has the right to appeal a suspension or
17 recommended demotion made under Section 143.0525 unless:

18 (1) offered by the department head, the police officer
19 agrees in writing to voluntarily accept a demotion or suspension of
20 up to 90 calendar days; or

21 (2) the department head is requesting to demote a
22 police officer who has been promoted in the last six months to the
23 police officer's previous civil service rank on the grounds
24 described by Section 143.0515(1) relating to the new position.

25 (d) Regardless of whether the police officer files an appeal
26 or has the right to appeal, the commission shall reject a suspension
27 or recommended demotion under this section and immediately

1 reinstate the police officer if the commission finds that the
2 department head did not fulfill the requirements of Section
3 143.0525(d).

4 (e) An appeal to the commission by a police officer under
5 this section must be filed with the commission within 10 business
6 days after the date the police officer receives the copy of the
7 statement in accordance with Section 143.0525(e).

8 (f) The commission shall hold a full and complete hearing
9 and render a decision in writing within 30 calendar days after the
10 date the commission receives notice of the appeal. The police
11 officer and commission may agree to postpone the hearing for a
12 definite period.

13 (g) In a hearing conducted under this section, the
14 department head is restricted to:

15 (1) the department head's unamended original written
16 statement and charges; and

17 (2) additional facts that become known to the
18 department head after the time of the suspension or recommended
19 demotion.

20 (h) The department head shall provide the additional facts
21 described by Subsection (g)(2) to:

22 (1) the appellant at least five business days before
23 the date set for hearing; and

24 (2) the commission.

25 (i) The commission may deliberate the decision in closed
26 session but may not consider evidence that was not presented at the
27 hearing. The commission shall vote in open session.

1 (j) The commission may suspend, dismiss, or demote a police
2 officer only for violation of civil service rules and only after a
3 finding by the commission of the truth of the specific charges
4 against the police officer.

5 (k) In the commission's decision, the commission shall
6 state whether the police officer is:

7 (1) permanently dismissed from the police department;

8 (2) temporarily suspended from the police department
9 for a definite period;

10 (3) demoted to the position requested by the
11 department head;

12 (4) demoted to a position between the police officer's
13 current position and the position requested by the department head;
14 or

15 (5) restored to the police officer's former position
16 or status in the police department's classified service.

17 (1) If the suspended police officer is restored to the
18 position or class of service from which the police officer was
19 suspended, the police officer is entitled to:

20 (1) full compensation for the actual time lost as a
21 result of the suspension at the rate of pay provided for the
22 position or class of service from which the police officer was
23 suspended; and

24 (2) restoration of or credit for any other benefits
25 lost as a result of the suspension in accordance with Subsection
26 (m), including sick leave, vacation leave, and service credit in a
27 retirement system.

1 (m) Standard payroll deductions, if any, for retirement and
2 other benefits restored under Subsection (1)(2) must be made from
3 the compensation paid, and the municipality shall make its standard
4 corresponding contributions, if any, to the retirement system or
5 other applicable benefit systems.

6 (n) A decision by the commission to suspend a police officer
7 for not more than 15 calendar days is final and may not be appealed
8 under Section 143.015.

9 (o) Except as otherwise provided by this section, an appeal
10 under this section shall follow the procedures prescribed by
11 Section 143.010.

12 SECTION 23. The heading to Section 143.054, Local
13 Government Code, is amended to read as follows:

14 Sec. 143.054. DEMOTIONS OF FIRE FIGHTERS AND CERTAIN POLICE
15 OFFICERS.

16 SECTION 24. Section 143.054, Local Government Code, is
17 amended by amending Subsections (a) and (c) and adding Subsection
18 (a-1) to read as follows:

19 (a) This section does not apply to a police department in a
20 municipality with a population of less than 1.5 million.

21 (a-1) If the head of the fire or police department wants a
22 fire fighter or police officer under the department head's ~~his~~
23 supervision or jurisdiction to be involuntarily demoted, the
24 department head may recommend in writing to the commission that the
25 commission demote the fire fighter or police officer.

26 (c) The commission may refuse to grant the request for
27 demotion. If the commission believes that probable cause exists for

1 ordering the demotion, the commission shall give the fire fighter
2 or police officer written notice to appear before the commission
3 for a public hearing at a time and place specified in the notice.
4 The commission shall give the notice before the 10th business day
5 before the date the hearing will be held.

6 SECTION 25. Section 143.056, Local Government Code, is
7 amended by amending Subsections (c) and (h) and adding Subsections
8 (c-1) and (i) to read as follows:

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) If the action directly related to the felony
17 indictment or misdemeanor complaint against a police officer was
18 discovered on or after the 360th day before the date of the
19 indictment or complaint, the department head may, within 30 days
20 after the date of final disposition of the indictment or complaint,
21 bring a charge against the police officer for a violation of civil
22 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) The department head may order an indefinite suspension
8 of a police officer based on an act classified as a felony or a Class
9 A or B misdemeanor after the 360-day period following the date of
10 the discovery of the act by the department if the department head
11 considers the delay to be necessary to protect a criminal
12 investigation of the police officer's conduct. If the department
13 head intends to order an indefinite suspension of the police
14 officer after the 360-day period, the department head must file
15 with the attorney general a statement describing the criminal
16 investigation and its objectives within 360 days after the date of
17 the discovery of the act by the department.

18 SECTION 26. The heading to Section [143.057](#), Local
19 Government Code, is amended to read as follows:

20 Sec. 143.057. FIRE FIGHTER APPEAL TO HEARING EXAMINER
21 [~~EXAMINERS~~].

22 SECTION 27. Sections [143.057](#)(a), (b), (c), (d), (e), (i),
23 and (j), Local Government Code, are amended to read as follows:

24 (a) In addition to the other notice requirements prescribed
25 by this chapter, the written notice for a promotional bypass or the
26 letter of disciplinary action, as applicable, issued to a fire
27 fighter [~~or police officer~~] must state that in an appeal of an

1 indefinite suspension, a suspension, a promotional bypass, or a
2 recommended demotion, the appealing fire fighter [~~or police~~
3 ~~officer~~] may elect to appeal to an independent third party hearing
4 examiner instead of to the commission. The letter must also state
5 that if the fire fighter [~~or police officer~~] elects to appeal to a
6 hearing examiner, the fire fighter [~~person~~] waives all rights to
7 appeal to a district court except as provided by Subsection (j).

8 (b) To exercise the choice of appealing to a hearing
9 examiner, the appealing fire fighter [~~or police officer~~] must
10 submit to the director a written request as part of the original
11 notice of appeal required under this chapter stating the fire
12 fighter's [~~person's~~] decision to appeal to an independent third
13 party hearing examiner.

14 (c) The hearing examiner's decision is final and binding on
15 all parties. If the fire fighter [~~or police officer~~] decides to
16 appeal to an independent third party hearing examiner, the fire
17 fighter [~~person~~] automatically waives all rights to appeal to a
18 district court except as provided by Subsection (j).

19 (d) If the appealing fire fighter [~~or police officer~~]
20 chooses to appeal to a hearing examiner, the fire fighter [~~or police~~
21 ~~officer~~] and the department head, or their designees, shall first
22 attempt to agree on the selection of an impartial hearing examiner.
23 If the parties do not agree on the selection of a hearing examiner
24 on or within 10 business days after the date the appeal is filed,
25 the director shall immediately request a list of seven qualified
26 neutral arbitrators from the American Arbitration Association or
27 the Federal Mediation and Conciliation Service, or their successors

1 in function. The fire fighter [~~or police officer~~] and the
2 department head, or their designees, may agree on one of the seven
3 neutral arbitrators on the list. If they do not agree within five
4 business [~~working~~] days after the date they received the list, each
5 party or the party's designee shall alternate striking a name from
6 the list and the name remaining is the hearing examiner. The
7 parties or their designees shall agree on a date for the hearing.

8 (e) The appeal hearing shall begin as soon as the hearing
9 examiner can be scheduled. If the hearing examiner cannot begin the
10 hearing within 45 calendar days after the date of selection, the
11 fire fighter [~~or police officer~~] may, within two business days
12 after learning of that fact, call for the selection of a new hearing
13 examiner using the procedure prescribed by Subsection (d).

14 (i) The hearing examiner's fees and expenses are shared
15 equally by the appealing fire fighter [~~or police officer~~] and by the
16 department. The costs of a witness are paid by the party who calls
17 the witness.

18 (j) A district court may hear an appeal of a hearing
19 examiner's award only on the grounds that the arbitration panel was
20 without jurisdiction or exceeded its jurisdiction or that the order
21 was procured by fraud, collusion, or other unlawful means. An
22 appeal must be brought in the district court having jurisdiction in
23 the municipality in which the fire [~~or police~~] department is
24 located.

25 SECTION 28. The heading to Section [143.083](#), Local
26 Government Code, is amended to read as follows:

27 Sec. 143.083. EMERGENCY APPOINTMENT OF TEMPORARY FIRE

1 FIGHTERS [~~AND POLICE OFFICERS~~].

2 SECTION 29. Section 143.083(a), Local Government Code, is
3 amended to read as follows:

4 (a) If a municipality is unable to recruit qualified fire
5 fighters [~~or police officers~~] because of the maximum age limit
6 prescribed by Section 143.023 and the municipality's governing body
7 finds that this inability creates an emergency, the commission
8 shall recommend to the governing body additional rules governing
9 the temporary employment of fire fighters [~~persons~~] who are 36
10 years of age or older.

11 SECTION 30. Section 143.089(f), Local Government Code, is
12 amended to read as follows:

13 (f) The director or the director's designee may not release
14 any information contained in a fire fighter's or police officer's
15 personnel file without first obtaining the person's written
16 permission, unless the release of the information is:

- 17 (1) required by law; or
18 (2) requested by a local, state, or federal law
19 enforcement agency conducting a criminal history check on a current
20 or former police officer.

21 SECTION 31. The following provisions of the Local
22 Government Code are repealed:

- 23 (1) Section 143.009(e);
24 (2) Section 143.023(c);
25 (3) Section 143.028; and
26 (4) Section 143.045(e).

27 SECTION 32. Chapter 143, Local Government Code, as amended

1 by this Act, applies only in relation to an employment action taken
2 on or after the effective date of this Act. An employment action
3 taken before the effective date of this Act is governed by the law
4 in effect on the date the employment action was taken, and that law
5 continues in effect for that purpose.

6 SECTION 33. Section [143.016](#), Local Government Code, as
7 amended by this Act, applies only to an offense committed on or
8 after the effective date of this Act. An offense committed before
9 the effective date of this Act is governed by the law in effect on
10 the date the offense was committed, and the former law is continued
11 in effect for that purpose. For purposes of this section, an
12 offense was committed before the effective date of this Act if any
13 element of the offense occurred before that date.

14 SECTION 34. This Act takes effect September 1, 2021.