

BILL ANALYSIS

H.B. 993
By: Muñoz, Jr.
County Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Peace officers covered by a sheriff's department civil service system have raised concerns regarding the necessity for parity between county civil service and municipal civil service to ensure a bipartisan and fair appeals process. H.B. 993 seeks to address the difference in appeals processes for municipal and county law enforcement personnel by allowing an employee covered by an applicable county civil service system to appeal to an independent third-party hearing examiner instead of to the county civil service commission.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 993 amends the Local Government Code to require a written notice for a promotional bypass, demotion, or notice of disciplinary action, as applicable, issued to an employee covered by an applicable county civil service system to state that in an appeal of a termination, a suspension, a promotional bypass, or a recommended demotion, the appealing employee may elect to appeal to an independent third-party hearing examiner instead of to the county civil service commission. The bill requires the letter to also state that if the employee elects to appeal to a hearing examiner, the employee waives all rights to appeal to a district court except as otherwise provided.

H.B. 993 requires the appealing employee, for purposes of exercising the choice of appealing to a hearing examiner, to submit to the commission a written request as part of the original notice of appeal stating the employee's decision to appeal to an independent third-party hearing examiner. The bill establishes that the hearing examiner's decision is final and binding on all parties and that an employee who decides to appeal to an independent third-party hearing examiner waives all rights to appeal to a district court except as otherwise provided.

H.B. 993 requires an employee who chooses to appeal to a hearing examiner and the sheriff, or the designees of the employee and sheriff, to first attempt to agree on the selection of an impartial hearing examiner. The bill provides for the selection of a hearing examiner if the parties do not agree on such a selection with a certain timeframe. The bill requires the parties or their designees to agree on a date for the hearing, requires the appeal hearing to begin as soon as the hearing examiner can be scheduled, and provides for the selection of a new hearing examiner if the hearing examiner cannot begin the hearing within a certain timeframe.

H.B. 993 establishes that the hearing examiner, in each hearing, has the same duties and powers as the county civil service commission, including the right to issue subpoenas. The bill authorizes the parties, in a hearing, to agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure the hearing examiner is required to render a decision on the appeal within 10 days after the date the hearing ended. The bill requires the hearing examiner, in an appeal that does not involve an expedited hearing procedure, to make a reasonable effort to render a decision on the appeal within 30 days after the date the hearing ends or the briefs are filed. The hearing examiner's inability to meet these time requirements does not affect the hearing examiner's jurisdiction, the validity of the disciplinary action, or the hearing examiner's final decision. The bill establishes that the hearing examiner's fees and expenses are shared equally by the appealing employee and by the department and that the costs of a witness are paid by the party who calls the witness.

H.B. 993 authorizes the hearing examiner to uphold, reduce, or overturn the discipline imposed on the employee. The bill prohibits evidence of lost compensation from being required by the hearing examiner to award the employee compensation. The bill, if the suspension, termination, or demotion is overturned or reduced, entitles the employee to the following:

- full compensation for the actual time lost as a result of the suspension at the rate of pay provided for the position or class of service from which the employee was suspended or terminated; and
- restoration of or credit for any other benefits lost as a result of the suspension, including sick leave, vacation leave, and service credit in a retirement system.

The bill requires standard payroll deductions, if any, for retirement and other benefits restored to be made from the compensation paid and requires the county to make its standard corresponding contributions, if any, to the retirement system or other applicable benefit systems. The bill, in the case of an overturning of a demotion, entitles the employee to the difference in compensation between the position they were demoted from and the position they held between the demotion and the ruling of the hearing examiners. The bill establishes that if an employee is owed a monetary award for backpay after the hearing examiner's final decision is rendered, the county's obligations are the same as those provided by certain provisions.

H.B. 993 authorizes a district court to hear an appeal of a hearing examiner's award only on the grounds that the hearing examiner was without jurisdiction or exceeded the hearing examiner's jurisdiction or that the order was procured by fraud, collusion, or other unlawful means or the ruling was arbitrary or capricious. The appeal must be brought in the district court having jurisdiction in the county in which the department is located. The bill establishes that the appeal is under the substantial evidence rule and that the district court's judgment is appealable as in other civil cases. The bill requires an appeal to district court to be filed with the district court with proper jurisdiction within 45 days after the hearing examiner issued their final ruling and state clearly the basis for the appeal.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.