

By: Martinez

H.B. No. 1353

A BILL TO BE ENTITLED

AN ACT

relating to deputy sheriff civil service appeals of certain sheriff's department actions.

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

SECTION 1. Chapter 158, Local Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. DEPUTY SHERIFF APPEAL TO INDEPENDENT HEARING

EXAMINER

Sec. 158.101. DEFINITION. In this subchapter, "commission" means the civil service commission appointed to administer the applicable civil service system.

Sec. 158.102. APPLICABILITY OF SUBCHAPTER. This subchapter applies to a civil service system created under this chapter that covers deputy sheriffs.

Sec. 158.103. AUTHORITY TO APPEAL TO INDEPENDENT EXAMINER; REPEAL OF AUTHORITY. (a) If authorized to do so by an order of the commissioners court, a commission by rule may authorize deputy sheriffs to appeal under this subchapter to an independent hearing examiner instead of to the commission the following employment actions:

(1) a demotion or recommended demotion;

(2) a suspension of three days or more; or

(3) a termination.

(b) A commissioners court may repeal the order authorizing

1 appeals to a hearing examiner under Subsection (a) at any time. If  
2 the commissioners court repeals the order, any pending appeal is  
3 governed by this subchapter until final resolution of the appeal.

4 Sec. 158.104. REQUIRED NOTICE OF HEARING EXAMINER APPEAL.

5 A written notice for a demotion or disciplinary action issued to a  
6 deputy sheriff must state that in an appeal of a demotion or  
7 recommended demotion, a suspension of three days or more, or a  
8 termination, the deputy may appeal to an independent hearing  
9 examiner instead of to the commission. The notice must state that  
10 if the deputy appeals to a hearing examiner, the deputy waives the  
11 right to appeal to district court except as provided by Section  
12 158.111(b).

13 Sec. 158.105. REQUEST FOR HEARING EXAMINER APPEAL. To  
14 appeal to a hearing examiner, a deputy sheriff must submit to the  
15 commission and the sheriff a written request as part of any original  
16 notice of appeal required under the commission's rules stating the  
17 deputy's preference to appeal to an independent hearing examiner.

18 Sec. 158.106. SELECTION OF HEARING EXAMINER. (a) On a  
19 request under Section 158.105, the deputy sheriff and the sheriff,  
20 or their designees, shall attempt to agree on the selection of an  
21 impartial hearing examiner.

22 (b) If the deputy and the sheriff do not agree on the  
23 selection of a hearing examiner before the 11th day after the date  
24 the appeal is filed, the commission shall request a list of seven  
25 qualified arbitrators from the American Arbitration Association or  
26 the Federal Mediation and Conciliation Service, or their successors  
27 in function.

1       (c) The deputy and the sheriff, or their designees, may  
2 agree on one of the seven arbitrators on the list described by  
3 Subsection (b). If the deputy and the sheriff do not agree before  
4 the sixth business day after the date the list is received, the  
5 deputy and the sheriff, or their designees, shall alternate  
6 striking a name from the list and the name remaining is the hearing  
7 examiner.

8       Sec. 158.107. DATE OF HEARING. (a) The deputy sheriff and  
9 the sheriff, or their designees, must agree on a date for an appeal  
10 hearing conducted under this subchapter.

11       (b) An appeal hearing must begin as soon as a hearing  
12 examiner can be scheduled. If a hearing examiner cannot begin the  
13 hearing within 45 days after the date of selection, the deputy or  
14 the sheriff may, before the third day after the date the deputy or  
15 sheriff learns of that fact, call for the selection of a new hearing  
16 examiner using the procedure under Section 158.106.

17       Sec. 158.108. POWERS OF HEARING EXAMINER. In an appeal  
18 hearing conducted under this subchapter, the hearing examiner has  
19 the same powers and duties as the commission, including any right to  
20 issue subpoenas.

21       Sec. 158.109. DECISION DEADLINE. (a) In an appeal hearing  
22 conducted under this subchapter, the deputy sheriff and the sheriff  
23 may agree to an expedited hearing procedure. Unless otherwise  
24 agreed to by the deputy and the sheriff, a hearing examiner shall  
25 render a decision on the appeal in an expedited procedure not later  
26 than the 10th day after the date the hearing ends.

27       (b) In an appeal that does not involve an expedited hearing

1 procedure, a hearing examiner shall make a reasonable effort to  
2 render a decision on the appeal not later than the 30th day after  
3 the date the hearing ends or the briefs are filed.

4 (c) A hearing examiner's inability to meet the time  
5 requirements imposed by this subchapter does not affect the hearing  
6 examiner's jurisdiction, the validity of the disciplinary action,  
7 or the hearing examiner's final decision.

8 Sec. 158.110. COSTS OF HEARING. (a) A party who loses an  
9 appeal is liable for the hearing examiner's fees and expenses.

10 (b) The costs of a witness are paid by the party who calls  
11 the witness.

12 Sec. 158.111. APPEAL OF DECISION. (a) A hearing examiner's  
13 decision is final and binding on all parties. A deputy sheriff who  
14 decides to appeal to an independent hearing examiner waives the  
15 right to appeal to district court except as provided by Subsection  
16 (b).

17 (b) A district court may hear an appeal of a hearing  
18 examiner's award only on the grounds that the hearing examiner was  
19 without jurisdiction or exceeded the hearing examiner's  
20 jurisdiction or that the order was procured by fraud, collusion, or  
21 other unlawful means. An appeal must be brought in the district  
22 court having jurisdiction in the county.

23 SECTION 2. This Act takes effect September 1, 2023.