

By: Holland

H.B. No. 4842

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 adding new subsection (6) to read as follows:

(6) "Civilian Oversight Commission" means any civilian body created or appointed by a political subdivision to practice oversight, monitoring, or investigations of fire fighters or law enforcement officers or departments.

SECTION 2. Chapter 143, Local Government Code is amended by adding a new Section 143.017 to read as follows:

Sec. 143.017. INVESTIGATIONS OF EMPLOYEES. For purposes of this Chapter, an investigation shall not be performed by a civilian oversight commission, as defined in 143.003, Local Government Code.

SECTION 3. Section 143.089(3), Local Government Code, is amended by amending subsection (b) and adding new subsections (i) and (j) to read as follows:

Sec. 143.089. PERSONNEL FILE. (a) The director or the director's designee shall maintain a personnel file on each fire fighter and police officer. The personnel file must contain any letter, memorandum, or document relating to:

(1) a commendation, congratulation, or honor bestowed

1 on the fire fighter or police officer by a member of the public or by  
2 the employing department for an action, duty, or activity that  
3 relates to the person's official duties;

4 (2) any misconduct by the fire fighter or police  
5 officer if the letter, memorandum, or document is from the  
6 employing department and if the misconduct resulted in disciplinary  
7 action by the employing department in accordance with this chapter;  
8 and

9 (3) the periodic evaluation of the fire fighter or  
10 police officer by a supervisor.

11 (b) A letter, memorandum, or document relating to alleged  
12 misconduct by the fire fighter or police officer may not be placed  
13 in the person's personnel file if the employing department  
14 determines that there is insufficient evidence to sustain the  
15 charge of misconduct. Letters, memorandum, or documents related to  
16 alleged misconduct are confidential while the investigation is  
17 pending. For purposes consistent with Section 1701.451,  
18 Occupations Code, a law enforcement agency hiring a police officer  
19 is entitled to view the contents of an investigation file made  
20 confidential under this subsection.

21 (c) A letter, memorandum, or document relating to  
22 disciplinary action taken against the fire fighter or police  
23 officer or to alleged misconduct by the fire fighter or police  
24 officer that is placed in the person's personnel file as provided by  
25 Subsection (a)(2) shall be removed from the employee's file if the  
26 commission finds that:

27 (1) the disciplinary action was taken without just

1 cause; or

2 (2) the charge of misconduct was not supported by  
3 sufficient evidence.

4 (d) If a negative letter, memorandum, document, or other  
5 notation of negative impact is included in a fire fighter's or  
6 police officer's personnel file, the director or the director's  
7 designee shall, within 30 days after the date of the inclusion,  
8 notify the affected fire fighter or police officer. The fire  
9 fighter or police officer may, on or before the 15th day after the  
10 date of receipt of the notification, file a written response to the  
11 negative letter, memorandum, document, or other notation.

12 (e) The fire fighter or police officer is entitled, on  
13 request, to a copy of any letter, memorandum, or document placed in  
14 the person's personnel file. The municipality may charge the fire  
15 fighter or police officer a reasonable fee not to exceed actual cost  
16 for any copies provided under this subsection.

17 (f) The director or the director's designee may not release  
18 any information contained in a fire fighter's or police officer's  
19 personnel file without first obtaining the person's written  
20 permission, unless the release of the information is required by  
21 law.

22 (g) A fire or police department may maintain a personnel  
23 file on a fire fighter or police officer employed by the department  
24 for the department's use. Except as provided by Subsection (h), the  
25 department may not release any information contained in the  
26 department file to any agency or person requesting information  
27 relating to a fire fighter or police officer. The department shall

1 refer to the director or the director's designee a person or agency  
2 that requests information that is maintained in the fire fighter's  
3 or police officer's personnel file.

4 (h) As provided by Section 1701.451, Occupations Code, a law  
5 enforcement agency hiring a police officer is entitled to view the  
6 contents of the officer's personnel file maintained under  
7 Subsection (g).

8 (i) Notwithstanding Subsection (b), the employing  
9 department may disclose information for a law enforcement purpose.

10 (j) A local ordinance, executive order, or rule adopted by a  
11 political subdivision may not supersede any provision in this  
12 section.

13 SECTION 4. Chapter 143, Local Government Code is amended by  
14 adding a new section 143.091 to read as follows:

15 Sec. 143.091. MUTUAL AGREEMENTS CONTROL. A mutual  
16 agreement between a public employer and the bargaining agent  
17 supersedes a local ordinance, executive order, or rule adopted by a  
18 political subdivision.

19 SECTION 5. Chapter 143, Local Government Code is amended by  
20 adding a new section 143.092 to read as follows:

21 Sec. 143.092. ABILITY TO SERVE ON A CIVILIAN OVERSIGHT  
22 COMMISSION. A person who has been convicted or placed on deferred  
23 adjudication for a felony offense, or a person who has been  
24 convicted for a crime of moral turpitude is not eligible to serve on  
25 a civilian oversight commission.

26 SECTION 6. TRANSITION PROVISIONS; EFFECTIVE DATE

27 SECTION 6.01. Section 143.091, Local Government Code, as

1 added by this Act, applies to an agreement that was in effect on  
2 January 1, 2023.

3       SECTION 6.02. This Act takes effect immediately if it  
4 receives a vote of two-thirds of all the members elected to each  
5 house, as provided by Section 39, Article III, Texas Constitution.  
6 If this Act does not receive the vote necessary for immediate  
7 effect, this Act takes effect September 1, 2023.