

By: Johnson

S.B. No. 909

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

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

27 (2) the head of the police department provides a

justification for hiring outside of the department to the commission and the commission determines that:

(A) the justification is valid; and

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

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

(a) Except for a decision by the commission to suspend a police officer for not more than 15 calendar days, [If] a fire fighter or police officer may appeal [is dissatisfied with] any commission decision by filing [the fire fighter or police officer may file] a petition in district court asking that the decision be set aside. The petition must:

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

[(-1) is sent to the fire fighter or police officer by certified mail, or]

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

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

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

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

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

11 **(b-1) If the district court determines a petition by a**
12 **police officer does not fulfill the requirements of Subsection**
13 **(a)(2), the district court shall dismiss the petition.**

14 SECTION 5. Section [143.016](#), Local Government Code, is
15 amended to read as follows:

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

19 (1) fails to respond to a subpoena issued under
20 Section [143.009](#); or

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

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

27 SECTION 6. Section [143.024](#)(a), Local Government Code, is

1 amended to read as follows:

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

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

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

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

26 (1) take the same examination; and

27 (2) be examined in the presence of other applicants

1 for that eligibility list.

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

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

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

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

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

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

26 (b-1) Each promotional examination is open to each fire
27 fighter who is eligible under Subsection (b) [~~at any time has~~

~~continuously held for at least two years a position in the classification that is immediately below, in salary, the classification for which the examination is to be held].~~

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

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

SECTION 11. The heading to Section [143.031](#), Local Government Code, is amended to read as follows:

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

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

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

(a-1) Each promotional examination is open to each police officer who is eligible under Subsection (a) [~~for at least two years~~

1 ~~immediately before the examination date has continuously held a~~
2 ~~position in the classification that is immediately below, in~~
3 ~~salary, the classification for which the examination is to be~~
4 ~~held].~~

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

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

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

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

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

27 SECTION 14. Section 143.045(d), Local Government Code, is

1 amended to read as follows:

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

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

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

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

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

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

27 SECTION 15. Section [143.051](#), Local Government Code, is

1 amended to read as follows:

2 Sec. 143.051. CAUSE FOR REMOVAL OR SUSPENSION OF FIRE
3 FIGHTERS. A commission rule prescribing cause for removal or
4 suspension of a fire fighter [~~or police officer~~] is not valid unless
5 it involves one or more of the following grounds:

6 (1) conviction of a felony or other crime involving
7 moral turpitude;

8 (2) violations of a municipal charter provision;

9 (3) acts of incompetency;

10 (4) neglect of duty;

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

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

14 (7) drinking intoxicants while on duty or intoxication
15 while off duty;

16 (8) conduct prejudicial to good order;

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

18 (10) absence without leave;

19 (11) shirking duty or cowardice at fires, if
20 applicable; or

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

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

25 Sec. 143.0515. CAUSE FOR REMOVAL, SUSPENSION, OR DEMOTION
26 OF POLICE OFFICERS. A commission rule prescribing cause for
27 removal, suspension, or demotion of a police officer is valid only

if it involves one or more of the following grounds:

(1) acts of incompetency, neglect, or failure to perform a job function deemed essential to the position as set forth in the police department's job description for the position;

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

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

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

(C) conduct prejudicial to good order;

(D) refusal or neglect to pay just debts;

(E) absence without leave;

(F) excessive use of force; or

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

(3) violation of a municipal charter provision;

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

(5) a plea of guilty or nolo contendere, an adjudication of guilt, a probated sentence, a deferred adjudication, or a verdict of guilty after a criminal trial of any felony offense or any of the following misdemeanor offenses:

(A) an offense listed under Subchapter D, Chapter 481, Health and Safety Code, that is punishable as a misdemeanor (drug offenses);

1 (B) an offense listed under Chapter 15, Penal
2 Code, that constitutes an attempt, conspiracy, or solicitation to
3 commit another offense under this subdivision;

4 (C) any offense listed under Chapter 21, Penal
5 Code (sexual offenses);

6 (D) any offense listed under Section 22.012,
7 Penal Code (indecent assault);

8 (E) any offense listed under Chapter 30, Penal
9 Code (burglary and criminal trespass);

10 (F) any offense listed under Chapter 31, Penal
11 Code (theft);

12 (G) any offense listed under Chapter 32, 35, or
13 35A, Penal Code (fraud);

14 (H) any offense listed under Chapter 36, Penal
15 Code (bribery and corrupt influence);

16 (I) any offense listed under Chapter 37, Penal
17 Code (perjury and other falsification);

18 (J) any offense listed under Chapter 39, Penal
19 Code (abuse of office);

20 (K) any offense listed under Chapter 43, Penal
21 Code (public indecency);

22 (L) any offense listed under Section 49.04,
23 49.05, or 49.06, Penal Code (intoxication offenses); or

24 (M) other misdemeanor crimes of moral turpitude;
25 or

26 (6) acts constituting an offense under Subdivision
27 (5), regardless of criminal prosecution, including any act in any

1 jurisdiction other than this state, which if committed in this
2 state would constitute such an offense unless a court has held the
3 offense as unconstitutional.

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

6 Sec. 143.052. DISCIPLINARY SUSPENSIONS OF FIRE FIGHTERS.

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

9 (b) The head of the fire ~~[or police]~~ department may suspend
10 a fire fighter ~~[or police officer]~~ under the department head's
11 supervision or jurisdiction for the violation of a civil service
12 rule. The suspension may be for a reasonable period not to exceed
13 15 calendar days or for an indefinite period. An indefinite
14 suspension is equivalent to dismissal from the department.

15 (c) If the department head suspends a fire fighter ~~[or~~
16 ~~police officer]~~, the department head shall, within 120 hours after
17 the hour of suspension, file a written statement with the
18 commission giving the reasons for the suspension. The department
19 head shall immediately deliver a copy of the statement in person to
20 the suspended fire fighter ~~[or police officer]~~.

21 (d) The copy of the written statement must inform the
22 suspended fire fighter ~~[or police officer]~~ that if the fire fighter
23 ~~[person]~~ wants to appeal to the commission, the fire fighter
24 ~~[person]~~ must file a written appeal with the commission within 10
25 business days after the date the fire fighter ~~[person]~~ receives the
26 copy of the statement.

27 (e) The written statement filed by the department head with

1 the commission must point out each civil service rule alleged to
 2 have been violated by the suspended fire fighter [~~or police~~
 3 ~~officer~~] and must describe the alleged acts of the fire fighter
 4 [~~person~~] that the department head contends are in violation of the
 5 civil service rules. It is not sufficient for the department head
 6 merely to refer to the provisions of the rules alleged to have been
 7 violated.

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

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

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

for which the fire fighter [~~or police officer~~] is subject to a criminal penalty, the department head may not complain of an act that is discovered earlier than the 180th day preceding the date the department head suspends the fire fighter [~~or police officer~~]. The department head must allege that the act complained of is related to criminal activity.

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

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

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

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

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

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

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

(d) If the department head suspends or recommends to demote a police officer under this section, the department head shall, within five business days after the date of suspension or recommended demotion, file a written statement with the commission.

1 The written statement must identify each civil service rule alleged
2 to have been violated by the police officer and describe the alleged
3 acts of the police officer that the department head contends are in
4 violation of the civil service rules. It is not sufficient for the
5 department head merely to refer to the provisions of the rules
6 alleged to have been violated.

7 (e) The department head shall deliver a copy of the
8 statement in person or by certified mail to the police officer
9 within five business days after the date the department head
10 suspends or recommends demotion of the police officer. The copy
11 must inform the police officer of the police officer's right to
12 appeal under Section 143.0535.

13 (f) A suspension under this section may go into effect
14 immediately.

15 (g) A recommended demotion under this section goes into
16 effect if the commission grants the request of the department head.

17 (h) In the original written statement and charges and in any
18 hearing conducted under this chapter, the department head may not
19 complain of an act that was discovered by the department before the
20 360th day preceding the date the department head suspends or
21 recommends demotion of the police officer.

22 (i) If the act described by Subsection (h) is allegedly
23 related to criminal activity, including the violation of a federal,
24 state, or local law for which the police officer is subject to a
25 criminal penalty, the department head must allege in the original
26 written statement and charges that the act is related to criminal
27 activity.

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

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

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

(b) If a suspended fire fighter ~~[or police officer]~~ appeals the suspension to the commission, the commission shall hold a hearing and render a decision in writing within 30 days after the date it receives notice of appeal. The suspended fire fighter ~~[person]~~ and the commission may agree to postpone the hearing for a definite period.

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

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

(2) temporarily suspended from the department; or

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

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

(1) full compensation for the actual time lost as a

1 result of the suspension at the rate of pay provided for the
2 position or class of service from which the fire fighter ~~[person]~~
3 was suspended; and

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

8 (f-1) Standard payroll deductions, if any, for retirement
9 and other benefits restored shall be made from the compensation
10 paid under Subsection (f)(1), and the municipality shall make its
11 standard corresponding contributions, if any, to the retirement
12 system or other applicable benefit systems.

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

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

19 Sec. 143.0535. APPEALS AND REJECTIONS OF DISCIPLINARY
20 SUSPENSIONS AND DEMOTIONS OF POLICE OFFICERS. (a) This section
21 does not apply to a municipality with a population of 1.5 million or
22 more.

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

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

27 (1) if offered by the department head, the police

1 officer agrees in writing to voluntarily accept a demotion or
2 suspension of up to 90 calendar days; or

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

7 (d) Regardless of whether the police officer files an appeal
8 or has the right to appeal, the commission shall reject a suspension
9 or recommended demotion under this section and immediately
10 reinstate the police officer if the commission finds that the
11 department head did not fulfill the requirements of Section
12 143.0525(d).

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

17 (f) The commission shall hold a full and complete hearing
18 and render a decision in writing within 30 calendar days after the
19 date the commission receives notice of the appeal. The police
20 officer and commission may agree to postpone the hearing for a
21 definite period.

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

24 (1) the department head's unamended original written
25 statement and charges; and

26 (2) additional facts that become known to the
27 department head after the time of the suspension or recommended

1 demotion.

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

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

6 (2) the commission.

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

10 (j) The commission may suspend, dismiss, or demote a police
11 officer only for violation of civil service rules and only after a
12 finding by the commission of the truth of the specific charges
13 against the police officer.

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

16 (1) permanently dismissed from the police department;

17 (2) temporarily suspended from the police department
18 for a definite period;

19 (3) demoted to the position requested by the
20 department head;

21 (4) demoted to a position between the police officer's
22 current position and the position requested by the department head;
23 or

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

26 (1) If the suspended police officer is restored to the
27 position or class of service from which the police officer was

1 suspended, the police officer is entitled to:

2 (1) full compensation for the actual time lost as a
3 result of the suspension at the rate of pay provided for the
4 position or class of service from which the police officer was
5 suspended; and

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

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

15 (n) A decision by the commission to suspend a police officer
16 for not more than 15 calendar days is final and may not be appealed
17 under Section [143.015](#).

18 (o) Except as otherwise provided by this section, an appeal
19 under this section shall follow the procedures prescribed by
20 Section [143.010](#).

21 SECTION 23. The heading to Section [143.054](#), Local
22 Government Code, is amended to read as follows:

23 Sec. 143.054. DEMOTIONS OF FIRE FIGHTERS AND CERTAIN POLICE
24 OFFICERS.

25 SECTION 24. Section [143.054](#), Local Government Code, is
26 amended by amending Subsections (a) and (c) and adding Subsection
27 (a-1) to read as follows:

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

3 (a-1) If the head of the fire or police department wants a
4 fire fighter or police officer under the department head's ~~[his]~~
5 supervision or jurisdiction to be involuntarily demoted, the
6 department head may recommend in writing to the commission that the
7 commission demote the fire fighter or police officer.

8 (c) The commission may refuse to grant the request for
9 demotion. If the commission believes that probable cause exists for
10 ordering the demotion, the commission shall give the fire fighter
11 or police officer written notice to appear before the commission
12 for a public hearing at a time and place specified in the notice.
13 The commission shall give the notice before the 10th business day
14 before the date the hearing will be held.

15 SECTION 25. Section [143.056](#), Local Government Code, is
16 amended by amending Subsections (c) and (h) and adding Subsections
17 (c-1) and (i) to read as follows:

18 (c) If the action directly related to the felony indictment
19 or misdemeanor complaint against a fire fighter occurred or was
20 discovered on or after the 180th day before the date of the
21 indictment or complaint, the department head may, within 30 days
22 after the date of final disposition of the indictment or complaint,
23 bring a charge against the fire fighter ~~[or police officer]~~ for a
24 violation of civil service rules.

25 (c-1) If the action directly related to the felony
26 indictment or misdemeanor complaint against a police officer was
27 discovered on or after the 360th day before the date of the

indictment or complaint, the department head may, within 30 days after the date of final disposition of the indictment or complaint, bring a charge against the police officer for a violation of civil service rules.

(h) The department head may order an indefinite suspension of a fire fighter based on an act classified as a felony or a Class A or B misdemeanor after the 180-day period following the date of the discovery of the act by the department if the department head considers delay to be necessary to protect a criminal investigation of the fire fighter's ~~[person's]~~ conduct. If the department head intends to order an indefinite suspension of the fire fighter after the 180-day period, the department head must file with the attorney general a statement describing the criminal investigation and its objectives within 180 days after the date the act complained of occurred.

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

SECTION 26. The heading to Section [143.057](#), Local

1 Government Code, is amended to read as follows:

2 Sec. 143.057. FIRE FIGHTER APPEAL TO HEARING EXAMINER
3 ~~[EXAMINERS]~~.

4 SECTION 27. Sections 143.057(a), (b), (c), (d), (e), (i),
5 and (j), Local Government Code, are amended to read as follows:

6 (a) In addition to the other notice requirements prescribed
7 by this chapter, the written notice for a promotional bypass or the
8 letter of disciplinary action, as applicable, issued to a fire
9 fighter ~~[or police officer]~~ must state that in an appeal of an
10 indefinite suspension, a suspension, a promotional bypass, or a
11 recommended demotion, the appealing fire fighter ~~[or police~~
12 ~~officer]~~ may elect to appeal to an independent third party hearing
13 examiner instead of to the commission. The letter must also state
14 that if the fire fighter ~~[or police officer]~~ elects to appeal to a
15 hearing examiner, the fire fighter ~~[person]~~ waives all rights to
16 appeal to a district court except as provided by Subsection (j).

17 (b) To exercise the choice of appealing to a hearing
18 examiner, the appealing fire fighter ~~[or police officer]~~ must
19 submit to the director a written request as part of the original
20 notice of appeal required under this chapter stating the fire
21 fighter's ~~[person's]~~ decision to appeal to an independent third
22 party hearing examiner.

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

1 (d) If the appealing fire fighter ~~[or police officer]~~
2 chooses to appeal to a hearing examiner, the fire fighter ~~[or police~~
3 ~~officer]~~ and the department head, or their designees, shall first
4 attempt to agree on the selection of an impartial hearing examiner.
5 If the parties do not agree on the selection of a hearing examiner
6 on or within 10 business days after the date the appeal is filed,
7 the director shall immediately request a list of seven qualified
8 neutral arbitrators from the American Arbitration Association or
9 the Federal Mediation and Conciliation Service, or their successors
10 in function. The fire fighter ~~[or police officer]~~ and the
11 department head, or their designees, may agree on one of the seven
12 neutral arbitrators on the list. If they do not agree within five
13 business ~~[working]~~ days after the date they received the list, each
14 party or the party's designee shall alternate striking a name from
15 the list and the name remaining is the hearing examiner. The
16 parties or their designees shall agree on a date for the hearing.

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

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

27 (j) A district court may hear an appeal of a hearing

1 examiner's award only on the grounds that the arbitration panel was
2 without jurisdiction or exceeded its jurisdiction or that the order
3 was procured by fraud, collusion, or other unlawful means. An
4 appeal must be brought in the district court having jurisdiction in
5 the municipality in which the fire ~~[or police]~~ department is
6 located.

7 SECTION 28. The heading to Section 143.083, Local
8 Government Code, is amended to read as follows:

9 Sec. 143.083. EMERGENCY APPOINTMENT OF TEMPORARY FIRE
10 FIGHTERS ~~[AND POLICE OFFICERS]~~.

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

13 (a) If a municipality is unable to recruit qualified fire
14 fighters ~~[or police officers]~~ because of the maximum age limit
15 prescribed by Section 143.023 and the municipality's governing body
16 finds that this inability creates an emergency, the commission
17 shall recommend to the governing body additional rules governing
18 the temporary employment of fire fighters ~~[persons]~~ who are 36
19 years of age or older.

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

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

26 (1) required by law; or

27 (2) requested by a local, state, or federal law

1 enforcement agency conducting a criminal history check on a current
2 or former police officer.

3 SECTION 31. The following provisions of the Local
4 Government Code are repealed:

- 5 (1) Section 143.009(e);
- 6 (2) Section 143.023(c);
- 7 (3) Section 143.028; and
- 8 (4) Section 143.045(e).

9 SECTION 32. Chapter 143, Local Government Code, as amended
10 by this Act, applies only in relation to an employment action taken
11 on or after the effective date of this Act. An employment action
12 taken before the effective date of this Act is governed by the law
13 in effect on the date the employment action was taken, and that law
14 continues in effect for that purpose.

15 SECTION 33. Section 143.016, Local Government Code, as
16 amended by this Act, applies only to an offense committed on or
17 after the effective date of this Act. An offense committed before
18 the effective date of this Act is governed by the law in effect on
19 the date the offense was committed, and the former law is continued
20 in effect for that purpose. For purposes of this section, an
21 offense was committed before the effective date of this Act if any
22 element of the offense occurred before that date.

23 SECTION 34. This Act takes effect September 1, 2023.