

BILL ANALYSIS

H.B. 3319
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Intergovernmental Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The bill author has informed the committee that creating a civil service system for all employees of the constable's department in Harris County would provide a fair and equitable system so that all county peace officers are equally represented when it comes to employment rights and benefits. H.B. 3319 seeks to address this issue by providing for the creation of a civil service system in Harris County for all constable's department employees by order of the commissioners court or by election.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes 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. 3319 amends the Local Government Code to authorize a county with a population of more than 3.3 million to create a civil service system for all constable's department employees in the county, including deputy constables. The bill defines "employee" as a department employee, including a deputy constable, and the bill defines "department" as a constable's department.

H.B. 3319 requires a judge to order an election on the question of the creation of a civil service system for all employees in the county if at least 20 percent of a county's employees sign a petition requesting such an election and present the petition to the county judge. The bill requires the county judge to hold the election after the 15th day but on or before the 45th day after the date the petition is submitted. The election must be by secret ballot, and each employee is entitled to vote at the election. The bill requires the ballots for the election to be printed to provide for voting for or against the creation. The bill requires the county judge to canvass the votes and declare the result. The bill authorizes the commissioners court of a county to by order create a civil service system for all employees in the county in lieu of an establishment by petition or election.

H.B. 3319 requires each constable, the commissioners court, and the district attorney to each appoint one person to serve as a member of the commission if a majority of the employees voting at the election approve the creation of, or the commissioners court by order creates, a civil service system. The bill requires the members of the commission to elect one of the members as chair of the commission. The bill establishes that each member is appointed for a term of two years and provides for the appointment of a member to fill a vacancy. The bill sets out eligibility

for appointment to the commission and provides for the reimbursement of members and commission staffing.

H.B. 3319 requires the commission to adopt, publish, and enforce rules regarding the following:

- selection and classification of employees;
- competitive examinations;
- promotions, seniority, and tenure;
- layoffs and dismissals;
- disciplinary actions;
- grievance procedures;
- the rights of employees during an internal investigation; and
- other matters relating to the selection of employees and the procedural and substantive rights, advancement, benefits, and working conditions of employees.

The bill authorizes the commission to adopt or use as a guide any civil service law or rule of the United States, the state, or a political subdivision in the state to the extent that the law or rule promotes the purposes of the bill and is consistent with the needs and circumstances of the departments.

H.B. 3319 sets out procedures relating to an employee who is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor, including procedures related to the following:

- temporary suspension of the employee and certain notice to the employee of the suspension;
- an authorized delay of the applicable civil service hearing after final disposition of the indictment or complaint for an employee so indicted or charged who has also been charged with a civil service rule violation directly related to the indictment or complaint; and
- an appeal to the commission for recovery of back pay for an employee who was temporarily suspended but was not found guilty as charged in the indictment or complaint in the applicable court.

The bill authorizes the commission to award all or part of the back pay or to modify or uphold the decision by the constable. In addition, the bill establishes the following:

- acquittal or dismissal of an indictment or a complaint does not mean that an employee has not violated a civil service rule and does not negate the charges that may have been or may be brought against the employee by the constable;
- conviction of a felony is cause for dismissal; and
- conviction of a Class A or B misdemeanor may be cause for disciplinary action or dismissal.

H.B. 3319 requires the chair of the commission, in a proceeding before the commission and on request of the affected employee, the county attorney, or a designees of the employee or county attorney, to administer oaths and issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material. The bill authorizes such a person to request the chair of the commission, before the 10th day before the date the commission proceeding will be held, to subpoena any books, records, papers, accounts, or witnesses that the requestor considers relevant to the case. The bill establishes that an oath administered for purposes of the bill's provisions has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity and that a response to a subpoena duces tecum under the bill's provisions is considered to have been made under oath. A person who is subpoenaed and fails to appear as required by the subpoena commits a misdemeanor offense, punishable by a fine up to \$1,000, confinement in the county jail for not more than 30 days, or both the fine and confinement.

H.B. 3319 authorizes an employee who, on a final decision by the commission, is demoted, suspended, or removed from a position to appeal the decision by filing a petition in a district

court in the county within 30 days after the date of the decision. The bill establishes that such an appeal is under the substantial evidence rule, and the judgment of the district court is appealable as in other civil cases. The bill authorizes the district court to order reinstatement of the employee, payment of back pay, or other appropriate relief if the court renders judgment for the petitioner.

H.B. 3319 requires a panel of three commissioners to preside at the hearing and vote on the commission's final decision in any case involving termination, demotion, or recovery of back pay. A panel's decision is the final decision of the commission for these purposes. The bill requires the commission to adopt rules prescribing the commission's procedures for assigning members to a panel and prohibits a panel from including the member who was appointed to the commission by a constable when the hearing involves an employee from that constable's department. The bill authorizes the commission, in rendering a final decision regarding a disciplinary action by the department, to only sustain, overturn, or reduce the disciplinary action and prohibits the commission from enhancing a disciplinary action by the department.

H.B. 3319 applies the same standards and procedures for review of an employee's demotion, suspension, or removal established by state law to an appeal under the bill's provisions. The bill authorizes the commission to require a party who appeals a decision under the bill's provisions to pay the cost of preparing the commission record in the same manner provided by state law.

H.B. 3319 prohibits a person who is an employee on the date that a civil service system is adopted from being required to take a competitive examination or performing any other act to maintain the person's employment. The bill authorizes each constable of a county to designate as exempt from the civil service system the following positions:

- the position of chief deputy;
- four positions in the rank immediately under the rank of chief deputy;
- one or more positions in the office of departmental legal counsel; and
- additional positions in the department, except that the constable may not designate as exempt a total of more than 10 positions.

The bill authorizes an employee holding an exempt position to be transferred to the nonexempt position held by the employee immediately before being promoted to an exempt position at the time a new constable takes office. The bill authorizes a person who was not an officer in the department when appointed to an exempt position to be transferred only to an entry level position in accordance with the system's civil service rules.

H.B. 3319 authorizes a person, after a civil service system has been in effect in a county for at least one year, to file a petition signed by at least 10 percent of the registered voters of the county with the county judge for a countywide election on the dissolution of the civil service system. The bill requires the county judge, on receipt of such petition, to order an election in the county on the question of the dissolution of the civil service system to be held in the county:

- on the next uniform election date that allows sufficient time to comply with applicable provisions of law; or
- at a special election called for that purpose.

The bill requires the ballots for the election to be printed to provide for voting for or against the dissolution and requires the county judge to declare the civil service system dissolved if a majority of the voters voting at the election approve such dissolution.

H.B. 3319 requires the county judge to order an election on the question of the dissolution of the civil service system if, after a civil service system has been in effect in a county for at least one year, at least 20 percent of the employees in the county petition the judge to dissolve the system. The bill authorizes the county judge to hold the election after the 15th day but on or before the 45th day after the date the petition is submitted. The election must be by secret ballot, and each employee is entitled to vote at the election. The bill requires the ballots for the election to be printed to provide for voting for or against the dissolution. The bill requires the county judge to

canvass the votes, declare the result, and declare the civil service system dissolved, if applicable.

H.B. 3319 establishes that a civil service system created under the bill's provisions applies to employees and departments to the exclusion of a civil service system created under another law in that county.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2025.