

BILL ANALYSIS

Senate Research Center

S.B. 800
By: Harris
Jurisprudence
3-10-97
As Filed

DIGEST

Currently, county civil service commission appeals are under the trial de novo rule, and the district court may not base its decision on the commission's ruling. This forces counties to prepare their case again, adding to their time and expense, and deprives the district court of the commission's record. This bill will make appeals from a commission's ruling fall under the substantial evidence rule; set out procedures for a district court's review; clarify that a party may apply to the district court to submit additional evidence; clarify allocation of costs for such appeals; and clarify appeals from a district court's ruling to a higher court.

PURPOSE

As proposed, S.B. 800 makes appeals from a commission's ruling fall under the substantial evidence rule; sets out procedures for a district court's review; clarifies that a party may apply to the district court to submit additional evidence; clarifies allocation of costs for such appeals; and clarifies appeals from a district court's ruling to a higher court.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 158.012(b), Local Government Code, to provide that an appeal under this section is under the substantial evidence rule, rather than by trial de novo.

SECTION 2. Amends Chapter 158A, Local Government Code, by adding Sections 158.0121, 158.0122, and 158.0123, as follows:

Sec. 158.0121. REVIEW UNDER SUBSTANTIAL EVIDENCE RULE. Prohibits the district court, in an appeal under Section 158.012, from substituting its judgment for the judgment of the county civil service commission (commission) on the weight of the evidence on questions committed to the commission's discretion. Set forth actions the court is authorized or required to take.

Sec. 158.0122. PROCEDURES FOR REVIEW UNDER SUBSTANTIAL EVIDENCE RULE. Sets forth procedures for a review under the substantial evidence rule.

Sec. 158.0123. COST OF PREPARING COMMISSION RECORD. Authorizes the commission to require a party who appeals a final decision under Section 158.012 to pay one-half of the cost of preparation of the original or a certified copy of the record of the commission proceeding that is required to be sent to the reviewing court. Provides that a charge imposed under this section is a court cost and authorizes the charge to be assessed by the court in accordance with the Texas Rules of Civil Procedure.

SECTION 3. Amends Section 158.037(b), Local Government Code, to provide that an appeal under this section is under the substantial evidence rule, rather than by trial de novo.

SECTION 4. Amends Chapter 158B, Local Government Code, by adding Section 158.0371, as follows:

Sec. 158.0371. REVIEW UNDER SUBSTANTIAL EVIDENCE RULE. Provides that the same standards described by Section 158.0121 apply to an appeal under Section 158.037. Provides that the procedures for review under Section 158.037 are the same as provided by Section 158.0122. Authorizes the commission to require a party who appeals a decision under Section 158.037 to pay the cost of preparing the commission record in the same manner provided by Section 158.0123.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Emergency clause.

Effective date: 90 days after adjournment.