

## **BILL ANALYSIS**

Senate Research Center  
76R14383 BDH-F

C.S.S.B. 1786  
By: Gallegos  
Intergovernmental Relations  
5/6/1999  
Committee Report (Substituted)

### **DIGEST**

Currently, the Harris County Civil Service Commission takes at least 18 months to two years to hear a case. This delay is the result of backlogged cases. In termination cases, this delay places the lives of firefighters and police officers on hold and causes them a financial hardship while they await a resolution of their appeal. Since 1987, Houston has used independent third party examiners to hear cases of suspension, promotional passover, demotion, or termination of fire fighters and police officers. C.S.S.B. 1786 would allow an independent third party hearing examiner to only hear appeals of termination cases for sheriff's deputies in Harris County.

### **PURPOSE**

As proposed, C.S.S.B. 1786 sets forth provisions for independent third party hearing examiners.

### **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 Chapter 158B, Local Government Code, by adding Section 158.0355, as follows:

Sec. 158.0355. HEARING EXAMINERS. (a) Provides that this section applies only to a county with a population of 2.8 million or more.

(b) Requires a letter of disciplinary action to be issued to an employee who is terminated for a violation of a sheriff's department civil service commission (commission) rule. Requires the letter to state that in an appeal of the termination, the appealing employee may elect to appeal to an independent third party hearing examiner instead of the commission. Requires the letter to also state that if the employee elects to appeal to a hearing examiner, the person waives all rights to appeal to a district court except as provided by Subsection (k).

(c) Requires the appealing employee to submit to the chairman of the commission a written request as part of the employee's original notice of appeal stating the person's decision to appeal to an independent third party hearing examiner, to exercise the choice of appealing to a hearing examiner.

(d) Provides that the hearing examiner's decision is final and binding on all parties. Provides that the person automatically waives all rights to appeal to a district court except as provided by Subsection (k), if the employee decides to appeal to an independent third party hearing examiner.

(e) Requires the employee and the sheriff, or their designees, to first attempt to agree on the selection of an impartial hearing examiner, if the appealing employee chooses to appeal to a hearing examiner. Requires the chairman of the commission to immediately request a list of seven qualified neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service, or their successors in function, if the parties do not agree on the selection of a hearing examiner on or within 10 days after the appeal is filed. Authorizes the employee and the sheriff, or their designees, to agree on one of the seven neutral arbitrators on the list. Requires each party or the party's designee to alternate striking a name from the list and the name remaining is the hearing examiner, if they do not agree within five working days after the date they received the list. Requires the party or their designees to agree on a date for the hearing.

(f) Requires the appeal hearing to begin as soon as the hearing examiner can be scheduled. Authorizes the employee, within two days after the date the employee learns of that fact, to call for the selection of a new hearing examiner using the procedure prescribed by Subsection (e), if the hearing examiner cannot begin the hearing within 45 calendar days after the date of selection.

(g) Provides that the hearing examiner has the same duties and powers as the commission, in each hearing conducted under this section. Authorizes the hearing examiner to issue subpoenas.

(h) Authorizes the parties to agree to an expedited hearing procedure, in a hearing conducted under this section. Requires in an expedited procedure the hearing examiner to render a decision on the appeal within 10 days after the date the hearing ends, unless otherwise agreed by the parties.

(i) Requires the hearing examiner to make a reasonable effort to render a decision on the appeal within 30 days after the date the hearing ends or the briefs are filed, in an appeal that does not involve an expedited hearing procedure. Provides that the hearing examiner's inability to meet the requirements imposed by this section does not affect the hearing examiner's jurisdiction, the validity of the disciplinary action, or the hearing examiner's final decision.

(j) Provides that the hearing examiner's fees and expenses are shared equally by the appealing employee and by the sheriff's department (department). Provides that the costs of a witness are paid by the party who calls the witness.

(k) Authorizes a district court to hear an appeal of a hearing examiner's award only on the grounds that the hearing examiner was without jurisdiction or exceeded the hearing examiner's jurisdiction or that the order was procured by fraud, collusion, or other unlawful means. Requires an appeal to be brought in the district court having jurisdiction in the county in which the department is located.

SECTION 2. Effective date: September 1, 1999.

Makes application of this Act prospective.

SECTION 3. Emergency clause.

## **SUMMARY OF COMMITTEE CHANGES**

Relating clause.

Amends the relating clause to relating to appeals by terminated sheriff's department employees in certain counties to an independent third party hearing examiner.

SECTION 1.

Amends Chapter 158B, Local Government Code, by adding Section 158.0355, regarding hearing examiners. Deletes text regarding Section 158.0371, Local Government Code.

SECTION 2.

Redesignates proposed SECTION 3 as SECTION 2. Adds a prospective clause.

SECTION 3.

Redesignates proposed SECTION 4 as SECTION 3. Deletes SECTION 4.