

BILL ANALYSIS

Senate Research Center
83R10238 YDB-F

H.B. 3805
By: Gonzales, Larry (Schwertner)
Criminal Justice
5/15/2013
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties assert that current law entitles employees of the Department of Public Safety of the State of Texas (DPS) to a public hearing regarding the discharge of the employee but does not extend the same entitlement to employees of other state agencies. H.B. 3805 seeks to align procedures for discharge hearings at DPS with all other state agencies by removing the hearing entitlement for DPS employees who are not commissioned officers.

H.B. 3805 amends the Government Code to authorize a discharged commissioned officer of DPS, rather than a discharged officer or employee of DPS, to appeal such discharge to DPS. This bill entitles a discharged commissioned officer of DPS, rather than a discharged officer or employee of DPS, to a public hearing on the discharge before the Public Safety Commission.

H.B. 3805 amends current law relating to the discharge of an officer or employee of the Department of Public Safety of the State of Texas.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 411.007, Government Code, by amending Subsections (e) and (f) and adding Subsections (e-1), (e-2), and (g), as follows:

(e) Authorizes a commissioned officer ordered discharged, rather than authorizing an officer or employee ordered discharged, to appeal to the Public Safety Commission (commission), and during the appeal the officer, rather than the officer or employee, is required to be suspended without pay.

(e-1) Creates this subsection from existing text. Prohibits the Department of Public Safety of the State of Texas (DPS), except as provided by Subsection (g), rather than except as provided by Subsection (f), from discharging, suspending, or demoting a commissioned officer except for the violation of a specific commission rule. Makes nonsubstantive changes.

(e-2) Redesignates existing Subsection (f) as Subsection (e-2) and makes no further change to this subsection.

(f) Creates this subsection from existing text. Entitles a discharged commissioned officer, rather than a discharged officer or employee, on application to the commission, to a public hearing before the commission, who is required to affirm or set aside the discharge. Requires the commission to affirm or set aside a discharge on the basis of the evidence presented. Authorizes the discharged officer, if the commission affirms the discharge, to seek judicial review, not later than the 90th day after the date the commission affirms the discharge, in a district court under the substantial evidence standard of review, and the officer remains suspended without pay while the case is under judicial review.

(g) Creates this subsection from existing text. Provides that a noncommissioned employee inducted into the service of DPS is on probation for the first one year of service, and an officer is on probation from the date the officer, rather than the person, is inducted into the service of DPS until the anniversary of the date the officer, rather than the person, is commissioned. Authorizes an officer or employee to be discharged if the public safety director, with the advice and consent of the commission, finds the officer or employee to be unsuitable for the work, rather than authorizing a person to be discharged without the public hearing provided for by this subsection, if the public safety director, with the advice and consent of the commission, finds the person to be unsuitable for the work.

SECTION 2. Makes application of Section 411.007, Government Code, as amended by this Act, prospective.

SECTION 3. Effective date: September 1, 2013.