LOCAL GOVERNMENT CODE

TITLE 5. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE A. MUNICIPAL OFFICERS AND EMPLOYEES

CHAPTER 143. MUNICIPAL CIVIL SERVICE FOR FIREFIGHTERS AND POLICE OFFICERS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 143.001. PURPOSE. (a) The purpose of this chapter is to secure efficient fire and police departments composed of capable personnel who are free from political influence and who have permanent employment tenure as public servants.

(b) The members of the Fire Fighters' and Police Officers' Civil Service Commission shall administer this chapter in accordance with this purpose.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.002. MUNICIPALITIES COVERED BY CHAPTER. (a) This chapter applies only to a municipality:

(1) that:

(A) has a population of 10,000 or more;

(B) has a paid fire department or police department; and

(C) has voted to adopt this chapter or the law codified by this chapter; or

(2) whose election to adopt this chapter and whose acts subsequent to that election were validated by the law enacted by House Bill 822, Acts of the 73rd Legislature, Regular Session, 1993.

(b) Population under Subsection (a)(1) is determined by the most recent:

(1) federal decennial census; or

(2) annual population estimate provided by the state demographer under Chapter 468, Government Code, if that estimate is more recent than the most recent federal decennial census.

(c) If this chapter applies to a municipality as provided by Subsection (a), the application of this chapter to the municipality

is not affected if the municipality's population changes and the municipality no longer meets the population requirement of Subsection (a)(1).

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 576, Sec. 1, eff. Aug. 30, 1993.

Amended by:

Acts 2005, 79th Leg., Ch. 212 (H.B. 1913), Sec. 1, eff. May 27, 2005.

Acts 2005, 79th Leg., Ch. 1163 (H.B. 3409), Sec. 1, eff. June 18, 2005.

Sec. 143.003. DEFINITIONS. In this chapter:

(1) "Commission" means the Fire Fighters' and Police Officers' Civil Service Commission.

(2) "Department head" means the chief or head of a fire or police department or that person's equivalent, regardless of the name or title used.

(3) "Director" means the director of fire fighters' and police officers' civil service.

(4) "Fire fighter" means a member of a fire department who was appointed in substantial compliance with this chapter or who is entitled to civil service status under Section 143.005 or 143.084. The term:

(A) applies only to an employee of a fire department whose position requires substantial knowledge of fire fighting and who has met the requirements for certification by the Texas Commission on Fire Protection under Chapter 419, Government Code, including an employee who performs:

(i) fire suppression;

(ii) fire prevention;

(iii) fire training;

(iv) fire safety education;

(v) fire maintenance;

(vi) fire communications;

(vii) fire medical emergency technology;

(viii) fire photography;

(ix) fire administration; or

(x) fire arson investigation; and

(B) does not apply to a secretary, clerk, budget analyst, custodial engineer, or other administrative employee.

(5) "Police officer" means a member of a police department or other peace officer who was appointed in substantial compliance with this chapter or who is entitled to civil service status under Section 143.005, 143.084, or 143.103.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 498, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 738 (H.B. 2640), Sec. 1, eff. September 1, 2005.

Sec. 143.004. ELECTION TO ADOPT OR REPEAL CHAPTER. (a) A municipality may hold an election to adopt or repeal this chapter as provided by this section.

(b) If the governing body of the municipality receives a petition requesting an election that is signed by a number of qualified voters of the municipality equal to at least 10 percent of the number of voters who voted in the most recent municipal election, the governing body shall order an election submitting to the voters the question of whether this chapter should be adopted. The election must be held on the first authorized uniform election date prescribed by Chapter 41, Election Code, that occurs after the petition is filed and that allows sufficient time to comply with other requirements of law.

(c) The ballot shall be printed to provide for voting for or against the proposition: "Adoption of the fire fighters' and police officers' civil service law." However, this chapter may be adopted to apply only to the fire or police department, and in that case, the ballot shall be printed to reflect the department that would be covered by this chapter. If a majority of the votes received in the election are in favor of adoption of this chapter, the governing body shall implement this chapter.

(d) If an election is held under Subsection (b), a petition for a subsequent election to be held under that subsection may not be filed for at least one year after the date the previous election

was held. To be valid, a petition for a subsequent election must contain the signatures of a number of qualified voters of the municipality equal to at least 20 percent of the number of voters who voted in the most recent municipal election. Any subsequent election must be held at the next general municipal election that occurs after the petition is filed.

(e) If the governing body of a municipality with a population of less than 950,000 that has operated under this chapter for at least one year receives a petition requesting an election to repeal this chapter that is signed by at least 10 percent of the qualified voters of the municipality, the governing body shall order an election submitting to the voters the question on whether this chapter should be repealed. If a majority of the qualified voters vote to repeal this chapter, this chapter is void in that municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 874 (H.B. 4227), Sec. 1, eff. September 1, 2023.

Sec. 143.005. STATUS OF EMPLOYEES IF CHAPTER ADOPTED. (a) Each fire fighter or police officer serving in a municipality that adopts this chapter and who has been in the service of the municipality for more than six months at the time this chapter is adopted and who is entitled to civil service classification has the status of a civil service employee and is not required to take a competitive examination to remain in the position the person occupies at the time of the adoption.

(b) In a municipality that adopts this chapter, an employee of the fire department whose primary duties are to provide emergency medical services for the municipality is considered to be a fire fighter who is a member of the fire department performing fire medical emergency technology, entitled to civil service protection, and covered by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 1034 (H.B. 1126), Sec. 7, eff.

September 1, 2005.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 129 (H.B. 263), Sec. 1

For text of section as added by Acts 2005, 79th Leg., Ch. 869 (S.B. 1050), Sec. 1, see other Sec. 143.0051.

Sec. 143.0051. STATUS OF EMPLOYEES IN CERTAIN FIRE DEPARTMENTS. (a) This section applies only to a fire department employee employed by a municipality with a population of 220,000 or more. This section does not apply to a fire department employee employed by a municipality:

(1) that has adopted Chapter 174; or

(2) to which Subchapter H or I applies.

(b) Notwithstanding any other provision of this chapter, a previously non-classified fire department employee who serves in a position described by Section 143.003(4)(B), (D), (G), or (J) has the status of a civil service employee and is not required to take a competitive examination to remain in the employee's position if:

(1) the employee was appointed to that position on or before May 1, 2005, and was serving in that position on the date described by Subsection (c); and

(2) the municipality's governing body by ordinance amends the municipality's existing classification of fire department employees to include the employee's position as provided by Section 143.021.

(c) The civil service status of an employee to which Subsection (b) applies is effective on the date that the ordinance amending the municipality's classification system to include the employee's position takes effect.

(d) A fire department employee who has civil service status under Subsection (b) may be promoted only:

(1) by competitive examination in accordance with the competitive civil service procedures prescribed in this chapter; and

(2) within the employee's existing division.

(e) A fire department employee who has civil service status under Subsection (b) may not:

(1) supervise or evaluate classified civil service personnel assigned to fire suppression or emergency medical operations; or

(2) laterally transfer to fire suppression or emergency medical operations.

(f) If a fire department employee who has civil service status under Subsection (b) leaves the employee's position for any reason, a person selected to fill that position must be selected in accordance with the competitive civil service procedures prescribed in this chapter.

Added by Acts 2005, 79th Leg., Ch. 129 (H.B. 263), Sec. 1, eff. May 24, 2005.

Text of section as added by Acts 2005, 79th Leg., R.S., Ch. 869 (S.B. 1050), Sec. 1

For text of section as added by Acts 2005, 79th Leg., Ch. 129 (H.B. 263), Sec. 1, see other Sec. 143.0051.

Sec. 143.0051. STATUS OF EMPLOYEES IN CERTAIN FIRE DEPARTMENTS. (a) This section applies only to a fire department employee employed by a municipality with a population of 150,000 or more and with a governing body of five or fewer members.

(b) Notwithstanding any other provision of this chapter, a previously nonclassified fire department employee who serves in a position described by Section 143.003(4)(B), (D), (G), or (J) has the status of a civil service employee and is not required to take a competitive examination to remain in the employee's position if:

(1) the employee was appointed to that position on or before May 1, 2005, and was serving in that position on the date described by Subsection (c); and

(2) the municipality's governing body by ordinance amends the municipality's existing classification of fire department employees to include the employee's position as provided by Section 143.021.

(c) The civil service status of an employee to which Subsection (b) applies is effective on the date that the ordinance amending the municipality's classification system to include the employee's position takes effect.

(d) A fire department employee who has civil service status under Subsection (b) may be promoted only:

(1) by competitive examination in accordance with the competitive civil service procedures prescribed in this chapter; and

(2) within the employee's existing division.

(e) A fire department employee who has civil service status under Subsection (b) may not:

(1) supervise or evaluate classified civil service personnel assigned to fire suppression or emergency medical operations; or

(2) laterally transfer to fire suppression or emergency medical operations.

(f) If a fire department employee who has civil service status under Subsection (b) leaves the employee's position for any reason, a person selected to fill that position must be selected in accordance with the competitive civil service procedures prescribed in this chapter.

Added by Acts 2005, 79th Leg., Ch. 869 (S.B. 1050), Sec. 1, eff. September 1, 2005.

Sec. 143.0052. FEE FOR EMERGENCY MEDICAL SERVICES. (a) This section applies only to a municipality that:

(1) has a population of more than 220,000 and less than 275,000;

(2) is located in a county in which another municipality that has a population of more than one million is predominately located; and

(3) whose emergency medical services are administered by a fire department.

(b) By resolution of its governing body, a municipality may establish a monthly fee for the costs of emergency medical services, including salary and overtime related to medical personnel. This fee is applicable to each and every customer served by a municipal water account and may be collected in conjunction with the bill for water services.

(c) A municipality acting under this section supersedes any

authority established under Chapter 286, Health and Safety Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1415 (S.B. 1896), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 69, eff. September 1, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 131, eff. September 1, 2023.

Sec. 143.006. IMPLEMENTATION: COMMISSION. (a) On adoption of this chapter, the Fire Fighters' and Police Officers' Civil Service Commission is established in the municipality. The chief executive of the municipality shall appoint the members of the commission within 60 days after the date this chapter is adopted. Within 30 days after the date the municipality's first full fiscal year begins after the date of the adoption election, the governing body of the municipality shall implement this chapter.

(b) The commission consists of three members appointed by the municipality's chief executive and confirmed by the governing body of the municipality. Members serve staggered three-year terms with the term of one member expiring each year. If a vacancy occurs or if an appointee fails to qualify within 10 days after the date of appointment, the chief executive shall appoint a person to serve for the remainder of the unexpired term in the same manner as the original appointment.

(c) A person appointed to the commission must:

(1) be of good moral character;

(2) be a United States citizen;

(3) be a resident of the municipality who has resided in the municipality for more than three years;

(4) be over 25 years of age; and

(5) not have held a public office within the preceding three years.

(c-1) Notwithstanding Subsection (c)(5), the municipality's chief executive may reappoint a commission member to consecutive terms. A commission member may not be reappointed to more than a third consecutive term unless the member's

reappointment to a fourth or subsequent consecutive term is confirmed by a two-thirds majority of all the members of the municipality's governing body.

(c-2) Subsection (c)(5) does not prohibit the municipality's chief executive from appointing a former commission member to the commission if the only public office held by the former member within the preceding three years is membership on:

(1) the commission; or

(2) the commission and the municipality's civil service board for employees other than police officers and firefighters through a joint appointment to the commission and board.

(c-3) Subsections (c-1) and (c-2) do not apply to a municipality with a population of 1.5 million or more.

(d) In making initial appointments, the chief executive shall designate one member to serve a one-year term, one member to serve a two-year term, and one member to serve a three-year term. If a municipality has a civil service commission immediately before this chapter takes effect in that municipality, that civil service commission shall continue as the commission established by this section and shall administer the civil service system as prescribed by this chapter. As the terms of the members of the previously existing commission expire, the chief executive shall appoint members as prescribed by this section. If necessary to create staggered terms as prescribed by this section, the chief executive shall appoint the initial members, required to be appointed under this chapter, to serve terms of less than three years.

(e) Initial members shall elect a chairman and a vice-chairman within 10 days after the date all members have qualified. Each January, the members shall elect a chairman and a vice-chairman.

(f) The governing body of the municipality shall provide to the commission adequate and suitable office space in which to conduct business.

(g) The chief executive of a municipality commits an offense if the chief executive knowingly or intentionally fails to appoint the initial members of the commission within the 60-day period

prescribed by Subsection (a). An offense under this subsection is a misdemeanor punishable by a fine of not less than $100 or more than $200. Each day after the 60-day period that the chief executive knowingly or intentionally fails to make a required appointment constitutes a separate offense.

(h) The chief executive of a municipality or a municipal official commits an offense if the person knowingly or intentionally refuses to implement this chapter or attempts to obstruct the enforcement of this chapter. An offense under this subsection is a misdemeanor punishable by a fine of not less than $100 or more than $200.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 475 (H.B. 150), Sec. 1, eff. June 17, 2005.

Sec. 143.007. REMOVAL OF COMMISSION MEMBER. (a) If at a meeting held for that purpose the governing body of the municipality finds that a commission member is guilty of misconduct in office, the governing body may remove the member. The member may request that the meeting be held as an open hearing in accordance with Chapter 551, Government Code.

(b) If a commission member is indicted or charged by information with a criminal offense involving moral turpitude, the member shall be automatically suspended from office until the disposition of the charge. Unless the member pleads guilty or is found to be guilty, the member shall resume office at the time of disposition of the charge.

(c) The governing body may appoint a substitute commission member during a period of suspension. If a member pleads guilty to or is found to be guilty of a criminal offense involving moral turpitude, the governing body shall appoint a replacement commission member to serve the remainder of the disqualified member's term of office.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(82), eff. Sept. 1, 1995.

Sec. 143.008. ADOPTION AND PUBLICATION OF RULES. (a) A commission shall adopt rules necessary for the proper conduct of commission business.

(b) The commission may not adopt a rule permitting the appointment or employment of a person who is:

(1) without good moral character;

(2) physically or mentally unfit; or

(3) incompetent to discharge the duties of the appointment or employment.

(c) The commission shall adopt rules that prescribe cause for removal or suspension of a fire fighter or police officer. The rules must comply with the grounds for removal prescribed by Section 143.051.

(d) The commission shall publish each rule it adopts and each classification and seniority list for the fire and police departments. The rules and lists shall be made available on demand. A rule is considered to be adopted and sufficiently published if the commission adopts the rule by majority vote and causes the rule to be written, typewritten, or printed. Publication in a newspaper is not required and the governing body of the municipality is not required to act on the rule.

(e) A rule is not valid and binding on the commission until the commission:

(1) mails a copy of the rule to the commissioner, if the municipality has an elected commissioner, and to department heads of the fire and police departments;

(2) posts a copy of the rule for a seven-day period at a conspicuous place in the central fire and police stations; and

(3) mails a copy of the rule to each branch fire station.

(f) The director shall keep copies of all rules for free distribution to members of the fire and police departments who request copies and for inspection by any interested person.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.009. COMMISSION INVESTIGATIONS AND INSPECTIONS. (a) The commission or a commission member designated by the

commission may investigate and report on all matters relating to the enforcement and effect of this chapter and any rules adopted under this chapter and shall determine if the chapter and rules are being obeyed.

(b) During an investigation, the commission or the commission member may:

(1) administer oaths;

(2) issue subpoenas to compel the attendance of witnesses and the production of books, papers, documents, and accounts relating to the investigation; and

(3) cause the deposition of witnesses residing inside or outside the state.

(c) A deposition taken in connection with an investigation under this section must be taken in the manner prescribed by law for taking a similar deposition in a civil action in federal district court.

(d) An oath administered or a subpoena issued under this section has the same force and effect as an oath administered by a magistrate in the magistrate's judicial capacity.

(e) A person who fails to respond to a subpoena issued under this section commits an offense punishable as prescribed by Section 143.016.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.010. COMMISSION APPEAL PROCEDURE. (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 days after the date the action occurred.

(b) The appeal must include the basis for the appeal and a request for a commission hearing. The appeal must also contain a statement denying the truth of the charge as made, a statement taking exception to the legal sufficiency of the charge, a statement alleging that the recommended action does not fit the offense or alleged offense, or a combination of these statements.

(c) In each hearing, appeal, or review of any kind in which

the commission performs an adjudicatory function, the affected fire fighter or police officer is entitled to be represented by counsel or a person the fire fighter or police officer chooses. Each commission proceeding shall be held in public.

(d) The commission may issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material.

(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 must make the request before the 10th day before the date the commission hearing will be held. If the commission does not subpoena the material, the commission shall, before the third day before the date the hearing will be held, make a written report to the fire fighter or police officer stating the reason it will not subpoena the requested material. This report shall be read into the public record of the commission hearing.

(f) Witnesses may be placed under the rule at the commission hearing.

(g) The commission shall conduct the hearing fairly and impartially as prescribed by this chapter and shall render a just and fair decision. The commission may consider only the evidence submitted at the hearing.

(h) The commission shall maintain a public record of each proceeding with copies available at cost.

(i) In addition to the requirements prescribed by this section, an appeal to the commission in a municipality with a population of 1.5 million or more must meet the requirements prescribed by Section 143.1015.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 25(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1248, Sec. 48, eff. Sept. 1, 1989.

Sec. 143.011. DECISIONS AND RECORDS. (a) Each concurring commission member shall sign a decision issued by the commission.

(b) The commission shall keep records of each hearing or

case that comes before the commission.

(c) Each rule, opinion, directive, decision, or order issued by the commission must be written and constitutes a public record that the commission shall retain on file.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.012. DIRECTOR. (a) On adoption of this chapter, the office of Director of Fire Fighters' and Police Officers' Civil Service is established in the municipality. The commission shall appoint the director. The director shall serve as secretary to the commission and perform work incidental to the civil service system as required by the commission. The commission may remove the director at any time.

(b) A person appointed as director must meet each requirement for appointment to the commission prescribed by Section 143.006(c), except that in a municipality with a population of less than 1.5 million, the person is not required to meet the local residency requirement.

(c) A person appointed as director may be a commission member, a municipal employee, or some other person.

(d) The municipality's governing body shall determine the salary, if any, to be paid to the director.

(e) If, immediately before this chapter takes effect in a municipality, the municipality has a duly and legally constituted director of civil service, regardless of title, that director shall continue in office as the director established by this section and shall administer the civil service system as prescribed by this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 355, Sec. 1, eff. Sept. 1, 1999.

Sec. 143.013. APPOINTMENT AND REMOVAL OF DEPARTMENT HEAD. (a) Unless elected, each department head is:

(1) appointed by the municipality's chief executive and confirmed by the municipality's governing body; or

(2) in a municipality having an elected fire or police commissioner, appointed by the fire or police commissioner in whose

department the vacancy exists and confirmed by the municipality's governing body.

(b) A person appointed as head of a fire department must be eligible for certification by the Texas Commission on Fire Protection at the intermediate level or its equivalent as determined by that commission and must have served as a fully paid fire fighter for at least five years. A person appointed as head of a police department must be eligible for certification by the Texas Commission on Law Enforcement at the intermediate level or its equivalent as determined by that commission and must have served as a bona fide law enforcement officer for at least five years.

(c) Except as provided by Subsection (d), if a person is removed from the position of department head, the person shall be reinstated in the department and placed in a position with a rank not lower than that held by the person immediately before appointment as department head. The person retains all rights of seniority in the department.

(d) If a person serving as department head is charged with an offense in violation of civil service rules and is dismissed from the civil service or discharged from his position as department head, the person has the same rights and privileges of a hearing before the commission and in the same manner and under the same conditions as a classified employee. If the commission finds that the charges are untrue or unfounded, the person shall immediately be restored to the same classification that the person held before appointment as department head. The person has all the rights and privileges of the prior position according to seniority and shall be paid his full salary for the time of suspension.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.48, eff. May 18, 2013.

Sec. 143.014. APPOINTMENT AND REMOVAL OF PERSON CLASSIFIED IMMEDIATELY BELOW DEPARTMENT HEAD. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) If approved by the governing body of the municipality by

resolution or ordinance, the head of a fire or police department in the municipality in which at least four classifications exist below the classification of department head may appoint each person occupying an authorized position in the classification immediately below that of department head, as prescribed by this section. The classification immediately below that of department head may include a person who has a different title but has the same pay grade.

(c) In a police department, the total number of persons appointed to the classification immediately below that of department head may not exceed the total number of persons, plus one, serving in that classification on January 1, 1983. In a fire department in a municipality having fewer than 300 certified fire fighters, the department head may appoint not more than one person to the classification immediately below that of department head. If a municipality has 300 to 600 certified fire fighters, the department head may appoint two persons to the classification. If a municipality has more than 600 certified fire fighters, the department head may appoint three persons to the classification. This subsection does not apply to a municipality that has adopted The Fire and Police Employee Relations Act (Article 5154c-1, Vernon's Texas Civil Statutes) unless the municipality specifically adopts the appointment procedure prescribed by this subsection through the collective bargaining process.

(d) A person appointed to a position in the classification immediately below that of the head of the police department must:

(1) be employed by the municipality's police department as a sworn police officer;

(2) have at least two years' continuous service in that department as a sworn police officer; and

(3) meet the requirements for appointment as head of a police department prescribed by Section 143.013(b).

(e) A person appointed to a position in the classification immediately below that of the head of the fire department must:

(1) be employed by the municipality's fire department;

(2) have a permanent classification in at least an officer level; and

(3) meet the requirements for appointment as head of a fire department prescribed by Section 143.013(b).

(f) The department head shall make each appointment under this section within 90 days after the date a vacancy occurs in the position.

(g) A person appointed under this section serves at the pleasure of the department head. A person who is removed from the position by the department head shall be reinstated in the department and placed in the same classification, or its equivalent, that the person held before appointment. The person retains all rights of seniority in the department.

(h) If a person appointed under this section is charged with an offense in violation of civil service rules and indefinitely suspended by the department head, the person has the same rights and privileges of a hearing before the commission in the same manner and under the same conditions as a classified employee. If the commission, a hearing examiner, or a court of competent jurisdiction finds the charges to be untrue or unfounded, the person shall immediately be restored to the same classification, or its equivalent, that the person held before appointment. The person has all the rights and privileges of the prior position according to seniority, and shall be repaid for any lost wages.

(i) A person serving under permanent appointment in a position in the classification immediately below that of the department head on September 1, 1983, is not required to meet the requirements of this section or to be appointed or reappointed as a condition of tenure or continued employment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.015. APPEAL OF COMMISSION DECISION TO DISTRICT COURT. (a) If a fire fighter or police officer is dissatisfied with any commission decision, the fire fighter or police officer may file a petition in district court asking that the decision be set aside. The petition must be filed within 10 days after the date the final commission decision:

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

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

(b) An appeal under this section is by trial de novo. The district court may grant the appropriate legal or equitable relief necessary to carry out the purposes of this chapter. The relief may include reinstatement or promotion with back pay if an order of suspension, dismissal, or demotion is set aside.

(c) The court may award reasonable attorney's fees to the prevailing party and assess court costs against the nonprevailing party.

(d) If the court finds for the fire fighter or police officer, the court shall order the municipality to pay lost wages to the fire fighter or police officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.016. PENALTY FOR VIOLATION OF CHAPTER. (a) A fire fighter or police officer commits an offense if the person violates this chapter.

(b) An offense under this section or Section 143.009 is a misdemeanor punishable by a fine of not less than $10 or more than $100, confinement in the county jail for not more than 30 days, or both fine and confinement.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER B. CLASSIFICATION AND APPOINTMENT

Sec. 143.021. CLASSIFICATION; EXAMINATION REQUIREMENT. (a) The commission shall provide for the classification of all fire fighters and police officers. The municipality's governing body shall establish the classifications by ordinance. The governing body by ordinance shall prescribe the number of positions in each classification.

(b) Except for the department head and a person the department head appoints in accordance with Section 143.014 or 143.102, each fire fighter and police officer is classified as prescribed by this subchapter and has civil service protection. The failure of the governing body to establish a position by

ordinance does not result in the loss of civil service benefits by a person entitled to civil service protection or appointed to the position in substantial compliance with this chapter.

(c) Except as provided by Sections 143.013, 143.014, 143.0251, 143.102, and 143.1251, an existing position or classification or a position or classification created in the future either by name or by increase in salary may be filled only from an eligibility list that results from an examination held in accordance with this chapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1995, 74th Leg., ch. 64, Sec. 1, eff. Sept. 1, 1995.

Sec. 143.022. PHYSICAL REQUIREMENTS AND EXAMINATIONS. (a) The commission shall set the age and physical requirements for applicants for beginning and promotional positions in accordance with this chapter. The requirements must be the same for all applicants.

(b) The commission shall require each applicant for a beginning or a promotional position to take an appropriate physical examination. The commission may require each applicant for a beginning position to take a mental examination. The examination shall be administered by a physician, psychiatrist, or psychologist, as appropriate, appointed by the commission. The municipality shall pay for each examination.

(c) If an applicant is rejected by the physician, psychiatrist, or psychologist, as appropriate, the applicant may request another examination by a board of three physicians, psychiatrists, or psychologists, as appropriate, appointed by the commission. The applicant must pay for the board examination. The board's decision is final.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(b), eff. Aug. 28, 1989.

Sec. 143.023. ELIGIBILITY FOR BEGINNING POSITION. (a) A person may not take an entrance examination for a beginning position in the police department unless the person is at least 18 years of age. A person may not take an entrance examination for a

beginning position in the fire department unless the person is at least 18 years of age but not 36 years of age or older.

(b) A person may not be certified as eligible for a beginning position in a fire department if the person is 36 years of age or older.

(c) Repealed by Acts 2023, 88th Leg., R.S., Ch. 418 (H.B. 1661), Sec. 1, eff. September 1, 2023.

(d) An applicant may not be certified as eligible for a beginning position with a fire department unless the applicant meets all legal requirements necessary to become eligible for future certification by the Commission on Fire Protection Personnel Standards and Education.

(e) An applicant may not be certified as eligible for a beginning position with a police department unless the applicant meets all legal requirements necessary to become eligible for future licensing by the Texas Commission on Law Enforcement.

(f) Each police officer and fire fighter affected by this chapter must be able to read and write English.

(g) In addition to meeting the requirements prescribed by this section, an applicant for a beginning position in a police department in a municipality with a population of 1.5 million or more must meet the requirements prescribed by Section 143.105.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 380 (S.B. 1421), Sec. 1, eff. June 17, 2005.

Acts 2009, 81st Leg., R.S., Ch. 273 (S.B. 461), Sec. 1, eff. May 30, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.49, eff. May 18, 2013.

Acts 2023, 88th Leg., R.S., Ch. 418 (H.B. 1661), Sec. 1, eff. September 1, 2023.

Sec. 143.024. ENTRANCE EXAMINATION NOTICE. (a) Before the 10th day before the date an entrance examination is held, the commission shall cause a notice of the examination to be posted in plain view on a bulletin board located in the main lobby of the city

hall and in the commission's office. The notice must show the position to be filled or for which the examination is to be held, and the date, time, and place of the examination.

(b) The notice required by Subsection (a) must also state the period during which the eligibility list created as a result of the examination will be effective.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.025. ENTRANCE EXAMINATIONS. (a) The commission shall provide for open, competitive, and free entrance examinations to provide eligibility lists for beginning positions in the fire and police departments. The examinations are open to each person who makes a proper application and meets the requirements prescribed by this chapter.

(b) An eligibility list for a beginning position in the fire or police department may be created only as a result of a competitive examination held in the presence of each applicant for the position, except as provided by Subsections (d), (e), and (l). The examination must be based on the person's general knowledge and aptitude and must inquire into the applicant's general education and mental ability. A person may not be appointed to the fire or police department except as a result of the examination.

(c) An applicant may not take an examination unless at least one other applicant taking the examination is present.

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

(e) This subsection applies only in a municipality to which Subchapter J does not apply. An examination for beginning positions in the police department must be held at one or more locations in the municipality in which the police department is located and may be held at additional locations outside the municipality. An examination held at multiple locations must be administered on the same day and at the same time at each location at which it is given. Only one eligibility list for a police

department may be created from that examination, and only one eligibility list may be in effect at a given time. Each applicant who takes the examination for the eligibility list shall:

(1) take the same examination; and

(2) be examined in the presence of other applicants for that eligibility list.

(f) An additional five points shall be added to the examination grade of an applicant who served in the United States armed forces, received an honorable discharge, and made a passing grade on the examination.

(g) An applicant may not take the examination for a particular eligibility list more than once.

(h) The commission shall keep each eligibility list for a beginning position in effect for a period of not less than six months or more than 12 months, unless the names of all applicants on the list have been referred to the appropriate department. The commission shall determine the length of the period. The commission shall give new examinations at times the commission considers necessary to provide required staffing for scheduled fire or police training academies.

(i) The grade to be placed on the eligibility list for each applicant shall be computed by adding an applicant's points under Subsection (f), if any, to the applicant's grade on the written examination. Each applicant's grade on the written examination is based on a maximum grade of 100 percent and is determined entirely by the correctness of the applicant's answers to the questions. The minimum passing grade on the examination is 70 percent. An applicant must pass the examination to be placed on an eligibility list.

(j) Notwithstanding Subsection (i), each applicant who is either a natural-born or adopted child of a fire fighter who previously suffered a line-of-duty death while covered by this chapter shall be ranked at the top of any eligibility list in which said applicant receives a minimum passing grade on that respective eligibility exam. The deceased fire fighter's applicant child must otherwise satisfy all of the requirements for eligibility for a beginning position in a fire department contained in this

chapter. This commission shall promulgate rules to identify and verify each applicant's eligibility for applicability of this subsection.

(k) This section does not apply to a police department located in a municipality with a population of 1.5 million or more.

(l) In a municipality with a population of more than 1.4 million and less than 2 million, an examination for a beginning position in the fire department may include testing instruments to be used in addition to the written examination in the establishment of the initial eligibility list.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 756, Sec. 1, 2, eff. Aug. 28, 1989; Acts 1999, 76th Leg., ch. 19, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 628, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 380 (S.B. 1421), Sec. 2, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 27 (S.B. 339), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 503 (H.B. 1488), Sec. 1, eff. June 17, 2011.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 132, eff. September 1, 2023.

Sec. 143.0251. REAPPOINTMENT AFTER RESIGNATION. The commission may adopt rules to allow a police officer who voluntarily resigns from the department to be reappointed to the department without taking another departmental entrance examination.

Added by Acts 1995, 74th Leg., ch. 64, Sec. 2, eff. Sept. 1, 1995.

Sec. 143.026. PROCEDURE FOR FILLING BEGINNING POSITIONS. (a) When a vacancy occurs in a beginning position in a fire or police department, the department head shall request in writing from the commission the names of suitable persons from the eligibility list. The director shall certify to the municipality's chief executive the names of the three persons having the highest

grades on the eligibility list.

(b) From the three names certified, the chief executive shall appoint the person having the highest grade unless there is a valid reason why the person having the second or third highest grade should be appointed.

(c) If the chief executive does not appoint the person having the highest grade, the chief executive shall clearly set forth in writing the good and sufficient reason why the person having the highest grade was not appointed.

(d) The reason required by Subsection (c) shall be filed with the commission and a copy provided to the person having the highest grade. If the chief executive appoints the person having the third highest grade, a copy of the report shall also be furnished to the person having the second highest grade.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.027. PROBATIONARY PERIOD. (a) A person appointed to a beginning position in the fire or police department must serve a probationary period of one year beginning on that person's date of employment as a fire fighter, police officer, or academy trainee. In a municipality with a population of less than 1.9 million, the commission by rule may extend the probationary period by not more than six months for a person who:

(1) is not employed by a department in which a collective bargaining agreement or a meet-and-confer agreement currently exists or previously existed; and

(2) is required to attend a basic training academy for initial certification by the Texas Commission on Fire Protection or the Texas Commission on Law Enforcement.

(b) During a fire fighter's or police officer's probationary period, the department head shall discharge the person and remove the person from the payroll if the person's appointment was not regular or was not made in accordance with this chapter or the commission rules.

(c) During a fire fighter's or police officer's probationary period, the person may not be prohibited from joining or required to join an employee organization. Joining or not joining an employee

organization is not a ground for retaining or not retaining a fire fighter or police officer serving a probationary period.

(d) A fire fighter or police officer who was appointed in substantial compliance with this chapter and who serves the entire probationary period automatically becomes a full-fledged civil service employee and has full civil service protection.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 869 (S.B. 1050), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 909 (H.B. 148), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec. 11.001, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.50, eff. May 18, 2013.

Sec. 143.028. ELIGIBILITY FOR PROMOTION. (a) Except as provided by Sections 143.013 and 143.102, a fire fighter is not eligible for promotion unless the person has served in that fire department in the next lower position or other positions specified by the commission for at least two years at any time before the date the promotional examination is held. A fire fighter is not eligible for promotion to the rank of captain or its equivalent unless the person has at least four years' actual service in that fire department.

(b) Except as provided by Sections 143.013 and 143.102, a police officer is not eligible for promotion unless the person has served in that police department in the next lower position or other positions specified by the commission for at least two years immediately before the date the promotional examination is held. A police officer is not eligible for promotion to the rank of captain or its equivalent unless the person has at least four years' actual service in that police department.

(c) If a person is recalled on active military duty for not more than 60 months, the two-year service requirements prescribed by Subsections (a) and (b) do not apply and the person is entitled

to have time spent on active military duty considered as duty in the respective fire or police department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 833 (S.B. 863), Sec. 2, eff. June 17, 2005.

Sec. 143.029. PROMOTIONAL EXAMINATION NOTICE. (a) Before the 90th day before the date a promotional examination is held, the commission shall post a notice that lists the sources from which the examination questions will be taken.

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

(c) The notice required by Subsection (b) may also include the name of each source used for the examination, the number of questions taken from each source, and the chapter used in each source.

(d) In addition to the notice prescribed by this section, a municipality with a population of 1.5 million or more must post the notice prescribed by Section 143.107.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.030. ELIGIBILITY FOR FIRE DEPARTMENT PROMOTIONAL EXAMINATION. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) Each promotional examination is open to each fire fighter who 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.

(c) If the department has adopted a classification plan that

classifies positions on the basis of similarity in duties and responsibilities, each promotional examination is open to each fire fighter who has continuously held for at least two years a position at the next lower pay grade, if it exists, in the classification for which the examination is to be held.

(d) If there are not enough fire fighters in the next lower position with two years' service in that position to provide an adequate number of persons to take the examination, the commission may open the examination to persons in that position with less than two years' service. If there is still an insufficient number, the commission may open the examination to persons with at least two years' experience in the second lower position, in salary, to the position for which the examination is to be held.

(e) If a fire fighter had previously terminated the fire fighter's employment with the department and is subsequently reemployed by the same department, the fire fighter must again meet the two-year service requirement for eligibility to take a promotional examination. In determining if a fire fighter has met the two-year service requirement, a fire department may not consider service in another fire department.

(f) This section does not prohibit lateral crossover between classes.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.031. ELIGIBILITY FOR POLICE DEPARTMENT PROMOTIONAL EXAMINATION. (a) Each promotional examination is open to each police officer who for at least two years immediately before the examination date has continuously held a position in the classification that is immediately below, in salary, the classification for which the examination is to be held.

(b) If the department has adopted a classification plan that classifies positions on the basis of similarity in duties and responsibilities, each promotional examination is open to each police officer who has continuously held for at least two years immediately before the examination date a position at the next lower pay grade, if it exists, in the classification for which the examination is to be held.

(c) If there are not sufficient police officers in the next lower position with two years' service in that position to provide an adequate number of persons to take the examination, the commission shall open the examination to persons in that position with less than two years' service. If there is still an insufficient number, the commission may open the examination to persons in the second lower position, in salary, to the position for which the examination is to be held.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.032. PROMOTIONAL EXAMINATION PROCEDURE. (a) The commission shall adopt rules governing promotions and shall hold promotional examinations to provide eligibility lists for each classification in the fire and police departments. Unless a different procedure is adopted under an alternate promotional system as provided by Section 143.035, the examinations shall be held substantially as prescribed by this section.

(b)(1) Each eligible promotional candidate shall be given an identical examination in the presence of the other eligible promotional candidates, except that an eligible promotional candidate who is serving on active military duty outside of this state or in a location that is not within reasonable geographic proximity to the location where the examination is being administered is entitled to take the examination outside of the presence of and at a different time than the other candidates and may be allowed to take an examination that is not identical to the examination administered to the other candidates.

(2) The commission may adopt rules under Subsection (a) providing for the efficient administration of promotional examinations to eligible promotional candidates who are members of the armed forces serving on active military duty. In adopting the rules, the commission shall ensure that the administration of the examination will not result in unnecessary interference with any ongoing military effort. The rules shall require that:

(A) at the discretion of the administering entity, an examination that is not identical to the examination administered to other eligible promotional candidates may be

administered to an eligible promotional candidate who is serving on active military duty; and

(B) if a candidate serving on active military duty takes a promotional examination outside the presence of other candidates and passes the examination, the candidate's name shall be included in the eligibility list of names of promotional candidates who took and passed the examination nearest in time to the time at which the candidate on active military duty took the examination.

(c) The examination must be entirely in writing and may not in any part consist of an oral interview.

(d) The examination questions must test the knowledge of the eligible promotional candidates about information and facts and must be based on:

(1) the duties of the position for which the examination is held;

(2) material that is of reasonably current publication and that has been made reasonably available to each member of the fire or police department involved in the examination; and

(3) any study course given by the departmental schools of instruction.

(e) The examination questions must be taken from the sources posted as prescribed by Section 143.029(a). Fire fighters or police officers may suggest source materials for the examinations.

(f) The examination questions must be prepared and composed so that the grading of the examination can be promptly completed immediately after the examination is over.

(g) The director is responsible for the preparation and security of each promotional examination. The fairness of the competitive promotional examination is the responsibility of the commission, the director, and each municipal employee involved in the preparation or administration of the examination.

(h) A person commits an offense if the person knowingly or intentionally:

(1) reveals a part of a promotional examination to an unauthorized person; or

(2) receives from an authorized or unauthorized person

a part of a promotional examination for unfair personal gain or advantage.

(i) An offense under Subsection (h) is a misdemeanor punishable by a fine of not less than $1,000, confinement in the county jail for not more than one year, or both the fine and the confinement.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(c), eff. Aug. 28, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 833 (S.B. 863), Sec. 1, eff. June 17, 2005.

Sec. 143.033. PROMOTIONAL EXAMINATION GRADES. (a) The grading of each promotional examination shall begin when one eligible promotional candidate completes the examination. As the eligible promotional candidates finish the examination, the examinations shall be graded at the examination location and in the presence of any candidate who wants to remain during the grading.

(b) Each police officer is entitled to receive one point for each year of seniority as a classified police officer in that department, with a maximum of 10 points. Each fire fighter is entitled to receive one point for each year of seniority in that department, with a maximum of 10 points.

(c) Unless a different procedure is adopted under an alternate promotional system as provided by Section 143.035, the grade that must be placed on the eligibility list for each police officer or fire fighter shall be computed by adding the applicant's points for seniority to the applicant's grade on the written examination, but for a fire fighter applicant only if the applicant scores a passing grade on the written examination. Each applicant's grade on the written examination is based on a maximum grade of 100 points and is determined entirely by the correctness of the applicant's answers to the questions. The passing grade in a municipality with a population of 1.5 million or more is prescribed by Section 143.108. In a municipality with a population of less than 1.5 million, all police officer applicants who receive a grade of at least 70 points shall be determined to have passed the

examination and all fire fighter applicants who receive a grade on the written examination of at least 70 points shall be determined to have passed the examination. If a tie score occurs, the commission shall determine a method to break the tie.

(d) Within 24 hours after a promotional examination is held, the commission shall post the individual raw test scores on a bulletin board located in the main lobby of the city hall.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(d), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 713, Sec. 1, eff. Sept. 1, 1991.

Amended by:

Acts 2005, 79th Leg., Ch. 869 (S.B. 1050), Sec. 3, eff. September 1, 2005.

Sec. 143.034. REVIEW AND APPEAL OF PROMOTIONAL EXAMINATION. (a) On request, each eligible promotional candidate from the fire or police department is entitled to examine the person's promotional examination and answers, the examination grading, and the source material for the examination. If dissatisfied, the candidate may appeal, within five business days, to the commission for review in accordance with this chapter. In computing this period, a Saturday, Sunday, or legal holiday is not considered a business day.

(b) The eligible promotional candidate may not remove the examination or copy a question used in the examination.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(e), eff. Aug. 28, 1989.

Sec. 143.035. ALTERNATE PROMOTIONAL SYSTEM IN POLICE DEPARTMENT. (a) This section does not apply to a municipality that has adopted The Fire and Police Employee Relations Act (Article 5154c-1, Vernon's Texas Civil Statutes).

(b) On the recommendation of the head of the police department and a majority vote of the sworn police officers in the department, the commission may adopt an alternate promotional system to select persons to occupy nonentry level positions other than positions that are filled by appointment by the department

head. The promotional system must comply with the requirements prescribed by this section.

(c) The commission shall order the director to conduct an election and to submit the revised promotional system either to all sworn police officers within the rank immediately below the classification for which the promotional examination is to be administered or to all sworn police officers in the department.

(d) The director shall hold the election on or after the 30th day after the date notice of the election is posted at the department. The election shall be conducted throughout each regular work shift at an accessible location within the department during a 24-hour period.

(e) The ballot shall contain the specific amendment to the promotional procedure. Each sworn police officer shall be given the opportunity to vote by secret ballot "for" or "against" the amendment.

(f) The revised promotional system must be approved by a majority vote of the sworn police officers voting. A defeated promotional system amendment may not be placed on a ballot for a vote by the sworn police officers for at least 12 months after the date the prior election was held, but this provision does not apply if the head of the department recommends a different proposal to the commission.

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

(h) At any time after an alternate promotional system has been adopted under this section and has been in effect for at least 180 days, the department head may petition the commission to terminate the alternate system, and the commission shall terminate the alternate system.

(i) At any time after an alternate promotional system has been adopted under this section and has been in effect for at least

180 days, a petition signed by at least 35 percent of the sworn police officers may be submitted to the commission asking that the alternate promotional system be reconsidered. If a petition is submitted, the commission shall, within 60 days after the date the petition is filed, hold an election as prescribed by this section. If a majority of those voting vote to terminate, the commission shall terminate the alternate promotional system.

(j) If the alternate system is terminated, an additional list may not be created under the alternate system.

(k) A promotional list may not be created if an election under this section is pending. An existing eligibility list, whether created under the system prescribed by this chapter or created under an alternate system adopted under this section, may not be terminated before or extended beyond its expiration date. A person promoted under an alternate system has the same rights and the same status as a person promoted under this chapter even if the alternate system is later terminated.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 1018, Sec. 1, eff. Aug. 30, 1993.

Sec. 143.036. PROCEDURE FOR MAKING PROMOTIONAL APPOINTMENTS. (a) When a vacancy occurs in a nonentry position that is not appointed by the department head as provided by Sections 143.014 and 143.102, the vacancy shall be filled as prescribed by this section and Section 143.108, as applicable. A vacancy in a fire fighter position described by this subsection occurs on the date the position is vacated by:

(1) resignation;

(2) retirement;

(3) death;

(4) promotion; or

(5) issuance of an indefinite suspension in accordance with Section 143.052(b).

(b) If an eligibility list for the position to be filled exists on the date the vacancy occurs, the director, on request by the department head, shall certify to the department head the names of the three persons having the highest grades on that eligibility

list. The commission shall certify the names within 10 days after the date the commission is notified of the vacancy. If fewer than three names remain on the eligibility list or if only one or two eligible promotional candidates passed the promotional examination, each name on the list must be submitted to the department head.

(c) In a municipality with a population of less than 1.5 million, the commission shall submit names from an existing eligibility list to the department head until the vacancy is filled or the list is exhausted.

(d) If an eligibility list does not exist on the date a vacancy occurs or a new position is created, the commission shall hold an examination to create a new eligibility list within 90 days after the date the vacancy occurs or a new position is created.

(e) If an eligibility list exists on the date a vacancy occurs, the department head shall fill the vacancy by permanent appointment from the eligibility list furnished by the commission within 60 days after the date the vacancy occurs. If an eligibility list does not exist, the department head shall fill the vacancy by permanent appointment from an eligibility list that the commission shall provide within 90 days after the date the vacancy occurs. This subsection does not apply in a municipality with a population of 1.5 million or more.

(f) Unless the department head has a valid reason for not appointing the person, the department head shall appoint the eligible promotional candidate having the highest grade on the eligibility list. If the department head has a valid reason for not appointing the eligible promotional candidate having the highest grade, the department head shall personally discuss the reason with the person being bypassed before appointing another person. The department head shall also file the reason in writing with the commission and shall provide the person with a copy of the written notice. On application of the bypassed eligible promotional candidate, the reason the department head did not appoint that person is subject to review by the commission or, on the written request of the person being bypassed, by an independent third party hearing examiner under Section 143.057.

(g) If a person is bypassed, the person's name is returned to its place on the eligibility list and shall be resubmitted to the department head if a vacancy occurs. If the department head refuses three times to appoint a person, files the reasons for the refusals in writing with the commission, and the commission does not set aside the refusals, the person's name shall be removed from the eligibility list.

(h) Each promotional eligibility list remains in existence for one year after the date on which the written examination is given, unless exhausted. At the expiration of the one-year period, the eligibility list expires and a new examination may be held.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(f), eff. Aug. 28, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 869 (S.B. 1050), Sec. 4, eff. September 1, 2005.

Sec. 143.037. RECORD OF CERTIFICATION AND APPOINTMENT. (a) When a person is certified and appointed to a position in the fire or police department, the director shall forward the appointed person's record to the proper department head. The director shall also forward a copy of the record to the chief executive and shall retain a copy in the civil service files.

(b) The record must contain:

(1) the date notice of examination for the position was posted;

(2) the date on which the appointed person took the examination;

(3) the name of each person who conducted the examination;

(4) the relative position of the appointed person on the eligibility list;

(5) the date the appointed person took the physical examination, the name of the examining physician, and whether the person was accepted or rejected;

(6) the date the request to fill the vacancy was made;

(7) the date the appointed person was notified to

report for duty; and

(8) the date the appointed person's pay is to start.

(c) If the director intentionally fails to comply with this section, the commission shall immediately remove the director from office.

(d) The director's failure to comply with this section does not affect the civil service status of an employee.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.038. TEMPORARY DUTIES IN HIGHER CLASSIFICATION. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) The department head may designate a person from the next lower classification to temporarily fill a position in a higher classification. The designated person is entitled to the base salary of the higher position plus the person's own longevity or seniority pay, educational incentive pay, and certification pay during the time the person performs the duties.

(c) The temporary performance of the duties of a higher position by a person who has not been promoted as prescribed by this chapter may not be construed as a promotion.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

SUBCHAPTER C. COMPENSATION

Sec. 143.041. SALARY. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) Except as provided by Section 143.038, all fire fighters or police officers in the same classification are entitled to the same base salary.

(c) In addition to the base salary, each fire fighter or police officer is entitled to each of the following types of pay, if applicable:

(1) longevity or seniority pay;

(2) educational incentive pay as authorized by Section 143.044;

(3) assignment pay as authorized by Sections 143.042

and 143.043;

(4) certification pay as authorized by Section 143.044;

(5) shift differential pay as authorized by Section 143.047; and

(6) fitness incentive pay as authorized by Section 143.044.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1172, Sec. 1, eff. Aug. 28, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 552 (H.B. 1213), Sec. 1, eff. September 1, 2005.

Sec. 143.042. ASSIGNMENT PAY. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) The governing body of a municipality may authorize assignment pay for fire fighters and police officers who perform specialized functions in their respective departments.

(c) The assignment pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the fire or police department.

(d) If the ordinance applies equally to each person who meets the criteria established by the ordinance, the ordinance may provide for payment to each fire fighter and police officer who meets training or education criteria for an assignment or the ordinance may set criteria that provide for payment only to a fire fighter or police officer in a special assignment.

(e) The head of the fire or police department is not eligible for the assignment pay authorized by this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.043. FIELD TRAINING OFFICER ASSIGNMENT PAY. (a) In this section, "field training officer" means a member of the police department who is assigned to and performs the duties and responsibilities of the field training officers program.

(b) The governing body of a municipality may authorize assignment pay for field training officers. The assignment pay is

in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the police department.

(c) The department head is not eligible for the assignment pay authorized by this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.044. CERTIFICATION, EDUCATIONAL INCENTIVE, AND FITNESS INCENTIVE PAY. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) If each fire fighter or police officer in a municipality is afforded an opportunity to qualify for certification, the municipality's governing body may authorize certification pay to those fire fighters who meet the requirements for certification set by the Texas Commission on Fire Protection or for those police officers who meet the requirements for certification set by the Texas Commission on Law Enforcement.

(c) If the criteria for educational incentive pay are clearly established, are in writing, and are applied equally to each fire fighter or police officer in a municipality who meets the criteria, the municipality's governing body may authorize educational incentive pay for each fire fighter or police officer who has successfully completed courses at an accredited college or university.

(d) If the criteria for fitness incentive pay are clearly established, are in writing, and are applied equally to each fire fighter or police officer in a municipality who meets the criteria, the municipality's governing body may authorize fitness incentive pay for each fire fighter or police officer who successfully meets the criteria.

(e) The certification pay, educational incentive pay, and fitness incentive pay are in addition to a fire fighter's or police officer's regular pay.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 552 (H.B. 1213), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 552 (H.B. 1213), Sec. 3, eff. September 1, 2005.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.51, eff. May 18, 2013.

Sec. 143.045. ACCUMULATION AND PAYMENT OF SICK LEAVE. (a) A permanent or temporary fire fighter or police officer is allowed sick leave with pay accumulated at the rate of 1-1/4 full working days for each full month employed in a calendar year, so as to total 15 working days to a person's credit each 12 months.

(b) A fire fighter or police officer may accumulate sick leave without limit and may use the leave if unable to work because of a bona fide illness. If an ill fire fighter or police officer exhausts the sick leave and can conclusively prove that the illness was incurred in the performance of duties, an extension of sick leave shall be granted.

(c) Except as otherwise provided by Section 143.116, a fire fighter or police officer who leaves the classified service for any reason is entitled to receive in a lump-sum payment the full amount of the person's salary for accumulated sick leave if the person has accumulated not more than 90 days of sick leave. If a fire fighter or police officer has accumulated more than 90 working days of sick leave, the person's employer may limit payment to the amount that the person would have received if the person had been allowed to use 90 days of accumulated sick leave during the last six months of employment. The lump-sum payment is computed by compensating the fire fighter or police officer for the accumulated time at the highest permanent pay classification for which the person was eligible during the last six months of employment. The fire fighter or police officer is paid for the same period for which the person would have been paid if the person had taken the sick leave but does not include additional holidays and any sick leave or vacation time that the person might have accrued during the 90 days.

(d) To facilitate the settlement of the accounts of deceased fire fighters and police officers, all unpaid compensation, including all accumulated sick leave, due at the time of death to an active fire fighter or police officer who dies as a result of a

line-of-duty injury or illness, shall be paid to the persons in the first applicable category of the following prioritized list:

(1) to the beneficiary or beneficiaries the fire fighter or police officer designated in writing to receive the compensation and filed with the commission before the person's death;

(2) to the fire fighter's or police officer's widow or widower;

(3) to the fire fighter's or police officer's child or children and to the descendants of a deceased child, by representation;

(4) to the fire fighter's or police officer's parents or to their survivors; or

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

(e) Payment of compensation to a person in accordance with Subsection (d) is a bar to recovery by another person.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.046. VACATIONS. (a) Each fire fighter or police officer is entitled to earn a minimum of 15 working days' vacation leave with pay in each year.

(b) In computing the length of time a fire fighter or police officer may be absent from work on vacation leave, only those calendar days during which the person would be required to work if not on vacation may be counted as vacation days.

(c) Unless approved by the municipality's governing body, a fire fighter or police officer may not accumulate vacation leave from year to year.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.047. SHIFT DIFFERENTIAL PAY. (a) The governing body of a municipality may authorize shift differential pay for fire fighters and police officers who work a shift in which more than 50 percent of the time worked is after 6 p.m. and before 6 a.m.

(b) The shift differential pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the fire or police department.

Added by Acts 1989, 71st Leg., ch. 1172, Sec. 3, eff. Aug. 28, 1989.

SUBCHAPTER D. DISCIPLINARY ACTIONS

Sec. 143.051. CAUSE FOR REMOVAL OR SUSPENSION. A commission rule prescribing cause for removal or suspension of a fire fighter or police officer is not valid unless it involves one or more of the following grounds:

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

(2) violations of a municipal charter provision;

(3) acts of incompetency;

(4) neglect of duty;

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

(6) acts showing lack of good moral character;

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

(8) conduct prejudicial to good order;

(9) refusal or neglect to pay just debts;

(10) absence without leave;

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

(12) violation of an applicable fire or police department rule or special order.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.052. DISCIPLINARY SUSPENSIONS. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) The head of the fire or police department may suspend a fire fighter or police officer under the department head's supervision or jurisdiction for the violation of a civil service rule. The suspension may be for a reasonable period not to exceed

15 calendar days or for an indefinite period. An indefinite suspension is equivalent to dismissal from the department.

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

(d) The copy of the written statement must inform the suspended fire fighter or police officer that if the person wants to appeal to the commission, the person must file a written appeal with the commission within 10 days after the date the person receives the copy of the statement.

(e) The written statement filed by the department head with the commission must point out each civil service rule alleged to have been violated by the suspended fire fighter or police officer and must describe the alleged acts of the person that the department head contends are in violation of the civil service rules. It is not sufficient for the department head merely to refer to the provisions of the rules alleged to have been violated.

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

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

(h) In the original written statement and charges and in any hearing conducted under this chapter, the department head may not complain of an act that occurred earlier than the 180th day preceding the date the department head suspends the fire fighter or

police officer. If the act is allegedly related to criminal 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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(g), eff. Aug. 28, 1989.

Sec. 143.053. APPEAL OF DISCIPLINARY SUSPENSION. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(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 person and the commission may agree to postpone the hearing for a definite period.

(c) In a hearing conducted under this section, the department head is restricted to the department head's original written statement and charges, which may not be amended.

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

(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 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 result of the suspension at the rate of pay provided for the position or class of service from which the person was suspended; and

(2) restoration of or credit for any other benefits lost as a result of the suspension, including sick leave, vacation leave, and service credit in a retirement system. Standard payroll deductions, if any, for retirement and other benefits restored shall be made from the compensation paid, and the municipality shall make its standard corresponding contributions, if any, to the retirement system or other applicable benefit systems.

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

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1999, 76th Leg., ch. 740, Sec. 1, eff. Sept. 1, 1999.

Sec. 143.054. DEMOTIONS. (a) If the head of the fire or police department wants a fire fighter or police officer under his supervision or jurisdiction to be involuntarily demoted, the department head may recommend in writing to the commission that the commission demote the fire fighter or police officer.

(b) The department head must include in the recommendation for demotion the reasons the department head recommends the demotion and a request that the commission order the demotion. The department head must immediately furnish a copy of the recommendation in person to the affected fire fighter or police officer.

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

(d) The fire fighter or police officer is entitled to a full and complete public hearing, and the commission may not demote a fire fighter or police officer without that public hearing.

(e) A voluntary demotion in which the fire fighter or police officer has accepted the terms of the demotion in writing is not subject to this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.055. UNCOMPENSATED DUTY OF POLICE OFFICERS. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) In this section, "uncompensated duty" means days of police work without pay that are in addition to regular or normal work days.

(c) The head of the police department may assign a police officer under his jurisdiction or supervision to uncompensated duty. The department head may not impose uncompensated duty unless the police officer agrees to accept the duty. If the police officer agrees to accept uncompensated duty, the department head shall give the person a written statement that specifies the date or dates on which the person will perform uncompensated duty.

(d) Uncompensated duty may be in place of or in combination with a period of disciplinary suspension without pay. If uncompensated duty is combined with a disciplinary suspension, the total number of uncompensated days may not exceed 15.

(e) A police officer may not earn or accrue any wage, salary, or benefit arising from length of service while the person is suspended or performing uncompensated duty. The days on which a police officer performs assigned uncompensated duty may not be taken into consideration in determining eligibility for a promotional examination. A disciplinary suspension does not constitute a break in a continuous position or in service in the department in determining eligibility for a promotional examination.

(f) Except as provided by this section, a police officer who performs assigned uncompensated duty retains all rights and privileges of the person's position in the police department and of

the person's employment by the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.056. PROCEDURES AFTER FELONY INDICTMENT OR MISDEMEANOR COMPLAINT. (a) If a fire fighter or police officer is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor, the department head may temporarily suspend the person with or without pay for a period not to exceed 30 days after the date of final disposition of the specified felony indictment or misdemeanor complaint.

(b) The department head shall notify the suspended fire fighter or police officer in writing that the person is being temporarily suspended for a specific period with or without pay and that the temporary suspension is not intended to reflect an opinion on the merits of the indictment or complaint.

(c) If the action directly related to the felony indictment or misdemeanor complaint occurred or was discovered on or after the 180th 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 fire fighter or police officer for a violation of civil service rules.

(d) A fire fighter or police officer indicted for a felony or officially charged with the commission of a Class A or B misdemeanor who has also been charged by the department head with civil service violations directly related to the indictment or complaint may delay the civil service hearing for not more than 30 days after the date of the final disposition of the indictment or complaint.

(e) If the department head temporarily suspends a fire fighter or police officer under this section and the fire fighter or police officer is not found guilty of the indictment or complaint in a court of competent jurisdiction, the fire fighter or police officer may appeal to the commission or to a hearing examiner for recovery of back pay. The commission or hearing examiner may award all or part of the back pay or reject the appeal.

(f) Acquittal or dismissal of an indictment or a complaint

does not mean that a fire fighter or police officer has not violated civil service rules and does not negate the charges that may have been or may be brought against the fire fighter or police officer by the department head.

(g) Conviction of a felony is cause for dismissal, and conviction of a Class A or B misdemeanor may be cause for disciplinary action or indefinite suspension.

(h) The department head may order an indefinite suspension 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 person's conduct. If the department head intends to order an indefinite suspension 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.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.057. HEARING EXAMINERS. (a) In addition to the other notice requirements prescribed by this chapter, the written notice for a promotional bypass or the letter of disciplinary action, as applicable, issued to a fire fighter or police officer must state that in an appeal of an indefinite suspension, a suspension, a promotional bypass, or a recommended demotion, the appealing fire fighter or police officer may elect to appeal to an independent third party hearing examiner instead of to the commission. The letter must also state that if the fire fighter or police officer elects to appeal to a hearing examiner, the person waives all rights to appeal to a district court except as provided by Subsection (j).

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

(c) The hearing examiner's decision is final and binding on

all parties. If the fire fighter or police officer decides to appeal to an independent third party hearing examiner, the person automatically waives all rights to appeal to a district court except as provided by Subsection (j).

(d) If the appealing fire fighter or police officer chooses to appeal to a hearing examiner, the fire fighter or police officer and the department head, or their designees, shall first attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner on or within 10 days after the date the appeal is filed, the director shall 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. The fire fighter or police officer and the department head, or their designees, may agree on one of the seven neutral arbitrators on the list. If they do not agree within five working days after the date they received the list, each party or the party's designee shall alternate striking a name from the list and the name remaining is the hearing examiner. The parties or their designees shall agree on a date for the hearing.

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

(f) In each hearing conducted under this section, the hearing examiner has the same duties and powers as the commission, including the right to issue subpoenas.

(g) In a hearing conducted under this section, the parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure the hearing examiner shall render a decision on the appeal within 10 days after the date the hearing ended.

(h) In an appeal that does not involve an expedited hearing procedure, the hearing examiner shall 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. The hearing examiner's inability to meet the time 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.

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

(j) A district court may hear an appeal of a hearing examiner's award only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction or that the order was procured by fraud, collusion, or other unlawful means. An appeal must be brought in the district court having jurisdiction in the municipality in which the fire or police department is located.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 869 (S.B. 1050), Sec. 5, eff. September 1, 2005.

SUBCHAPTER E. LEAVES

Sec. 143.071. LEAVES OF ABSENCE; RESTRICTION PROHIBITED. (a) If a sufficient number of fire fighters or police officers are available to carry out the normal functions of the fire or police department, a fire fighter or police officer may not be refused a reasonable leave of absence without pay to attend a fire or police school, convention, or meeting if the purpose of the school, convention, or meeting is to secure a more efficient department and better working conditions for department personnel.

(b) A rule that affects a fire fighter's or police officer's constitutional right to appear before or to petition the legislature may not be adopted.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.072. MILITARY LEAVE OF ABSENCE. (a) On written application of a fire fighter or police officer, the commission

shall grant the person a military leave of absence without pay, subject to Section 143.075, to enable the person to enter a branch of the United States military service. The leave of absence may not exceed the period of compulsory military service or the basic minimum enlistment period for the branch of service the fire fighter or police officer enters.

(b) The commission shall grant to a fire fighter or police officer a leave of absence for initial training or annual duty in the military reserves or the national guard.

(c) While a fire fighter or police officer who received a military leave of absence serves in the military, the commission shall fill the person's position in the department in accordance with this chapter.

(d) On termination of active military service, a fire fighter or police officer who received a military leave of absence under this section is entitled to be reinstated to the position that the person held in the department at the time the leave of absence was granted if the person:

(1) receives an honorable discharge;

(2) remains physically and mentally fit to discharge the duties of that position; and

(3) makes an application for reinstatement within 90 days after the date the person is discharged from military service.

(e) On reinstatement, the fire fighter or police officer shall receive full seniority credit for the time spent in the military service.

(f) If the reinstatement of a fire fighter or police officer who received a military leave of absence causes a surplus in the rank to which the fire fighter or police officer was reinstated, the fire fighter or police officer who has the least seniority in the position shall be returned to the position immediately below the position to which the returning fire fighter or police officer was reinstated. If a fire fighter or police officer is returned to a lower position in grade or compensation under this subsection without charges being filed against the person for violation of civil service rules, the fire fighter or police officer shall be placed on a position reinstatement list in order of

seniority. Appointments from the reinstatement list shall be made in order of seniority. A person who is not on the reinstatement list may not be appointed to a position to which the list applies until the list is exhausted.

(g) If a fire fighter or police officer employed by a municipality is called to active military duty for any period, the employing municipality must continue to maintain any health, dental, or life insurance coverage and any health or dental benefits coverage that the fire fighter or police officer received through the municipality on the date the fire fighter or police officer was called to active military duty until the municipality receives written instructions from the fire fighter or police officer to change or discontinue the coverage.

(h) In addition to other procedures prescribed by this section, a fire fighter or police officer may, without restriction as to the amount of time, voluntarily substitute for a fire fighter or police officer described by Sections 143.075(b)(1) and (2) who has been called to active federal military duty for a period expected to last 12 months or longer. A fire fighter or police officer who voluntarily substitutes under this subsection must be qualified to perform the duties of the absent fire fighter or police officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2003, 78th Leg., ch. 287, Sec. 1, eff. June 18, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 704 (H.B. 2806), Sec. 1, eff. September 1, 2009.

Sec. 143.073. LINE OF DUTY ILLNESS OR INJURY LEAVE OF ABSENCE. (a) A municipality shall provide to a fire fighter or police officer a leave of absence for an illness or injury related to the person's line of duty. The leave is with full pay for a period commensurate with the nature of the line of duty illness or injury. If necessary, the leave shall continue for at least one year.

(b) At the end of the one-year period, the municipality's governing body may extend the line of duty illness or injury leave

at full or reduced pay. If the fire fighter's or police officer's leave is not extended or the person's salary is reduced below 60 percent of the person's regular monthly salary, and the person is a member of a pension fund, the person may retire on pension until able to return to duty.

(c) If pension benefits are not available to a fire fighter or police officer who is temporarily disabled by a line of duty injury or illness and if the year at full pay and any extensions granted by the governing body have expired, the fire fighter or police officer may use accumulated sick leave, vacation time, and other accrued benefits before the person is placed on temporary leave.

(d) If a fire fighter or police officer is temporarily disabled by an injury or illness that is not related to the person's line of duty, the person may:

(1) use all sick leave, vacation time, and other accumulated time before the person is placed on temporary leave; or

(2) have another fire fighter or police officer volunteer to do the person's work while the person is temporarily disabled by the injury or illness.

(e) After recovery from a temporary disability, a fire fighter or police officer shall be reinstated at the same rank and with the same seniority the person had before going on temporary leave. Another fire fighter or police officer may voluntarily do the work of an injured fire fighter or police officer until the person returns to duty.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 683, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 399 (H.B. 1790), Sec. 1, eff. September 1, 2015.

Sec. 143.074. REAPPOINTMENT AFTER RECOVERY FROM DISABILITY. With the commission's approval and if otherwise qualified, a fire fighter or police officer who has been certified by a physician selected by a pension fund as having recovered from a disability for which the person has been receiving a monthly

disability pension is eligible for reappointment to the classified position that the person held on the date the person qualified for the monthly disability pension.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 683, Sec. 2, eff. Sept. 1, 2001.

Sec. 143.075. MILITARY LEAVE TIME ACCOUNTS. (a) A municipality shall maintain military leave time accounts for the fire and police departments and must maintain a separate military leave time account for each department.

(b) A military leave time account shall benefit a fire fighter or police officer who:

(1) is a member of the Texas National Guard or the armed forces reserves of the United States;

(2) was called to active federal military duty while serving as a fire fighter or police officer for the municipality; and

(3) has served on active duty for a period of 3 continuous months or longer.

(c) A fire fighter or police officer may donate any amount of accumulated vacation, holiday, sick, or compensatory leave time to the military leave time account in that fire fighter's or police officer's department to help provide salary continuation for fire fighters or police officers who qualify as eligible beneficiaries of the account under Subsection (b). A fire fighter or police officer who wishes to donate time to an account under this section must authorize the donation in writing on a form provided by the fire or police department and approved by the municipality.

(d) A municipality shall equally distribute the leave time donated to a military leave time account among all fire fighters or police officers who are eligible beneficiaries of that account. The municipality shall credit and debit the applicable military leave time account on an hourly basis regardless of the cash value of the time donated or used.

Added by Acts 2003, 78th Leg., ch. 287, Sec. 2, eff. June 18, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1041 (H.B. 2924), Sec. 1, eff.

June 14, 2013.

SUBCHAPTER F. MISCELLANEOUS PROVISIONS

Sec. 143.081. DETERMINATION OF PHYSICAL AND MENTAL FITNESS. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) If a question arises as to whether a fire fighter or police officer is sufficiently physically or mentally fit to continue the person's duties, the fire fighter or police officer shall submit to the commission a report from the person's personal physician, psychiatrist, or psychologist, as appropriate.

(c) If the commission, the department head, or the fire fighter or police officer questions the report, the commission shall appoint a physician, psychiatrist, or psychologist, as appropriate, to examine the fire fighter or police officer and to submit a report to the commission, the department head, and the person.

(d) If the report of the appointed physician, psychiatrist, or psychologist, as appropriate, disagrees with the report of the fire fighter's or police officer's personal physician, psychiatrist, or psychologist, as appropriate, the commission shall appoint a three-member board composed of a physician, a psychiatrist, and a psychologist, or any combination, as appropriate, to examine the fire fighter or police officer. The board's findings as to the person's fitness for duty shall determine the issue.

(e) The fire fighter or police officer shall pay the cost of the services of the person's personal physician, psychiatrist, or psychologist, as appropriate. The municipality shall pay all other costs.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(h), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 890, Sec. 1, eff. Aug. 28, 1989.

Sec. 143.082. EFFICIENCY REPORTS. (a) The commission may develop proper procedures and rules for semiannual efficiency

reports and grades for each fire fighter or police officer.

(b) If the commission collects efficiency reports on fire fighters or police officers, the commission shall provide each person with a copy of that person's report.

(c) Within 10 calendar days after the date a fire fighter or police officer receives the copy of the person's efficiency report, the person may make a statement in writing concerning the efficiency report. The statement shall be placed in the person's personnel file with the efficiency report.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(i), eff. Aug. 28, 1989.

Sec. 143.083. EMERGENCY APPOINTMENT OF TEMPORARY FIRE FIGHTERS. (a) If a municipality is unable to recruit qualified fire fighters because of the maximum age limit prescribed by Section 143.023 and the municipality's governing body finds that this inability creates an emergency, the commission shall recommend to the governing body additional rules governing the temporary employment of persons who are 36 years of age or older.

(b) A person employed under this section:

(1) is designated as a temporary employee;

(2) is not eligible for pension benefits;

(3) is not eligible for appointment or promotion if a permanent applicant or employee is available;

(4) is not eligible to become a full-fledged civil service employee; and

(5) must be dismissed before a permanent civil service employee may be dismissed under Section 143.085.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 418 (H.B. 1661), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 418 (H.B. 1661), Sec. 3, eff. September 1, 2023.

Sec. 143.084. CIVIL SERVICE STATUS AND PENSION BENEFITS FOR CERTAIN FIRE FIGHTERS. (a) Each fire fighter who, since December

31, 1969, has been continuously employed as a temporary employee under the provision codified as Section 143.083 has the full status of a civil service employee with all the rights and privileges granted by Section 143.005.

(b) A fire fighter covered by Subsection (a) is eligible to participate in earned pension benefits. The person may buy back service credits in the pension fund in which the permanent fire fighters in the department have participated since that person's employment. The credits may be bought at a rate determined by the actuary of the affected pension fund.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 418 (H.B. 1661), Sec. 4, eff. September 1, 2023.

Sec. 143.085. FORCE REDUCTION AND REINSTATEMENT LIST. (a) If a municipality's governing body adopts an ordinance that vacates or abolishes a fire or police department position, the fire fighter or police officer who holds that position shall be demoted to the position immediately below the vacated or abolished position. If one or more positions of equal rank are vacated or abolished, the fire fighters or police officers who have the least seniority in a position shall be demoted to the position immediately below the vacated or abolished position. If a fire fighter or police officer is demoted under this subsection without charges being filed against the person for violation of civil service rules, the fire fighter or police officer shall be placed on a position reinstatement list in order of seniority. If the vacated or abolished position is filled or re-created within one year after the date it was vacated or abolished, the position must be filled from the reinstatement list. Appointments from the reinstatement list shall be made in order of seniority. A person who is not on the list may not be appointed to the position during the one-year period until the reinstatement list is exhausted.

(b) If a position in the lowest classification is abolished or vacated and a fire fighter or police officer must be dismissed from the department, the fire fighter or police officer with the

least seniority shall be dismissed. If a fire fighter or police officer is dismissed under this subsection without charges being filed against the person for violation of civil service rules, the fire fighter or police officer shall be placed on a reinstatement list in order of seniority. Appointments from the reinstatement list shall be made in order of seniority. Until the reinstatement list is exhausted, a person may not be appointed from an eligibility list. When a person has been on a reinstatement list for three years, the person shall be dropped from the list but shall be restored to the list at the request of the commission.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.086. POLITICAL ACTIVITIES. (a) While in uniform or on active duty, a fire fighter or police officer may not take an active part in another person's political campaign for an elective position of the municipality.

(b) For the purposes of this section, a person takes an active part in a political campaign if the person:

(1) makes a political speech;

(2) distributes a card or other political literature;

(3) writes a letter;

(4) signs a petition;

(5) actively and openly solicits votes; or

(6) makes public derogatory remarks about a candidate for an elective position of the municipality.

(c) A fire fighter or police officer may not be required to contribute to a political fund or to render a political service to a person or party. A fire fighter or police officer may not be removed, reduced in classification or salary, or otherwise prejudiced for refusing to contribute to a political fund or to render a political service.

(d) A municipal official who attempts to violate Subsection (c) violates this chapter.

(e) Except as expressly provided by this section, the commission or the municipality's governing body may not restrict a fire fighter's or police officer's right to engage in a political activity.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.087. STRIKE PROHIBITION. (a) A fire fighter or police officer may not engage in a strike against the governmental agency that employs the fire fighter or police officer.

(b) In addition to the penalty prescribed by Section 143.016, if a fire fighter or police officer is convicted of an offense for violating this section, the person shall be automatically released and discharged from the fire or police department. After the person is discharged from the department, the person may not receive any pay or compensation from public funds used to support the fire or police department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.088. UNLAWFUL RESIGNATION OR RETIREMENT. (a) This section does not apply to a municipality with a population of 1.5 million or more.

(b) A person commits an offense if the person accepts money or anything of value from another person in return for retiring or resigning from the person's civil service position.

(c) A person commits an offense if the person gives money or anything of value to another person in return for the other person's retirement or resignation from the person's civil service position.

(d) An offense under this section is a Class A misdemeanor.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.089. PERSONNEL FILE. (a) The director or the director's designee shall maintain a personnel file on each fire fighter and police officer. The personnel file must contain any letter, memorandum, or document relating to:

(1) a commendation, congratulation, or honor bestowed on the fire fighter or police officer by a member of the public or by the employing department for an action, duty, or activity that relates to the person's official duties;

(2) any misconduct by the fire fighter or police officer if the letter, memorandum, or document is from the employing department and if the misconduct resulted in disciplinary

action by the employing department in accordance with this chapter; and

(3) the periodic evaluation of the fire fighter or police officer by a supervisor.

(b) A letter, memorandum, or document relating to alleged misconduct by the fire fighter or police officer may not be placed in the person's personnel file if the employing department determines that there is insufficient evidence to sustain the charge of misconduct.

(c) A letter, memorandum, or document relating to disciplinary action taken against the fire fighter or police officer or to alleged misconduct by the fire fighter or police officer that is placed in the person's personnel file as provided by Subsection (a)(2) shall be removed from the employee's file if the commission finds that:

(1) the disciplinary action was taken without just cause; or

(2) the charge of misconduct was not supported by sufficient evidence.

(d) If a negative letter, memorandum, document, or other notation of negative impact is included in a fire fighter's or police officer's personnel file, the director or the director's designee shall, within 30 days after the date of the inclusion, notify the affected fire fighter or police officer. The fire fighter or police officer may, on or before the 15th day after the date of receipt of the notification, file a written response to the negative letter, memorandum, document, or other notation.

(e) The fire fighter or police officer is entitled, on request, to a copy of any letter, memorandum, or document placed in the person's personnel file. The municipality may charge the fire fighter or police officer a reasonable fee not to exceed actual cost for any copies provided under this subsection.

(f) The director or the director's designee may not release any information contained in a fire fighter's or police officer's personnel file without first obtaining the person's written permission, unless the release of the information is required by law.

(g) A fire or police department may maintain a personnel file on a fire fighter or police officer employed by the department for the department's use. Except as provided by Subsection (h), the department may not release any information contained in the department file to any agency or person requesting information relating to a fire fighter or police officer. The department shall refer to the director or the director's designee a person or agency that requests information that is maintained in the fire fighter's or police officer's personnel file.

(h) As provided by Section 1701.451, Occupations Code, a law enforcement agency hiring a police officer is entitled to view the contents of the officer's personnel file maintained under Subsection (g).

Added by Acts 1989, 71st Leg., ch. 1, Sec. 25(c), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 84, eff. Sept. 1, 1989.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 834 (S.B. 24), Sec. 1, eff. September 1, 2021.

Sec. 143.090. RELEASE OF PHOTOGRAPHS OF POLICE OFFICERS. A department, commission, or municipality may not release a photograph that depicts a police officer unless:

(1) the officer has been charged with an offense by indictment or by information;

(2) the officer is a party in a civil service hearing or a case before a hearing examiner or in arbitration;

(3) the photograph is introduced as evidence in a judicial proceeding; or

(4) the officer gives written consent to the release of the photograph.

Added by Acts 2011, 82nd Leg., R.S., Ch. 300 (H.B. 2006), Sec. 1, eff. September 1, 2011.

SUBCHAPTER G. PROVISIONS APPLICABLE TO MUNICIPALITY WITH POPULATION OF 1.5 MILLION OR MORE AND CERTAIN OTHER MUNICIPALITIES

Sec. 143.101. SUBCHAPTER APPLICABLE PRIMARILY TO MUNICIPALITY WITH POPULATION OF 1.5 MILLION OR MORE; APPLICATION OF OTHER SUBCHAPTERS. (a) Except as otherwise provided, this subchapter applies only to a municipality with a population of 1.5 million or more.

(b) Except as otherwise provided, the provisions of Subchapters A-F apply to each municipality covered under this subchapter.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.1014. NOTICE REQUIREMENT FOR CERTAIN MEETINGS OR HEARINGS. (a) The department shall provide to a fire fighter or police officer notice of the time and location of a meeting or hearing not later than the 48th hour before the hour on which the meeting or hearing is held if the meeting or hearing is:

(1) related to an internal departmental or other municipal investigation of the fire fighter or police officer at which the fire fighter or police officer is required or entitled to be present, including an interrogation;

(2) related to a grievance filed by the fire fighter or police officer under Sections 143.127 through 143.134; or

(3) an opportunity to respond to charges against the fire fighter or police officer before the department terminates the fire fighter's or police officer's employment.

(b) A fire fighter or police officer may waive the notice prescribed by this section.

Added by Acts 1989, 71st Leg., ch. 140, Sec. 1, eff. May 25, 1989. Renumbered from 143.1016 by Acts 1990, 71st Leg., 6th C.S., ch. 12, Sec. 2(19), eff. Sept. 6, 1990.

Sec. 143.1015. COMMISSION APPEAL PROCEDURE; SUBPOENA REQUEST. (a) An appeal by a fire fighter or police officer to the commission from an action for which an appeal or review is provided by this chapter is sufficient if the fire fighter or police officer files it with the commission within 15 days after the date the action occurred. In an appeal provided by this chapter the commission shall render a decision in writing within 60 days after

it received the notice of appeal, unless the provisions of Section 143.1017(d) have been invoked by the fire fighter or police officer. If the commission does not render a decision in writing within 60 days after the date it receives notice of the appeal, the commission shall sustain the fire fighter's or police officer's appeal.

(b) On or before the 15th day before the date the appeal hearing will be held, the commission shall notify the fire fighter or police officer of the date on which the commission will hold the hearing.

(c) The commission may not restrict the fire fighter's or police officer's ability to subpoena relevant witnesses.

(d) Within three days after the date the fire fighter or police officer receives the commission's written refusal to subpoena materials, the fire fighter or police officer may request in writing that the commission hold a hearing relating to the reasons for that person's subpoena request.

(e) The hearing relating to the reasons for the fire fighter's or police officer's subpoena request shall be held on the date set for the original appeal hearing. If the commission overrules the subpoena request at the hearing:

(1) the commission may hear the fire fighter's or police officer's appeal on that date; or

(2) if the commission finds that justice is served by a continuance, the commission shall:

(A) reschedule the hearing to the commission's next regularly scheduled meeting; and

(B) give the fire fighter or police officer 15 days notice of that date.

(f) If the commission sustains the fire fighter's or police officer's subpoena request at the hearing, the commission shall:

(1) reschedule the appeal hearing date to the commission's next regularly scheduled meeting; and

(2) give the fire fighter or police officer 15 days notice of that date.

(g) If the commission reschedules a hearing under this section in an appeal relating to an indefinite suspension, the

commission shall render a decision in writing within 60 days after the date it receives notice of appeal.

(h) If the commission does not hold a hearing on the fire fighter's or police officer's subpoena request as prescribed by this section, the commission shall sustain the fire fighter's or police officer's appeal.

(i) A municipal employee who is subpoenaed to appear in any appeal of a disciplinary decision is entitled to applicable pay for the time the employee is required to be present at the hearing. Witnesses whose testimony relates primarily to the character or reputation of the employee shall be limited by the hearing examiner or commission if the testimony is repetitious or unduly prolongs the hearing. If the hearing examiner or commission limits the number of character or reputation witnesses, additional witness statements may be presented by affidavit. The character witnesses are not entitled to applicable pay for the time they are required to be present at the hearing.

(j) In any hearing relating to the appeal or review of an action of the department head that affects a fire fighter or police officer, the department head shall have the burden of proof. The department head is required to prove the allegations contained in the written statement, and the department head is restricted to the written statement and charges, which may not be amended.

(k) In an appeal to a hearing examiner, the director may, within five working days after the date the hearing examiner is chosen, send to the hearing examiner the following:

(1) the name of the fire fighter or police officer who is appealing;

(2) the written reasons filed by the department head with the commission in the case of a promotional passover or a recommended demotion;

(3) the specific provisions of the rules alleged to have been violated in the case of a suspension; and

(4) the date and place of the alleged civil service violation.

The director may not send the hearing examiner the department head's original written statement. The department head shall

submit the written statement and charges to the hearing examiner at the hearing.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 25(d), eff. Aug. 28, 1989. Amended by Acts 1989, 71st Leg., ch. 854, Sec. 3, eff. June 14, 1989; Acts 1989, 71st Leg., ch. 906, Sec. 1, eff. Aug. 28, 1989.

Sec. 143.1016. HEARING EXAMINERS. (a) In addition to the other notice requirements prescribed by this chapter, the letter of disciplinary action issued to a fire fighter or police officer must state that in an appeal of an indefinite suspension, a suspension, a promotional pass over, or a recommended demotion, the appealing fire fighter or police officer may elect to appeal to an independent third party hearing examiner instead of to the commission. The letter must also state that if the fire fighter or police officer elects to appeal to a hearing examiner, the person waives all rights to appeal to a district court except as provided by Subsection (j).

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

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

(d) If the appealing fire fighter or police officer chooses to appeal to a hearing examiner, the fire fighter or police officer and the department head or their designees shall first attempt to agree on the selection of an impartial hearing examiner. If the parties do not agree on the selection of a hearing examiner on or within 10 days after the date the appeal is filed and no motion to consolidate is filed under Subsection (k) of this section, the director shall on the next work day following notice that the parties have failed to agree on a selection of a hearing examiner 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. The fire fighter or police officer and the department head or their designees may agree on one of the seven neutral arbitrators on the list. If they do not agree within 25 days after the date the appeal was filed, each party or the party's designee shall on the 25th day after the appeal was filed alternate striking a name from the list and the name remaining is the hearing examiner. In the event that the 25th day falls on a Saturday, Sunday, or a legal holiday, then the parties shall strike the list the next work day. The parties or their designees shall agree on a date for the hearing that is within the time period prescribed by Subsection (e). In the event that the director does not request the list of seven qualified neutral arbitrators within the time prescribed by this subsection or the department head or his designee fails to strike the list within the time prescribed by this subsection, the fire fighter or police officer or his designee shall select the arbitrator from the list provided. In the event that the fire fighter or police officer or his designee fails to strike the list within the time prescribed by this subsection, the department head or his designee shall select the arbitrator from the list provided.

(e) The appeal hearing must begin within 60 days after the date the appeal is filed and shall begin as soon as the hearing examiner can be scheduled. If the hearing examiner cannot begin the hearing within 45 calendar days after the date of selection, the fire fighter or police officer may, within two days after learning of that fact, call for the selection of a new hearing examiner using the procedure prescribed by Subsection (d). If the appeal hearing is not begun within 60 days after the date the appeal is filed, the indefinite suspension, suspension, promotional pass over, or recommended demotion is upheld and the appeal is withdrawn if the fire fighter or police officer is not ready to proceed, and the appeal is sustained if the department head is not ready to proceed. In computing the 60-day period, a period of delay not to exceed 30 calendar days because of a continuance granted at the request of the department head or his representative or the fire fighter or police officer or his representative on good cause being shown, or because of the unavoidable unavailability of the hearing examiner on the

date of the hearing, or because of the pendency of a motion to consolidate with another hearing as provided in Subsection (k) of this section is excluded. In no event may a hearing examiner grant a continuance beyond 30 days in an indefinite suspension. A hearing examiner may grant a continuance beyond the 30-day period upon good cause being shown in a disciplinary suspension unless the fire fighter or police officer has another disciplinary action pending.

(f) In each hearing conducted under this section, the hearing examiner has the same duties and powers as the commission, including the right to issue subpoenas.

(g) In a hearing conducted under this section, the parties may agree to an expedited hearing procedure. Unless otherwise agreed by the parties, in an expedited procedure the hearing examiner shall render a decision on the appeal within 10 days after the date the hearing closed.

(h) In an appeal that does not involve an expedited hearing procedure, the hearing examiner shall 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. The hearing examiner's inability to meet the time 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.

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

(j) A district court may hear an appeal of a hearing examiner's award only on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction or that the order was procured by fraud, collusion, or other unlawful means. If the basis for the appeal of the hearing examiner's award is based on the grounds that the arbitration panel was without jurisdiction or exceeded its jurisdiction, the petition must be filed in district court within 10 days of the hearing examiner's decision. An appeal must be brought in the district court having jurisdiction in the municipality in which the fire or police department is located. In

the event the municipality is located in more than one county then the suit must be brought in the county having the majority of the population of the municipality.

(k) In an appeal of an indefinite suspension, a suspension, a promotional pass over, or a recommended demotion, each appealing fire fighter or police officer or the appealing fire fighter's or police officer's representative shall be entitled to the selection of a hearing examiner pursuant to Subsection (d) of this section to hear the case. The fire fighter, police officer, department head, or a representative of any of those may, within 10 days of the date they received notice of the appeal, file a motion with a copy to the opposing side to consolidate the case with that of one or more other fire fighters or police officers where the charges arise out of the same incident. The motion to consolidate may be agreed to in writing and filed with the director. If a motion to consolidate the cases is filed and not agreed to, a hearing examiner shall be chosen pursuant to the provisions of Subsection (d) of this section to hear the motion. The decision of the hearing examiner shall be final and binding as to the issue of consolidation. The hearing examiner chosen to hear the motion to consolidate shall not hear the case, and the provisions of Subsection (d) of this section shall be used to choose the hearing examiner with the day the decision is rendered being the equivalent of the date the appeal was filed.

Added by Acts 1989, 71st Leg., ch. 854, Sec. 4, eff. June 14, 1989.

Sec. 143.1017. PROCEDURES AFTER FELONY INDICTMENT OR OTHER CRIME OF MORAL TURPITUDE. (a) If a fire fighter or police officer is indicted for a felony or officially charged with the commission of any other crime involving moral turpitude, the department head may temporarily suspend the person with or without pay for a period not to exceed 30 days after the date the fire fighter or police officer gives notice of final disposition of the specified felony indictment or any other crime involving moral turpitude.

(b) The department head shall notify the suspended fire fighter or police officer in writing that the person is being temporarily suspended for a specific period with or without pay and that the temporary suspension is not intended to reflect an opinion

on the merits of the indictment or complaint.

(c) If the action directly related to the felony indictment or misdemeanor complaint occurred or was discovered on or after the 180th day before the date of the indictment or complaint, the department head may, within 60 days after the date of final disposition of the indictment or complaint, bring a charge against the fire fighter or police officer for a violation of civil service rules.

(d) A fire fighter or police officer indicted for a felony or officially charged with the commission of any other crime involving moral turpitude who has also been charged by the department head with civil service violations directly related to the indictment or complaint may delay the civil service hearing for not more than 30 days after the date of the final disposition of the indictment or complaint.

(e) If the department head temporarily suspends a fire fighter or police officer under this section and the fire fighter or police officer is not found guilty of the indictment or complaint in a court of competent jurisdiction, the fire fighter or police officer may appeal to the commission or to a hearing examiner for recovery of back pay. The commission or hearing examiner may award all or part of the back pay or reject the appeal.

(f) Acquittal or dismissal of an indictment or a complaint does not mean that a fire fighter or police officer has not violated civil service rules and does not negate the charges that may have been or may be brought against the fire fighter or police officer by the department head.

(g) Final conviction of a felony shall be the basis for dismissal without notice or further proceedings under this Act, and conviction of any other crime involving moral turpitude may be cause for disciplinary action or indefinite suspension.

(h) The department head may order an indefinite suspension based on an act classified as a felony or any other crime involving moral turpitude 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 person's conduct. If the department head intends to order an

indefinite suspension 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.

Added by Acts 1989, 71st Leg., ch. 854, Sec. 2, eff. June 14, 1989.

Sec. 143.1018. EX PARTE COMMUNICATIONS. (a) While any matter subject to a hearing under this chapter is pending, a person may not, except in giving sworn testimony at the hearing or as otherwise provided by law, communicate with the commission, a hearing examiner, or a grievance examiner regarding the facts of the matter under consideration unless the other party or their representative is present. Notwithstanding the provisions of this subsection, it shall not be a violation for either party to file written briefs or written motions in the case if copies were served on the opposing party.

(b) If the commission, hearing examiner, grievance examiner, or a court of competent jurisdiction determines that a person has violated Subsection (a) on behalf of and with the knowledge of the fire fighter or police officer who filed the appeal, request for a review, or grievance, a ruling shall be entered that dismisses the appeal, review, or grievance. If the commission, hearing examiner, grievance examiner, or a court of competent jurisdiction determines that a person violated Subsection (a) on behalf of or in favor of the department head or the department head's representative or on behalf of and with the knowledge of a person against whom a grievance was filed, a ruling shall be entered that upholds the position of the fire fighter or police officer that filed the appeal, request for a review, or grievance.

(c) While any matter subject to a hearing under the grievance procedure of Section 143.130 is pending, the director shall only send the name of the parties to the grievance, the original grievance, the written responses to the grievance, and any documents filed in the case by either party if copies were served upon the opposing party.

Added by Acts 1989, 71st Leg., ch. 906, Sec. 2, eff. Aug. 28, 1989.

Sec. 143.102. APPOINTMENT OF ASSISTANT CHIEF. (a) The head of the fire or police department may appoint a person to a command staff position at the rank of assistant chief as prescribed by this section.

(b) The heads of the fire and police departments shall establish required qualifying criteria for persons appointed to command staff positions at the rank of assistant chief in their respective departments. The required qualifying criteria used to select an assistant chief of the fire department must include criteria relating to management experience, educational and training background, special experience, and a performance evaluation. The required qualifying criteria must be approved by a vote of two-thirds of the municipality's governing body present and voting. The head of the police or fire department may not make an appointment until the required qualifying criteria are established and approved as prescribed by this subsection.

(c) To be eligible for appointment to a position at the rank of assistant chief of a police department, a person must:

(1) be a member of the classified service;

(2) have served for at least five years in the department as a sworn police officer; and

(3) meet the additional qualifying criteria established and approved as prescribed by Subsection (b).

(d) To be eligible for appointment to a position at the rank of assistant chief of a fire department, a person must:

(1) be a member of the classified service;

(2) have served for at least five years in the department as a certified fire fighter; and

(3) meet the additional qualifying criteria established and approved as prescribed by Subsection (b).

(e) The department head may remove without cause a person appointed under this section. If a person is removed without cause, the person shall be restored to that person's highest rank earned by competitive examination.

(f) If a person appointed under this section is temporarily or indefinitely suspended for cause from the appointed position,

the suspension is subject to the procedures for disciplinary action prescribed by this chapter. If a person is indefinitely suspended for cause, the person does not have a right to reinstatement to the highest rank earned by competitive examination except to the extent that the indefinite suspension is reversed or modified by order of the commission or a hearing examiner.

(g) A person occupying a position in the rank of assistant chief of the fire or police department on September 1, 1985, may not be removed except for cause in accordance with the procedures for disciplinary action or demotion prescribed by this chapter.

(h) A person occupying a position in the rank of assistant chief of a fire or police department may voluntarily demote himself to the highest rank the person earned by competitive examination.

(i) A person may remove himself from consideration for appointment under this section.

(j) A person appointed under this section may take any promotional examination for which the person would have been eligible under this chapter.

(k) A person appointed under this section is subject to confirmation by the municipality's governing body.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 27(a), eff. Aug. 28, 1989.

Sec. 143.103. SPECIALIZED POLICE DIVISIONS. (a) A peace officer employed by a municipal department in which the peace officer performs duties in a specialized police division, including a person employed as a park police officer, airport police officer, or municipal marshal, is entitled to civil service status under this chapter. The governing body of the municipality employing a peace officer in a specialized police division shall classify the officer in accordance with Section 143.021 and the duties performed by the peace officer.

(b) Except for positions classified in the communication or technical class, the governing body of the municipality employing a peace officer in a specialized police division shall classify a position in the division in the same class as a police officer position that is not in a specialized police division. A member of a

particular division is eligible for promotion or lateral crossover to a position outside that division. The head of the police department, assistant chiefs of police, and deputy chiefs of police, or their equivalent, regardless of name or title, may exercise the full sanctions, powers, and duties of their respective offices in the supervision, management, and control of the members of those classes and divisions, subject to the decisions of the department head regarding the chain of command in the department.

(c) In departments in which a collective bargaining agreement or a meet-and-confer agreement exists, Subsection (b) must be approved by the collective bargaining agent, meet-and-confer agent, or entity representing the sworn officers of the department. This subsection does not apply to the transfer of police officers.

(d) Each applicable provision of this chapter, including the provisions relating to eligibility lists, examinations, promotions, appointments, educational incentive pay, longevity or seniority pay, certification pay, assignment pay, salary, vacation leave, and disciplinary appeals, applies to a peace officer employed by the municipality in a specialized police division as provided by this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 1195, Sec. 1, eff. Sept. 1, 1997.

Sec. 143.104. EXAMINATION PROCEDURE. The commission shall adopt rules to standardize the procedures for entrance and promotional examinations. The rules must provide:

(1) that each applicant have adequate space in which to take the examination;

(2) that each applicant be provided with a desk;

(3) that the room in which the examination is held have a public address system; and

(4) the maximum number of times an applicant may leave the room during the examination and the procedure each applicant must follow when leaving or entering the room during the examination.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.1041. ENTRANCE EXAMINATION FOR BEGINNING PEACE OFFICER POSITION IN POLICE DEPARTMENT. (a) In this section, "police officer training academy" means a police officer training academy operated or sponsored by a municipality to which this section applies.

(b) The commission shall provide for open, competitive, and free entrance examinations to provide eligibility lists for beginning peace officer positions in the police department. The examinations are open to each person who:

(1) makes a proper application;

(2) has been admitted to or is enrolled in a police officer training academy as an academy trainee; and

(3) meets the requirements prescribed by this chapter.

(c) The entrance examination may be administered to examinees only after the examinees are admitted to a police officer training academy and before the examinees graduate from the academy.

(d) An eligibility list for a beginning peace officer position in the police department may be created only as a result of the examination. Except as provided by Subsection (f), the examination must be held in the presence of each examinee. The examination must be based on the examinee's general knowledge and aptitude and must inquire into the examinee's general education and mental ability. A person may not be appointed to the police department except as a result of the examination.

(e) An examinee may not take an examination unless at least one other examinee taking the examination is present.

(f) An entrance examination for beginning peace officer positions in the police department must be held at one or more locations in the municipality in which the police department is located and may be held at additional locations outside the municipality. An examination held at multiple locations must be administered on the same day and at the same time at each location at which it is given. To create one eligibility list, each member of a police officer training academy class shall take the examination at the same time and each examinee who takes that

examination shall:

(1) take the same examination; and

(2) be examined in the presence of other examinees.

(g) An additional five points shall be added to the examination grade of an examinee who:

(1) served in the United States armed forces;

(2) received an honorable discharge from that service; and

(3) made a passing grade on the examination.

(h) The grade to be placed on the eligibility list for each examinee shall be computed by adding an examinee's points under Subsection (g), if any, to the examinee's grade on the written examination. Each examinee's grade on the written examination is based on a maximum grade of 100 percent and is determined entirely by the correctness of the examinee's answers to the questions. The minimum passing grade on the examination is 70 percent. An examinee must pass the examination to be placed on an eligibility list.

Added by Acts 2007, 80th Leg., R.S., Ch. 27 (S.B. 339), Sec. 2, eff. September 1, 2007.

Sec. 143.105. ELIGIBILITY FOR BEGINNING POSITION IN POLICE DEPARTMENT. In addition to meeting the eligibility requirements prescribed by Section 143.023, to be certified as eligible for a beginning position with a police department, a person must be at least 21 years of age at the end of the probationary period and have:

(1) served in the United States armed forces and received an honorable discharge;

(2) earned at least 60 hours' credit in any area of study at an accredited college or university, of which not more than 12 hours' credit may be earned for training at the police officer training academy operated or sponsored by the municipality; or

(3) been employed full-time for at least five years as a peace officer licensed by:

(A) the Texas Commission on Law Enforcement; or

(B) an acceptable licensing entity in another

state that has law enforcement officer licensing requirements substantially equivalent to those of Chapter 1701, Occupations Code.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 84 (S.B. 342), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 611 (H.B. 780), Sec. 1, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.52, eff. May 18, 2013.

Sec. 143.1051. ELIGIBILITY FOR BEGINNING POSITION IN FIRE DEPARTMENT. In addition to meeting the eligibility requirements prescribed by Section 143.023, to be certified as eligible for a beginning position with a fire department a person must:

(1) have served in the United States Armed Forces and received an honorable discharge; or

(2) have earned at least 15 hours of credit in any area of study at an accredited college or university.

Added by Acts 1991, 72nd Leg., ch. 841, Sec. 1, eff. Sept. 1, 1991.

Sec. 143.1055. APPLICANT FOR BEGINNING POSITION IN POLICE DEPARTMENT WITH PREVIOUS EXPERIENCE. Notwithstanding any other requirement of this chapter, for any applicant for a beginning position in the police department who has previous experience as a police officer with another police department, the police department may:

(1) modify the police officer training academy requirements for the applicant; and

(2) allow the applicant to take the entrance examination before completing the academy training.

Added by Acts 2005, 79th Leg., Ch. 629 (H.B. 2457), Sec. 1, eff. June 17, 2005.

Sec. 143.106. ELIGIBILITY FOR FIRE DEPARTMENT PROMOTIONAL EXAMINATION. (a) Each promotional examination is open to each fire

fighter who 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.

(b) If the department has adopted a classification plan that classifies positions on the basis of similarity in duties and responsibilities, each promotional examination is open to each fire fighter who has continuously held for at least two years a position at the next lower pay grade, if it exists, in the class for which the examination is to be held.

(c) If there are not enough fire fighters in the next lower position with two years' service in that position to provide an adequate number of persons to take the examination, the commission may open the examination to persons in that position with less than two years' service. If there is still an insufficient number, the commission may open the examination to persons with at least two years' experience in the second lower position, in salary, to the position for which the examination is to be held.

(d) Repealed by Acts 1993, 73rd Leg., ch. 676, Sec. 4, eff. Sept. 1, 1993.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 676, Sec. 4, eff. Sept. 1, 1993.

Sec. 143.107. PROMOTIONAL EXAMINATION NOTICE. (a) Notwithstanding Subsection (b), Section 143.029, before the 90th day before the date a promotional examination in a fire department is held, the commission shall post a notice of the examination in plain view on a bulletin board located in the main lobby of the city hall and in the commission's office. The notice must show the position to be filled or for which the examination is to be held and the date, time, and place of the examination. The commission shall also furnish sufficient copies of the notice for posting in the stations or subdepartments in which the position will be filled.

(b) Before the 30th day before the date a promotional examination is held, the municipality shall post a notice of the number of newly created positions. The notice must be posted in plain view on a bulletin board located in the main lobby of the city hall and in the commission's office. The municipality shall also

distribute the notice to all stations and subdepartments.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 263, Sec. 1, eff. Aug. 26, 1991.

Sec. 143.108. PROMOTIONAL EXAMINATION GRADES; PROMOTIONAL APPOINTMENTS. (a) Each eligible promotional candidate from the fire or police department who receives a grade of at least 70 points on a promotional examination is considered to have passed that examination.

(b) If an eligibility list exists on the date a vacancy occurs, the vacancy shall be filled by permanent appointment from the eligibility list furnished by the commission within 60 days after the date the vacancy occurs. If an eligibility list does not exist, the vacancy shall be filled within 95 days after the date the vacancy occurs from an eligibility list that the commission shall provide within 90 days after the date the vacancy occurs.

(c) If a fire or police department fails to fill a vacancy by an appointment within the time required by Subsection (b), the fire fighter or police officer who is appointed to fill the vacancy is entitled to receive in a lump-sum payment the difference between the pay that the fire fighter or police officer received during the time that the position was unlawfully vacant and the pay that the fire fighter or police officer would have received if the fire fighter or police officer had been appointed to the position on the latest day provided for the appointment by Subsection (b). The fire fighter's or police officer's seniority rights in the new position also date to the latest day provided for the appointment by Subsection (b).

(d) If the municipality refuses to pay a fire fighter or to grant a fire fighter seniority rights as provided by Subsection (c), a fire fighter may bring an action to recover the pay and seniority rights in a court of competent jurisdiction. A fire fighter who prevails in a suit brought under this subsection is entitled to recover three times the amount to which the fire fighter is entitled under Subsection (c), seniority rights, costs of court, and reasonable attorney fees.

(e) If the municipality refuses to pay a police officer or

to grant a police officer seniority rights as provided by Subsection (c), the police officer may bring an action to recover the pay and seniority rights in a court of competent jurisdiction.

(f) Notwithstanding Subsection (h), Section 143.036, each promotional eligibility list in the fire department remains in existence for two years after the date on which the written examination is given, unless exhausted. At the expiration of the two-year period, the eligibility list expires and a new examination may be held.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 26(j), eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 263, Sec. 2, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 870, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 14, Sec. 8.01(18), eff. Nov. 12, 1991; Acts 1993, 73rd Leg., ch. 676, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 150, Sec. 1, eff. Sept. 1, 1997.

Sec. 143.109. CROSSOVER PROMOTIONS IN POLICE DEPARTMENT. (a) In this section:

(1) "Communications class" includes each person who performs the technical operation of police radio communications.

(2) "Technical class" includes each person who performs criminal laboratory analysis and interpretations or the technical aspects of criminal identification and photography.

(b) Each person employed by the police department who is a member of the technical or communications class is eligible for a promotion within that class.

(c) A member of the technical, communications, or uniformed and detective class is not eligible for promotion to a position outside that class, and lateral crossover by promotion is prohibited. A person may change classes only by qualifying for and entering the new class at the lowest entry level of that class.

(d) The department head, assistant chiefs, and deputy chiefs, or their equivalent, regardless of name or title, may exercise the full sanctions, powers, and duties of their respective offices in the supervision, management, and control of the members of the technical, communications, and uniformed and detective

classes.

(e) Each provision of this chapter relating to eligibility lists, examinations, appointments, and promotions applies to the appointment or promotion of members of the technical, communications, and uniformed and detective classes within the members' respective class.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.1095. TRANSFERS IN POSITION IN SAME CLASSIFICATION IN FIRE DEPARTMENT. (a) The head of the fire department may transfer a fire fighter from one position to another position in the same classification in the fire department if the transfer is:

(1) a promotion or demotion of the fire fighter;

(2) required to balance the work force;

(3) for disciplinary reasons;

(4) based on the seniority of the fire fighter;

(5) a result of a mutual agreement between the department head and the fire fighter; or

(6) for any other specified reason the department head considers necessary.

(b) If the department head transfers a fire fighter under this section, the department head shall designate in a written statement the basis for the transfer.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 28(a), eff. Aug. 28, 1989.

Sec. 143.110. SALARY. (a) Except as provided by Subsection (c) and Section 143.111, all fire fighters or police officers in the same classification are entitled to the same base salary.

(b) In addition to the base salary, each fire fighter or police officer is entitled to each of the following types of pay, if applicable:

(1) longevity pay;

(2) seniority pay;

(3) educational incentive pay as authorized by Section 143.112;

(4) assignment pay as authorized by Section 143.113;

and

(5) shift differential pay as authorized by Section 143.047.

(c) In computing longevity pay and base pay under this section for a police officer who has completed the department's academy training requirements, the police department may include the number of years, not to exceed five, that the police officer served in another police department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1172, Sec. 2, eff. Aug. 28, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 629 (H.B. 2457), Sec. 2, eff. June 17, 2005.

Sec. 143.111. TEMPORARY DUTIES IN HIGHER CLASSIFICATION. (a) The department head may designate a person from the next lower classification to temporarily fill a position in a higher classification. The designated person is entitled to the base salary of the higher position plus the person's own longevity pay during the time the person performs the duties. Any person who is required to act in a position of higher classification in an emergency situation shall be paid the base salary of the higher position plus the person's own longevity pay for the entire shift without respect to whether an emergency occurs on any particular shift of duty.

(b) The temporary performance of the duties of a higher position by a person who has not been promoted as prescribed by this chapter may not be construed as a promotion of the person.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 854, Sec. 12, eff. June 14, 1989.

Sec. 143.1115. DETERMINATION OF PHYSICAL AND MENTAL FITNESS. (a) This section provides the exclusive procedure for determining whether a fire fighter or police officer is sufficiently physically or mentally fit to continue the person's duties or assignment.

(b) On receiving a written order by the department head, a

fire fighter or police officer shall submit to the commission a report from the person's personal physician, psychiatrist, or psychologist, as appropriate.

(c) If the commission, the department head, or the fire fighter or police officer questions the report, the commission shall appoint a physician, psychiatrist, or psychologist, as appropriate, to examine the fire fighter or police officer and to submit a report to the commission, the department head, and the person.

(d) If the report of the appointed physician, psychiatrist, or psychologist, as appropriate, disagrees with the report of the fire fighter's or police officer's personal physician, psychiatrist, or psychologist, as appropriate, the commission shall appoint an independent three-member board composed of a physician, a psychiatrist, and a psychologist or any combination, as appropriate, to examine the fire fighter or police officer. The board shall submit to the commission a written report of its finding regarding whether the fire fighter or police officer is sufficiently physically or mentally fit to continue the person's duties or assignment. The commission, at its next regularly scheduled meeting after the date it receives the report of the board, shall determine whether the fire fighter or police officer is sufficiently physically or mentally fit to continue the person's duties or assignment. The commission shall base its determination exclusively on the report of the board.

(e) The fire fighter or police officer shall pay the cost of the services of the person's personal physician, psychiatrist, or psychologist, as appropriate. The municipality shall pay all other costs.

(f) The commission may not appoint a person to serve on a board appointed under Subsection (d) if the person receives any compensation from the municipality, other than compensation for the person's services as a board member.

Added by Acts 1989, 71st Leg., ch. 890, Sec. 2, eff. Aug. 28, 1989.

Sec. 143.112. EDUCATIONAL INCENTIVE PAY. (a) In this section:

(1) "Accredited college or university" means a college or university that is:

(A) accredited by a nationally recognized accrediting agency and by the state board of education in the state in which the college or university is located; and

(B) approved or certified by:

(i) the Texas Commission on Law Enforcement as teaching the core curriculum or its equivalent in law enforcement; or

(ii) the Texas Commission on Fire Protection.

(2) "Core curriculum in law enforcement" means those courses in law enforcement education approved by the Coordinating Board, Texas College and University System, and the Texas Commission on Law Enforcement.

(b) The governing body of a municipality may authorize educational incentive pay for:

(1) each fire fighter within each classification who has successfully completed courses at an accredited college or university that are applicable toward a degree in fire science; or

(2) each police officer within each classification who has successfully completed courses at an accredited college or university that are applicable toward a degree in law enforcement--police science and include the core curriculum in law enforcement.

(c) The educational incentive pay is in addition to the regular pay received by a fire fighter or police officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.53, eff. May 18, 2013.

Sec. 143.113. ASSIGNMENT PAY. (a) In this section:

(1) "Bilingual personnel" means a member of the fire or police department who in the performance of the member's duties is capable of effectively translating orally a language other than English into English, and when necessary, effectively translating

the language into written English.

(2) "Emergency ambulance attendant" means a member of the fire department who provides emergency medical care and emergency transportation for members of the public.

(3) "Field training officer" means a member of the fire department who is assigned to and performs the duties and responsibilities of the field training officers program.

(4) "Hazardous materials response team personnel" means a member of the fire department who is assigned to a hazardous materials response team and stabilizes or participates in the stabilization of hazardous materials in an emergency.

(b) The municipality's governing body may authorize assignment pay for emergency ambulance attendants, field training officers, and hazardous materials response team personnel. The municipality's governing body may authorize assignment pay for fire fighters or police officers who perform specialized functions in their respective departments, including but not limited to career patrol officers. The assignment pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the fire department. The head of the fire department or police department is not eligible for the assignment pay authorized by this subsection.

(c) The municipality's governing body may authorize assignment pay for bilingual personnel performing specialized functions as interpreters or translators in their respective departments. The assignment pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay received by members of the fire or police department. If the ordinance applies equally to each person who meets the criteria established by the ordinance, the ordinance may provide for payment to each fire fighter or police officer who meets testing or other certification criteria for an assignment, or the ordinance may set criteria that will determine the foreign languages in which a person must be fluent or other criteria for eligibility. The ordinance may provide for different rates of pay according to a person's capability and may allow more pay to those persons who are capable of translating orally and into written English. The heads

of the fire and police departments are not eligible for the assignment pay authorized by this subsection.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 854, Sec. 5, eff. June 14, 1989.

Sec. 143.114. ASSIGNMENT PAY IN MUNICIPALITY WITH POPULATION OF 1.5 MILLION OR MORE. (a) In this section:

(1) "Bomb squad personnel" means a member of the police department who is assigned to the bomb squad and participates in the detection, handling, or disarming of explosive devices or materials.

(2) "Helicopter personnel" means a member of the police department who pilots a helicopter or rides as an observer in a helicopter.

(3) "Special weapons and tactics personnel" means a member of the police department who is assigned to and performs the duties and responsibilities of the special weapons and tactics squad.

(4) "Motorcycle personnel" means a member of the police department who is assigned to and performs the duties of the motorcycle patrol detail.

(5) "Dive team personnel" means a member of the police department who is assigned to and performs underwater search and rescue work.

(b) In a municipality with a population of 1.5 million or more, the municipality's governing body may authorize assignment pay for:

(1) helicopter personnel;

(2) bomb squad personnel;

(3) special weapons and tactics personnel;

(4) motorcycle personnel;

(5) dive team personnel; and

(6) police officers who perform specialized functions in their respective departments, including but not limited to career patrol officers.

(c) The assignment pay is in an amount and is payable under conditions set by ordinance and is in addition to the regular pay

received by members of the police department. The head of the police department is not eligible for the assignment pay authorized by this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 35, Sec. 1, eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 289, Sec. 1, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 669, Sec. 61, eff. Sept. 1, 2001.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 133, eff. September 1, 2023.

Sec. 143.115. PAYMENT OF ACCUMULATED VACATION LEAVE IN POPULOUS MUNICIPALITY. (a) This section applies only to a municipality with a population of 1.1 million or more.

(b) A fire fighter or police officer who leaves the classified service for any reason is entitled to receive in a lump-sum payment the full amount of the person's salary for the period of the person's accumulated vacation leave up to a maximum of 60 working days.

(c) A fire fighter or police officer who leaves the classified service or dies as the result of a line of duty injury or illness or the beneficiaries of that fire fighter or police officer are entitled to the full amount of the fire fighter's or police officer's salary for the total accumulated vacation leave.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 62, 63, eff. Sept. 1, 2001.

Sec. 143.1155. ACCUMULATED VACATION AND HOLIDAY LEAVE. A fire fighter or police officer who leaves the classified service due to disability or the beneficiary of a fire fighter or police officer who dies is entitled to receive a lump-sum payment of the full amount of the fire fighter's or police officer's accumulated vacation and holiday leave.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 2, eff. Sept. 1, 1993.

Sec. 143.116. PAYMENT OF SICK LEAVE ON TERMINATION OF SERVICE. (a) A fire fighter or police officer who leaves the

classified service for any reason or the beneficiaries of a fire fighter or police officer who dies as a result of a line of duty injury or illness are entitled to receive in a lump-sum payment the full amount of the fire fighter's or police officer's accumulated sick leave as provided by Subsections (b)-(e).

(b) A fire fighter or police officer hired before September 1, 1985, is entitled to have sick leave accumulated without limit. Sick leave accumulated before September 1, 1985, is valued at the amount of the fire fighter's or police officer's salary on August 31, 1985. Sick leave accumulated after September 1, 1985, is valued at the fire fighter's or police officer's average salary in the fiscal year in which the sick leave was accumulated.

(c) Each day or part of a day of sick leave used by a fire fighter or police officer is charged to that person's earliest acquired unused accumulated day of sick leave, in the same manner as is used in the "first in, first out" accounting principle.

(d) Each fire fighter or police officer hired before September 1, 1985, may select coverage under the municipal ordinance governing sick leave benefits and policy for the municipal employees who are not subject to this chapter. This option is a onetime only option that expires on December 31 of the year in which this section takes effect in that municipality.

(e) The sick leave of a fire fighter or police officer who becomes a member of the fire or police department on or after September 1, 1985, is covered by the municipal ordinance governing sick leave benefits and policy for the municipal employees who are not subject to this chapter.

(f) The municipality shall provide in its annual budget a sum reasonably calculated to provide funding for sick leave benefits for the fiscal year covered by that budget.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.117. DISCIPLINARY SUSPENSIONS. (a) The head of the fire or police department may suspend a fire fighter or police officer under the department head's supervision or jurisdiction for disciplinary reasons for a reasonable period not to exceed 15 days.

(b) The department head may suspend a fire fighter or police

officer under this section only if the person violates a civil service rule. However, the department head may not suspend a fire fighter or police officer later than the 180th day after the date the department discovers or becomes aware of the civil service rule violation. If, during an investigation of an alleged civil service rule violation, it is alleged that the fire fighter or police officer under investigation committed another violation of a civil service rule connected with the first alleged violation, the 180-day period prescribed by this subsection does not begin again for purposes of a suspension of the fire fighter or police officer if the second violation in question does not involve untruthfulness or refusal to obey a valid order to make a statement, and therefore the department head may not suspend a fire fighter or police officer for the second violation later than the 180th day after the date the department discovers or becomes aware of the original violation.

(c) If the department head suspends a fire fighter or police officer, the department head shall, within 120 hours after the fire fighter or police officer is notified of the suspension, file a written statement of action with the commission.

(d) The suspension is void and the fire fighter or police officer is entitled to the person's full pay if:

(1) the department head fails to file the statement during the required time; or

(2) the suspension is imposed later than the 180th day after the date the department discovers or becomes aware of the violation that resulted in the suspension.

(e) A fire fighter or police officer may appeal a disciplinary suspension as prescribed by Sections 143.010 and 143.1015.

(f) The provisions of Subsections (d) and (e) of Section 143.119 of this chapter apply to this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 25(e), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 409, Sec. 1, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 854, Sec. 6, eff. June 14, 1989.

Sec. 143.118. APPEAL OF DISCIPLINARY SUSPENSION. (a) If a

suspended fire fighter or police officer appeals a disciplinary suspension to the commission, the commission shall determine if just cause exists for the suspension.

(b) If the commission finds that the period of disciplinary suspension should be reduced, the commission may order a reduction in the period of suspension. The commission may reverse the department head's decision and instruct the department head to immediately restore the fire fighter or police officer to the person's prior position and to repay the person for any lost wages.

(c) If the department head refuses to obey a commission order, the provisions of Section 143.120 relating to the department head's refusal apply.

(d) The provisions of Subsections (b) and (e) of Section 143.120 of this chapter apply to this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 854, Sec. 7, eff. June 14, 1989.

Sec. 143.119. INDEFINITE SUSPENSIONS. (a) The head of the fire or police department may indefinitely suspend a fire fighter or police officer under the department head's supervision or jurisdiction for the violation of a civil service rule.

(b) If the department head suspends a fire fighter or police officer, the department head shall, within 120 hours after the hour of suspension, file a written statement with the commission giving the reasons for the suspension. The department head shall immediately deliver a copy of the statement in person to the suspended fire fighter or police officer.

(c) The copy of the written statement must inform the suspended fire fighter or police officer that if the person wants to appeal to the commission, the person must file a written appeal with the commission within 10 days after the date the person receives the copy of the statement.

(d) The written statement filed by the department head with the commission must point out the civil service rule alleged to have been violated by the suspended fire fighter or police officer and must describe the alleged acts of the person that the department head contends are in violation of the civil service rules. It is

not sufficient for the department head merely to refer to the provisions of the rules alleged to have been violated.

(e) If the department head does not specifically point out in the written statement the act or acts of the fire fighter or police officer that allegedly violated civil service rules, the commission shall promptly reinstate the person.

(f) If the department head offers a suspension of 16 to 90 calendar days for violation of civil service rules, the fire fighter or police officer may agree in writing to voluntarily accept the suspension, with no right of appeal. The fire fighter or police officer must accept the offer within five working days after the date the offer is made. If the person refuses the offer and wants to appeal to the commission, the person must file a written appeal with the commission within 15 days after the date the person receives the copy of the written statement of suspension.

(g) In the original written statement and charges and in any hearing conducted under this chapter, the department head may not complain of an act that did not occur within the six-month period preceding the date on which the department head suspends the fire fighter or police officer.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.120. APPEAL OF INDEFINITE SUSPENSION. (a) Except as provided by Section 143.1015(g), if a suspended fire fighter or police officer appeals an indefinite 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.

(b) In a hearing conducted under this section, the department head is restricted to the department head's original written statement and charges, which may not be amended.

(c) 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 person's former position or status in the department's classified service.

(c-1) A temporary suspension of a firefighter under Subsection (c)(2) may not exceed 90 calendar days.

(d) If the suspended fire fighter or police officer is restored to the position or class of service from which the person was suspended, the department head shall immediately reinstate the person as ordered, and the person is entitled to full compensation at the rate of pay provided for the position or class of service from which the person was suspended for the actual time lost as a result of the suspension, as provided by Section 143.1215. If the department head fails to reinstate the fire fighter or police officer, the person is entitled to the person's salary as if the person had been regularly reinstated.

(e) The commission may suspend or dismiss a fire fighter or police officer only for violation of civil service rules and only after a finding by the commission of the truth of specific charges against the fire fighter or police officer.

(f) If the department head intentionally refuses, for at least 10 days, to obey an order to reinstate a fire fighter or police officer, the municipality's chief executive or governing body shall discharge the department head from employment with the municipality.

(g) If a department head intentionally refuses to obey a lawful commission order of reinstatement, the commission may punish the department head for contempt. The commission has the same authority to punish for contempt as has a justice of the peace.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 25(f), 29(b), eff. Aug. 28, 1989.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1161 (H.B. 2516), Sec. 1, eff. June 17, 2011.

Sec. 143.121. APPEAL TO DISTRICT COURT. Each appeal of an indefinite suspension to a district court shall be advanced on the district court docket and given a preference setting over all other cases.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.1214. RECORDS RELATED TO DISCIPLINARY ACTIONS OR CHARGES OF MISCONDUCT. (a) The human resources director for the department promptly shall order that the records of a disciplinary action that was taken against a fire fighter or police officer be expunged from each file maintained on the fire fighter or police officer by the department if the disciplinary action was entirely overturned on appeal by the commission, an independent third-party hearing examiner, or a court of competent jurisdiction. Documents that must be expunged under this subsection include all documents that indicate disciplinary action was recommended or taken against the fire fighter or police officer, such as the recommendations of a disciplinary committee or a letter of suspension. This subsection does not apply if the fire fighter or police officer is charged with using excessive force that results in a death or injury and the charge is being investigated by a law enforcement or criminal justice agency other than the department. This subsection does not require that records of an internal affairs division or other similar internal investigative division be expunged.

(b) The department shall maintain an investigatory file that relates to a disciplinary action against a fire fighter or police officer that was overturned on appeal, or any document in the possession of the department that relates to a charge of misconduct against a fire fighter or police officer, regardless of whether the charge is sustained, only in a file created by the department for the department's use. The department may only release information in those investigatory files or documents relating to a charge of misconduct:

(1) to another law enforcement agency or fire department;

(2) to the office of a district or United States attorney; or

(3) in accordance with Subsection (c).

(c) The department head or the department head's designee may forward a document that relates to disciplinary action against a fire fighter or police officer to the director or the director's designee for inclusion in the fire fighter's or police officer's

personnel file maintained under Sections 143.089(a)-(f) only if:

(1) disciplinary action was actually taken against the fire fighter or police officer;

(2) the document shows the disciplinary action taken; and

(3) the document includes at least a brief summary of the facts on which the disciplinary action was based.

(d) The legal division of the municipality, or its designee, shall provide legal representation in any action related to the release of a file or part of a file.

(e) The requirements of this section are in addition to the requirements of Section 143.089. This section does not prevent a fire fighter or police officer from obtaining access to any personnel file maintained by the director or the department, other than a file maintained by an internal affairs division or other similar internal investigative division, on the fire fighter or police officer under Section 143.089.

Added by Acts 1993, 73rd Leg., ch. 220, Sec. 1, eff. Aug. 30, 1993.

Amended by Acts 2001, 77th Leg., ch. 748, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 300 (H.B. 2006), Sec. 2, eff. September 1, 2011.

Sec. 143.1215. REINSTATEMENT. (a) If the commission, a hearing examiner, or a district court orders that a fire fighter or police officer suspended without pay be reinstated, the municipality shall, before the end of the second full pay period after the date the person is reinstated, repay to the person all wages lost as a result of the suspension.

(b) If the municipality does not fully repay all lost wages to the fire fighter or police officer as provided by this section, the municipality shall pay the person an amount equal to the lost wages plus accrued interest.

(c) Interest under Subsection (b) accrues beginning on the date of the fire fighter's or police officer's reinstatement at a rate equal to three percent plus the rate for court judgments under

Chapter 304, Finance Code, that is in effect on the date of the person's reinstatement.

Added by Acts 1989, 71st Leg., ch. 1, Sec. 29(c), eff. Aug. 28, 1989. Amended by Acts 1997, 75th Leg., ch. 1396, Sec. 36, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 7.80, eff. Sept. 1, 1999.

Sec. 143.1216. CERTAIN NONDISCIPLINARY ACTIONS. (a) The department may use a supervisory intervention procedure or a policy and procedure inquiry to modify a police officer's behavior through:

(1) positive encouragement;

(2) counseling;

(3) job skills training;

(4) repeat task performances, classes, or exercises; or

(5) reeducation efforts, including a review of:

(A) general department orders;

(B) standard operating procedures; or

(C) lesson plans from a police officer training academy.

(b) A supervisory intervention procedure or a policy and procedure inquiry regarding a police officer is not considered a disciplinary action for any purpose.

(c) A police officer who is the subject of a supervisory intervention procedure or a policy and procedure inquiry may not file an appeal or grievance regarding the action taken by the department.

(d) The department may not include a record of a supervisory intervention procedure or a policy and procedure inquiry regarding a police officer in the police officer's personnel file maintained under Section 143.089 or in the department file maintained under Section 143.089(g).

(e) The department may include a record of a supervisory intervention procedure or a policy and procedure inquiry regarding a police officer in a file maintained by the division of the department in which the police officer is employed. The record in

the division file may be considered in a periodic performance evaluation of the police officer's performance only if the supervisory intervention procedure or policy and procedure inquiry occurred during the performance period that is the subject of the performance evaluation.

(f) The department may maintain an electronic record of supervisory intervention procedures or policy and procedure inquiries that may be used only by the department for tracking and statistical purposes.

Added by Acts 2001, 77th Leg., ch. 748, Sec. 2, eff. Sept. 1, 2001.

Sec. 143.122. UNCOMPENSATED DUTY. (a) In this section, "uncompensated duty" means days of work without pay in a fire or police department and does not include a regular or normal work day.

(b) The head of the fire or police department may assign a fire fighter or police officer under the department head's jurisdiction or supervision to uncompensated duty. The department head may not impose uncompensated duty unless the fire fighter or police officer agrees to the duty.

(c) If the fire fighter or police officer agrees in writing to accept uncompensated duty, the department head shall give the person a written statement that specifies the date or dates on which the person will perform the duty. A fire fighter or police officer who agrees to accept the duty does not have a right to an administrative or judicial review.

(d) The uncompensated duty may be in place of or in combination with a period of disciplinary suspension without pay. If uncompensated duty is combined with a disciplinary suspension, the total number of uncompensated duty days may not exceed 15.

(e) A fire fighter or police officer may not earn or accrue a benefit arising from length of service or any wage or salary while the person is suspended or performing uncompensated duty.

(f) A disciplinary suspension does not constitute a break in a continuous position or in service in the department in determining eligibility for a promotional examination.

(g) Except as provided by this section, a fire fighter or police officer performing assigned uncompensated duty retains all

rights and privileges of the person's position in the department and of the person's employment by the municipality.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.123. INVESTIGATION OF FIRE FIGHTERS AND POLICE OFFICERS. (a) In this section:

(1) "Complainant" means a person claiming to be the victim of misconduct by a fire fighter or police officer.

(2) "Investigation" means an administrative investigation, conducted by the municipality, of alleged misconduct by a fire fighter or police officer that could result in punitive action against that person.

(3) "Investigator" means an agent or employee of the municipality who is assigned to conduct an investigation.

(4) "Punitive action" means a disciplinary suspension, indefinite suspension, demotion in rank, reprimand, or any combination of those actions.

(5) "Normally assigned working hours" includes those hours during which a fire fighter or police officer is actually at work or at the person's assigned place of work, but does not include any time when the person is off duty on authorized leave, including sick leave.

(b) An investigator may interrogate a fire fighter or police officer who is the subject of an investigation only during the fire fighter's or police officer's normally assigned working hours unless:

(1) the seriousness of the investigation, as determined by the fire fighter's or police officer's department head or the department head's designee, requires interrogation at another time; and

(2) the fire fighter or police officer is compensated for the interrogation time on an overtime basis.

(c) The department head may not consider work time missed from regular duties by a fire fighter or police officer due to participation in the conduct of an investigation in determining whether to impose a punitive action or in determining the severity of a punitive action.

(d) An investigator may not interrogate a fire fighter or police officer who is the subject of an investigation or conduct any part of the investigation at that person's home without that person's permission.

(e) A person may not be assigned to conduct an investigation if the person is the complainant, the ultimate decisionmaker regarding disciplinary action, or a person who has any personal involvement regarding the alleged misconduct. A fire fighter or police officer who is the subject of an investigation has the right to inquire and, on inquiry, to be informed of the identities of each investigator participating in an interrogation of the fire fighter or police officer. Not later than the 30th day after the date that a complaint is received by an investigator, the investigator must inform the fire fighter in writing of the nature of the investigation and the name of each person who complained about the fire fighter, if known, concerning the matters under investigation unless:

(1) a criminal investigation has been initiated as a result of the complaint; or

(2) the disclosure of information concerning the name of the complainant or the matters under investigation would hinder a criminal investigation.

(f) Before an investigator may interrogate a fire fighter or police officer who is the subject of an investigation, the investigator must inform the fire fighter or police officer in writing of the nature of the investigation and the name of each person who complained about the fire fighter or police officer concerning the matters under investigation. An investigator may not conduct an interrogation of a fire fighter or police officer based on a complaint by a complainant who is not a peace officer unless the complainant verifies the complaint in writing before a public officer who is authorized by law to take statements under oath. In an investigation authorized under this subsection, an investigator may interrogate a fire fighter or police officer about events or conduct reported by a witness who is not a complainant without disclosing the name of the witness. Not later than the 48th hour before the hour on which an investigator begins to interrogate

a fire fighter or police officer regarding an allegation based on a complaint, affidavit, or statement, the investigator shall give the fire fighter or police officer a copy of the affidavit, complaint, or statement. An interrogation may be based on a complaint from an anonymous complainant if the departmental employee receiving the anonymous complaint certifies in writing, under oath, that the complaint was anonymous. This subsection does not apply to an on-the-scene investigation that occurs immediately after an incident being investigated if the limitations of this subsection would unreasonably hinder the essential purpose of the investigation or interrogation. If the limitation would hinder the investigation or interrogation, the fire fighter or police officer under investigation must be furnished, as soon as practicable, a written statement of the nature of the investigation, the name of each complaining party, and the complaint, affidavit, or statement.

(g) An interrogation session of a fire fighter or police officer who is the subject of an investigation may not be unreasonably long. In determining reasonableness, the gravity and complexity of the investigation must be considered. The investigators shall allow reasonable interruptions to permit the fire fighter or police officer to attend to personal physical necessities.

(h) An investigator may not threaten a fire fighter or police officer who is the subject of an investigation with punitive action during an interrogation. However, an investigator may inform a fire fighter or police officer that failure to truthfully answer reasonable questions directly related to the investigation or to fully cooperate in the conduct of the investigation may result in punitive action.

(i) If prior notification of intent to record an interrogation is given to the other party, either the investigator or the fire fighter or police officer who is the subject of an interrogation may record the interrogation.

(j) If an investigation does not result in punitive action against a fire fighter or police officer but does result in a reprimand recorded in writing or an adverse finding or determination regarding that person, the reprimand, finding, or

determination may not be placed in that person's personnel file unless the fire fighter or police officer is first given an opportunity to read and sign the document. If the fire fighter or police officer refuses to sign the reprimand, finding, or determination, it may be placed in the personnel file with a notation that the person refused to sign it. A fire fighter or police officer may respond in writing to a reprimand, finding, or determination that is placed in the person's personnel file under this subsection by submitting a written response to the department head within 10 days after the date the fire fighter or police officer is asked to sign the document. The response shall be placed in the personnel file. A fire fighter or police officer who receives a punitive action and who elects not to appeal the action may file a written response as prescribed by this subsection within 10 days after the date the person is given written notice of the punitive action from the department head.

(k) If the department head or any investigator violates any of the provisions of this section while conducting an investigation, the municipality shall reverse any punitive action taken pursuant to the investigation including a reprimand, and any information obtained during the investigation shall be specifically excluded from introduction into evidence in any proceeding against the fire fighter or police officer.

(l) Deleted by Acts 1989, 71st Leg., ch. 1, Sec. 25(h), eff. Aug. 28, 1989.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 25(g), (h), 30(a), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 140, Sec. 2 to 4, eff. May 25, 1989; Acts 1989, 71st Leg., ch. 854, Sec. 8, eff. June 14, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 678 (H.B. 1561), Sec. 1, eff. June 15, 2007.

Sec. 143.124. POLYGRAPH EXAMINATIONS. (a) A fire fighter employed by the municipality may not be required to submit to a polygraph examination as part of an internal investigation regarding the conduct of the fire fighter unless:

(1) the complainant submits to and passes a polygraph examination and, if applicable, the fire department has complied with Subsection (c); or

(2) the fire fighter is ordered to take an examination under Subsection (f).

(b) Subsection (a)(1) does not apply if the complainant is physically or mentally incapable of being polygraphed.

(c) The fire department shall, on the written request of a fire fighter, provide to the fire fighter the complainant's polygraph examination results within 48 hours after the request.

(d) For the purposes of this section, a fire fighter passes a polygraph examination if, in the opinion of the polygraph examiner, no deception is indicated regarding matters critical to the subject matter under investigation.

(e) The results of a polygraph examination that relate to the complaint under investigation are not admissible in a proceeding before the commission or a hearing examiner.

(f) The fire department head may order a fire fighter to submit to a polygraph examination if the fire department head considers the circumstances to be extraordinary and the fire department head believes that the integrity of a fire fighter or the fire department is in question.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 31(a), eff. Aug. 28, 1989; Acts 1997, 75th Leg., ch. 1303, Sec. 2, eff. June 20, 1997.

Sec. 143.125. POLICE DEPARTMENT PROBATIONARY PERIOD AFTER REAPPOINTMENT IN POPULOUS MUNICIPALITY. (a) This section applies only to a municipality with a population of 1.5 million or more.

(b) A person who ends service with the police department for any reason and is later reappointed to the department must serve a probationary period of six months from the date of reappointment.

(c) The reappointed officer is not entitled to full civil service protection until the officer has served the full probationary period.

(d) In determining classification, pay status, and eligibility for promotion, the probationary period is counted as if

the reappointed officer were not on probation.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 669, Sec. 64, 65, eff. Sept. 1, 2001.

Sec. 143.1251. REAPPOINTMENT AFTER RESIGNATION. The commission may adopt rules to allow a police officer who voluntarily resigns from the department to be reappointed to the department without taking another departmental entrance examination.

Added by Acts 1995, 74th Leg., ch. 64, Sec. 3, eff. Sept. 1, 1995.

Sec. 143.126. LEGISLATIVE LEAVE. (a) A fire fighter or police officer is entitled to legislative leave without pay to appear before or to petition a governmental body during a regular or special session of that body as prescribed by this section.

(b) To be eligible for legislative leave, a fire fighter or police officer must submit a written application to the municipality on or before the 30th day before the date the fire fighter or police officer intends to begin the legislative leave. The application must indicate the length of the requested leave and state that the fire fighter or police officer is willing to reimburse the municipality for any wages, pension, or other costs the municipality will incur as a result of the leave. The length of the requested leave may not exceed the length of the session.

(c) Within 30 days after the date the municipality receives the application, the municipality shall notify the fire fighter or police officer in writing of the actual amount of money required to offset the costs the municipality will incur. The municipality may require the fire fighter or police officer to post the money before granting the leave.

(d) The municipality shall grant legislative leave to a fire fighter or police officer who submits an application as prescribed by this section and who complies with any requirement relating to payment of costs unless an emergency exists or unless granting the leave will result in an insufficient number of employees to carry out the normal functions of the fire or police department.

(e) If the head of the fire or police department determines

that granting a legislative leave will result in an insufficient number of employees to carry out the normal functions of the department, another fire fighter or police officer may volunteer to work in the applicant's place on an exchange of time basis as long as no overtime results. If a fire fighter or police officer volunteers to work in the applicant's place and no overtime will result, the department head shall allow the volunteer to work for the applicant. If the volunteer work will solve the problem of having an insufficient number of employees, the municipality shall grant the legislative leave.

(f) Legislative leave may not be construed as a break in service for any purpose, including the determination of seniority, promotions, sick leave, vacations, or retirement.

(g) Legislative leave granted under this section to a fire fighter or police officer to attend a session of the Congress of the United States shall be granted for a period not to exceed 30 percent of the applicant's total annual working days during each year in which leave is requested.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 32(a), eff. Aug. 28, 1989.

Sec. 143.1261. LEGISLATIVE LEAVE ACCOUNT. (a) A fire fighter or police officer may donate not more than one hour for each month of accumulated vacation or compensatory time to an employee organization. The municipality shall establish and maintain a legislative leave time account for each employee organization.

(b) The fire fighter or police officer must authorize the donation in writing on a form provided by the employee organization and approved by the municipality. After receiving the signed authorization on an approved form, the municipality shall transfer donated time to the account monthly until the municipality receives the fire fighter's or police officer's written revocation of the authorization.

(c) Only a fire fighter or police officer who is a member of an employee organization may use for legislative leave purposes the time donated to that employee organization. A fire fighter or police officer may use for legislative leave purposes the time

donated under this section in lieu of reimbursing the municipality under Section 143.126.

(d) A request to use for legislative leave purposes the time in an employee organization's time account must be in writing and submitted to the municipality by the president or the equivalent officer of the employee organization or by that officer's designee.

(e) The municipality shall account for the time donated to the account and used from the account. The municipality may:

(1) determine and credit the actual cash value of the donated time in the account and determine and deduct the actual cash value of time used from the account for legislative leave purposes; or

(2) credit and debit an account on an hour-for-hour basis regardless of the cash value of the time donated or used.

(f) An employee organization may not use for legislative leave purposes more than 4,000 hours from its time account under this section in a calendar year. If more than one employee organization requests to use legislative leave, each employee organization may use a proportional share of the 4,000 hours based on the total amount of hours donated to the employee organization for its exclusive use before January 2 of the calendar year in which the legislative leave is requested. This section does not prevent an employee organization from accumulating more than 4,000 hours. This subsection only limits the total number of donated hours that one or more employee organizations may use in any calendar year.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 2, eff. Sept. 1, 1997.

Sec. 143.127. GRIEVANCE PROCEDURE. (a) Except as otherwise provided by this subsection, a fire fighter or police officer may file a grievance as provided by this subchapter that relates to any aspect of the fire fighter's or police officer's employment covered by this chapter. The fire fighter or police officer may not file a grievance relating to:

(1) a disciplinary suspension, indefinite suspension, promotional pass over, or demotion or other action or decision for which a hearing, review, or appeal is otherwise provided by this chapter; or

(2) an allegation of discrimination based, in whole or in part, on race, color, religion, sex, or national origin.

(b) The director shall monitor and assist the operation of the grievance procedure. The director's duties include:

(1) aiding the departments and departmental grievance counselors;

(2) notifying the parties of meetings;

(3) docketing cases before the grievance examiner; and

(4) ensuring that the grievance procedure operates timely and effectively.

(c) The department head shall appoint from among the members of the department a grievance counselor whose duties include:

(1) providing appropriate grievance forms to a fire fighter or police officer;

(2) accepting, on behalf of the department head, a step I or II grievance;

(3) assisting the fire fighter or police officer in handling the grievance;

(4) forwarding a copy of a step I or II grievance form to the director and notifying the department head;

(5) arranging a meeting between the fire fighter or police officer and that person's immediate supervisor as prescribed by Section 143.128(b);

(6) arranging the meeting of the fire fighter or police officer and that person's department head or the department head's designated representative as prescribed by Section 143.129(b); and

(7) performing duties that the department head may assign.

(d) The grievance procedure consists of four steps. In any step of the grievance process in which the aggrieved fire fighter's or police officer's immediate supervisor is included, the department head or the departmental grievance counselor may add an appropriate supervisor who is not the fire fighter's or police officer's immediate supervisor or may designate that supervisor to replace the person's immediate supervisor, if the department head

or grievance counselor determines that the other supervisor has the authority to resolve the person's grievance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 33(b), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 854, Sec. 9, eff. June 14, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1415 (S.B. 1896), Sec. 2, eff. September 1, 2009.

Sec. 143.128. STEP I GRIEVANCE PROCEDURE. (a) To begin a grievance action, a fire fighter or police officer must file a completed written step I grievance form with the person's department head or departmental grievance counselor within 30 days after the date the fire fighter or police officer knew or should have known of the action or inaction for which the person feels aggrieved occurred. A step I grievance form may be obtained from the departmental grievance counselor. If the form is not timely filed, the grievance is waived.

(b) If the form is filed, the departmental grievance counselor shall arrange a meeting of the fire fighter or police officer, that person's immediate supervisor or other appropriate supervisor or both, and the person or persons against whom the grievance is lodged. The departmental grievance counselor shall schedule the step I meeting within 30 calendar days after the date the grievance is filed. If the grievance is lodged against the department head, the department head may send a representative.

(c) The fire fighter's or police officer's immediate supervisor or other appropriate supervisor, or both, shall fully, candidly, and openly discuss the grievance with the fire fighter or police officer in a sincere attempt to resolve it.

(d) Regardless of the outcome of the meeting, the fire fighter's or police officer's immediate supervisor or other appropriate supervisor, or both, shall provide a written response to the fire fighter or police officer, with a copy to the grievance counselor, within 15 calendar days after the date the meeting occurs. The response must include the supervisor's evaluation and proposed solution. The response shall either be personally

delivered to the fire fighter or police officer or be mailed by certified mail, return receipt requested, to the last home address provided by that person.

(e) If the proposed solution is not acceptable, the fire fighter or police officer may file a step II grievance form with the department head or the departmental grievance counselor in accordance with Section 143.129. If the aggrieved fire fighter or police officer fails to timely file a step II grievance form, the solution is considered accepted.

(f) If the supervisor does not provide the response required by Subsection (d) before the 16th day after the date the meeting occurs, the department head shall sustain the fire fighter's or police officer's grievance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 33(c), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 353, Sec. 1, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1415 (S.B. 1896), Sec. 3, eff. September 1, 2009.

Sec. 143.129. STEP II GRIEVANCE PROCEDURE. (a) To continue the grievance procedure, the fire fighter or police officer must complete a step II grievance form and file it with the department head or the departmental grievance counselor within 15 calendar days after the date the fire fighter or police officer receives the supervisor's response under Section 143.128.

(b) The departmental grievance counselor shall arrange a meeting of the fire fighter or police officer, that person's immediate supervisor or other appropriate supervisor or both, and the department head or the department head's representative who must have a rank of at least assistant chief or the equivalent. The meeting shall be held within 15 calendar days after the date the step II grievance form is filed under Subsection (a).

(c) Regardless of the outcome of the meeting, the department head or the department head's representative shall provide a written response to the fire fighter or police officer within 15 calendar days after the date the meeting occurs. The response shall

either be personally delivered to the fire fighter or police officer or be mailed by certified mail, return receipt requested, to the last home address provided by that person.

(d) If the proposed solution is not acceptable, the fire fighter or police officer may either submit a written request stating the person's decision to appeal to an independent third party hearing examiner pursuant to the provisions of Section 143.057 or file a step III grievance form with the director in accordance with Section 143.130. If the fire fighter or police officer fails to timely file a step III grievance form or a written request to appeal to a hearing examiner, the solution is considered accepted. Notwithstanding Section 143.057(i), if the fire fighter or police officer prevails and the hearing examiner upholds the grievance in its entirety, the department shall bear the cost of the appeal to the hearing examiner. If the fire fighter or police officer fails to prevail and the hearing examiner denies the grievance in its entirety, the fire fighter or police officer shall bear the cost of the appeal to the hearing examiner. If neither party entirely prevails and the hearing examiner upholds part of the grievance and denies part of it, the hearing examiner's fees and expenses shall be shared equally by the fire fighter or police officer and the department.

(e) If the department head or the department head's representative does not provide the response required by Subsection (c) before the 16th day after the date the meeting occurs, the department head shall sustain the fire fighter's or police officer's grievance.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 33(d), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 855, Sec. 1, eff. June 14, 1989; Acts 1995, 74th Leg., ch. 353, Sec. 2, eff. Sept. 1, 1995.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1415 (S.B. 1896), Sec. 4, eff. September 1, 2009.

Sec. 143.130. STEP III GRIEVANCE PROCEDURE. (a) To continue the grievance procedure, the fire fighter or police

officer must complete a step III grievance form and file it with the director within 15 calendar days after the date the fire fighter or police officer receives the department head's response under Section 143.129.

(b) The director shall arrange a hearing of the fire fighter or police officer and a grievance examiner to be appointed by the commission under Section 143.132. The hearing shall be held within 15 of the aggrieved fire fighter's or police officer's working days after the date the step III grievance form is filed under Subsection (a).

(c) A hearing shall be conducted as an informal administrative procedure. Grievances arising out of the same or similar fact situations may be heard at the same hearing. A court reporter shall record the hearing. All witnesses shall be examined under oath. The fire fighter or police officer, that person's immediate supervisor or other appropriate supervisor or both, the department head or the department head's designated representative or both, and each person specifically named in the grievance are parties to the hearing. The burden of proof is on the aggrieved fire fighter or police officer.

(d) The grievance examiner shall make written findings and a recommendation for solution of the grievance within 15 calendar days after the date the hearing ends. The findings and recommendation shall be given to the commission and copies mailed to the fire fighter or police officer by certified mail, return receipt requested, at the last home address provided by that person, and to the department head.

(e) If the proposed solution is not acceptable to either the fire fighter or police officer or the department head, either party may file a step IV grievance form with the director in accordance with Section 143.131. If the fire fighter or police officer or the department head fails to timely file a step IV grievance form, the solution is considered accepted by that person.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 33(e), eff. Aug. 28, 1989; Acts 1995, 74th Leg., ch. 353, Sec. 3, eff. Sept. 1, 1995.

Sec. 143.131. STEP IV GRIEVANCE PROCEDURE. (a) If the department head or the fire fighter or police officer rejects the proposed solution under Section 143.130, the department head, the department head's designated representative, or the fire fighter or police officer must complete a step IV grievance form and file it with the director within 15 calendar days after the date the person receives the grievance examiner's recommendation.

(b) The commission shall review the grievance examiner's findings and recommendation and consider the transcript of the step III hearing at the commission's next regularly scheduled meeting or as soon as practicable. The transcript shall be filed within 30 days of the step IV grievance being filed. The commission may for good cause shown grant a reasonable delay not to exceed 30 days to file the transcript. In no event may the commission render a decision later than 30 days after the transcript is filed. If the commission does not render a decision within 30 days after the date the transcript is filed, the commission shall sustain the fire fighter's or police officer's grievance.

(c) The commission shall base its decision solely on the transcript and demonstrative evidence offered and accepted at the step III hearing. The commission shall furnish a written copy of the order containing its decision to the fire fighter or police officer, the department head, and the grievance examiner. The copy to the fire fighter or police officer shall be mailed by certified mail, return receipt requested, to the last home address provided by that person. The commission decision is final.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 33(f), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 854, Sec. 11, eff. June 14, 1989; Acts 1995, 74th Leg., ch. 353, Sec. 4, eff. Sept. 1, 1995.

Sec. 143.132. GRIEVANCE EXAMINER. (a) The commission shall appoint a grievance examiner by a majority vote. The commission may appoint more than one grievance examiner if necessary. The commission may appoint a different grievance examiner for each grievance. An examiner may not be affiliated with any other municipal department and is responsible only to the

commission. The commission shall pay an examiner from a special budget established for this purpose, and the director shall provide an examiner sufficient office space and clerical support.

(b) The grievance examiner may:

(1) impose a reasonable limit on the time allowed each party and the number of witnesses to be heard;

(2) administer oaths;

(3) examine a witness under oath;

(4) subpoena and require the attendance or production of witnesses, documents, books, or other pertinent material; and

(5) accept affidavits instead of or in addition to live testimony.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.133. SPECIAL PROVISIONS FOR STEPS I AND II. (a) If the aggrieved fire fighter's or police officer's immediate supervisor is the department head, the steps prescribed by Sections 143.128 and 143.129 are combined. The department head shall meet with the aggrieved fire fighter or police officer and may not appoint a representative.

(b) A department head, with the approval of the commission, may change the procedure prescribed by Sections 143.128 and 143.129 to reflect a change in a department's chain of command.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987.

Sec. 143.134. MISCELLANEOUS GRIEVANCE PROVISIONS. (a) A fire fighter or police officer may represent himself or obtain a representative at any time during the grievance procedure. The municipality is not obligated to provide or pay the costs of providing representation. The representative:

(1) is not required to be an attorney;

(2) is entitled to be present to advise the fire fighter or police officer;

(3) is entitled to present any evidence or information for the fire fighter or police officer; and

(4) may not be prevented from fully participating in any of the grievance proceedings.

(b) A fire fighter or police officer may take reasonable time off from a job assignment to file a grievance and attend a meeting or hearing. Time taken to pursue a grievance may not be charged against that person. The fire fighter or police officer shall be compensated on an overtime basis for the time that person spends at a grievance meeting or hearing if:

(1) the meeting or hearing is scheduled at a time other than that person's normally assigned working hours; and

(2) that person prevails in the grievance.

(c) If notice that a grievance meeting or hearing is to be recorded is provided to all persons present at the meeting or hearing, the fire fighter or police officer, the department head, or the department head's designee may record the meeting or hearing.

(d) The director shall provide a suitable notice explaining the grievance procedure prescribed by this subchapter and furnish copies to each department. Each department head shall cause the notices to be posted in a prominent place or places within the department work areas to give reasonable notice of the grievance procedure to each member of the department.

(e) At the request of the department head of a fire fighter or police officer who has filed a grievance under this subchapter, the municipality's legal department or the director shall assist in resolving the grievance.

(f) The director is the official final custodian of all records involving grievances. A depository for closed files regarding grievances shall be maintained in the civil service department.

(g) A fire fighter or police officer who files a grievance pursuant to Sections 143.127 through and including Section 143.134 is entitled to 48 hours notice of any meeting or hearing scheduled under Section 143.128(b), 143.129(b), 143.130(b), or 143.131(b). In the event that the fire fighter or police officer is not given 48 hours advance notice, the fire fighter's or police officer's grievance shall be automatically sustained and no further action may be had on the grievance.

(h) If the decision of the commission under Section 143.131

or the decision of a hearing examiner under Section 143.129 that has become final is favorable to a fire fighter, the department head shall implement the relief granted to the fire fighter not later than the 10th day after the date on which the decision was issued. If the department head intentionally fails to implement the relief within the 10-day period, the municipality shall pay the fire fighter $1,000 for each day after the 10-day period that the decision is not yet implemented.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 1, Sec. 25(i), eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 854, Sec. 10, eff. June 14, 1989; Acts 1993, 73rd Leg., ch. 676, Sec. 3, eff. Sept. 1, 1993.

Sec. 143.135. MEDIATION. (a) In this section, "mediation" has the meaning assigned by Section 154.023, Civil Practice and Remedies Code.

(b) The head of the police department may develop and implement an alternative dispute resolution program to refer certain disputes regarding police officers to mediation.

(c) If a dispute is referred to mediation under this section, the time limitations and deadlines under Sections 143.1015, 143.1016, 143.117, 143.118, 143.119, 143.120, and 143.127-143.134 are tolled until the earliest of:

(1) the date the parties reach a settlement and execute a written agreement disposing of the dispute;

(2) the date the mediator refers the dispute to another appeals or grievance procedure under this subchapter; or

(3) the 60th day after the date the dispute was referred to mediation.

(d) The conduct and demeanor of the mediator and the parties to the dispute during the course of the mediation are confidential. A letter, memorandum, document, note, or other oral or written communication that is relevant to the dispute and made between the mediator and the parties to the dispute or between the parties to the dispute during the course of the mediation procedure:

(1) is confidential and may not be disclosed unless all of the parties to the mediation agree to the disclosure in

writing; and

(2) is admissible and discoverable in a separate proceeding only if the letter, memorandum, document, note, or other communication is admissible and discoverable independent of the mediation.

(e) A mediator may not be required to testify in a proceeding concerning information relating to or arising out of the mediation.

(f) Subsection (d) does not apply to a final written agreement to which the police department or municipality is a signatory that is reached as a result of a mediation procedure conducted under this section. Information in the final written agreement is subject to required disclosure, is excepted from required disclosure, or is confidential in accordance with Chapter 552, Government Code, and other law.

(g) If this section conflicts with other legal requirements for disclosure of communications or materials, the issue of confidentiality may be presented to a district court for a judicial district in which the majority of the territory of the municipality is located to determine, in camera, whether the facts, circumstances, and context of the communications or materials sought to be disclosed warrant a protective order of the court or whether the communications or materials are subject to disclosure.

(h) Except to the extent of any conflict with this section, Chapter 154, Civil Practice and Remedies Code, and police department rules apply to a mediation conducted under this section.

(i) Except to the extent of any conflict with this section, Section 2009.054, Government Code, applies to the communications, records, conduct, and demeanor of the mediator and the parties.

(j) Section 143.1014 does not apply to a meeting or hearing conducted under this section.

Added by Acts 2003, 78th Leg., ch. 517, Sec. 1, eff. Sept. 1, 2003.

SUBCHAPTER H. LOCAL CONTROL OF FIRE FIGHTER EMPLOYMENT MATTERS IN MUNICIPALITIES WITH POPULATION OF 1.5 MILLION OR MORE

Sec. 143.201. POPULATION. This subchapter applies only to

a municipality with a population of 1.5 million or more, but does not apply to a municipality that has adopted The Fire and Police Employee Relations Act (Article 5154c-1, Vernon's Texas Civil Statutes).

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993.

Sec. 143.202. DEFINITIONS. In this subchapter:

(1) "Fire fighters association" means an organization in which fire fighters participate and which exists for the purpose, in whole or in part, of dealing with one or more employers, whether public or private, concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work affecting public employees.

(2) "Public employer" means any municipality or agency, board, commission, or political subdivision controlled by a municipality which is required to establish the wages, salaries, rates of pay, hours, working conditions, and other terms and conditions of employment of public employees. The term may include, under appropriate circumstances, a mayor, manager, administrator of a municipality, municipal governing body, director of personnel, personnel board, or one or more other officials, regardless of the name by which they are designated.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993.

Sec. 143.203. GENERAL PROVISIONS RELATING TO AGREEMENTS, RECOGNITION, AND STRIKES. (a) A municipality may not be denied local control over the wages, salaries, rates of pay, hours of work, and other terms and conditions of employment, or other state-mandated personnel issues, if the public employer and the fire fighters association recognized as the sole and exclusive bargaining agent for all officers covered by this subchapter come to a mutual agreement on any of the terms listed above. If no agreement is reached, the existing state laws, local ordinances, and civil service rules remain unaffected. All agreements shall be reduced to writing. Nothing in this subchapter shall require either party to meet and confer on any issue or reach an agreement.

(b) A public employer may only meet and confer if the fire

fighters association recognized under this subchapter as the sole and exclusive bargaining agent does not advocate the illegal right to strike by public employees.

(c) Fire fighters of a municipality may not engage in strikes or organized work stoppages against this state or a political subdivision of this state. A fire fighter who participates in a strike forfeits all civil service rights, reemployment rights, and any other rights, benefits, or privileges the fire fighter enjoys as a result of employment or prior employment, except that the right of an individual to cease work may not be abridged if the individual is not acting in concert with others in an organized work stoppage.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993.

Sec. 143.204. RECOGNITION OF FIRE FIGHTER ASSOCIATION. (a) A fire fighters association submitting a petition signed by a majority of the paid fire fighters in the municipality, excluding the head of the department and assistant department heads in the rank or classification immediately below that of the department head, may be recognized by the public employer as the sole and exclusive bargaining agent for all of the covered fire fighters unless and until recognition of the association is withdrawn by a majority of those fire fighters.

(b) In the event of a question about whether a fire fighters association represents a majority of the covered fire fighters, the question shall be resolved by a fair election conducted according to procedures agreeable to the parties. If the parties are unable to agree on such procedures, either party may request the American Arbitration Association to conduct the election and to certify the results. Certification of the results of an election resolves the question concerning representation. The fire fighters association is liable for the expenses of the election, except that if two or more associations seeking recognition as the bargaining agent submit petitions signed by a majority of the covered fire fighters, the associations shall share equally the costs of the election.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993.

Sec. 143.205. OPEN RECORDS REQUIRED. All documents relating to an agreement between a fire fighters association and a public employer shall be available to the public pursuant to state statutes.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993.

Sec. 143.206. ENFORCEABILITY OF AGREEMENT. (a) A written agreement made under this subchapter between a public employer and a fire fighters association recognized as the sole and exclusive bargaining agent is enforceable and binding upon the public employer, the fire fighters association recognized as the sole and exclusive bargaining agent, and fire fighters covered by the agreement if:

(1) the municipality's governing body ratified the agreement by a majority vote; and

(2) the fire fighters association ratified the agreement by a majority of the votes received in a referendum of its members by secret ballot.

(b) The state district court of the judicial district in which the municipality is located has full authority and jurisdiction on the application of either party aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by any written agreement ratified by both the public employer and the fire fighters association. The court may issue proper restraining orders, temporary and permanent injunctions, and any other writ, order, or process, including contempt orders, that are appropriate to enforcing any written agreement ratified by both the public employer and the fire fighters association.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 373, Sec. 1, eff. May 28, 1997.

Sec. 143.207. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a) A written agreement under this subchapter between a public employer and the fire fighters association recognized as the sole and exclusive bargaining agent supersedes a previous statute concerning wages, salaries, rates of pay, hours of work, and other

terms and conditions of employment to the extent of any conflict with the previous statute.

(b) A written agreement under this subchapter preempts all contrary local ordinances, executive orders, legislation, or rules adopted by the state or a political subdivision or agent of the state, such as a personnel board, a civil service commission, or a home-rule municipality.

(c) An agreement under this subchapter may not diminish or qualify any right, benefit, or privilege of an employee under this chapter or other law unless approved by a majority of the votes received in a secret ballot referendum of the members of the fire fighters association recognized as the sole and exclusive bargaining agent.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993.
Amended by Acts 1997, 75th Leg., ch. 373, Sec. 2, eff. May 28, 1997.

Sec. 143.208. REPEAL OF AGREEMENT BY ELECTORATE. Within 45 days after an agreement is ratified and signed by both the municipality and the fire fighters association recognized as the sole and exclusive bargaining agent, a petition signed by a number of registered voters equal to 10 percent of the votes cast at the most recent mayoral general election may be presented to the municipal secretary calling an election for the repeal of the agreement. Thereupon, the governing body shall reconsider the agreement and, if it does not repeal the agreement, shall call an election of the qualified voters to determine if they desire to repeal the agreement. The election shall be called for the next municipal election or a special election called by the governing body for that purpose. If at the election a majority of the votes are cast in favor of the repeal of the adoption of the agreement, then the agreement shall become null and void. The ballot shall be printed to provide for voting FOR or AGAINST the proposition:

"Repeal of the adoption of the agreement ratified by the municipality and the fire fighters association concerning wages, salaries, rates of pay, hours of work, and other terms and conditions of employment."

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 13.15, eff. Sept. 1, 1999.

Sec. 143.209. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES. (a) For the purpose of any disciplinary appeal to either the civil service commission or a hearing examiner, all members of the bargaining unit shall have the right to choose to be represented by any person of their choice or the fire fighters association.

(b) No agreement shall interfere in the right of members of the fire fighters association to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Commission on Human Rights or the Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Added by Acts 1993, 73rd Leg., ch. 676, Sec. 5, eff. Sept. 1, 1993.

SUBCHAPTER I. FIRE FIGHTER AND POLICE OFFICER EMPLOYMENT MATTERS IN CERTAIN MUNICIPALITIES

Sec. 143.301. MUNICIPALITIES COVERED BY SUBCHAPTER. This subchapter applies only to a municipality with a population of 460,000 or more that operates under a city manager form of government. This subchapter does not apply to a municipality:

(1) that has adopted Chapter 174 (The Fire and Police Employee Relations Act); or

(2) to which Subchapter H applies.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.3015. LIMITATION ON MUNICIPALITIES COVERED BY SUBCHAPTER: VOTER APPROVAL. (a) The governing body of a municipality with a population less than 560,000 that has not recognized an association as the sole and exclusive bargaining agent as provided by Section 143.304 before September 1, 2001, must receive voter approval under this section before operating under the other provisions of this subchapter.

(b) The governing body shall call an election if:

(1) a majority of the members of the governing body

vote to hold the election; or

(2) the voters submit a petition requesting the election as required by this section.

(c) A petition for election must:

(1) be signed by a number of qualified voters of the municipality equal to at least 10 percent of the number of voters who voted in the most recent municipal election for mayor; and

(2) comply with Chapter 277, Election Code.

(d) Not later than the 40th working day after the date a petition is presented to the governing body, the municipal secretary shall certify to the governing body the number and percentage of registered voters signing the petition.

(e) Upon receiving a petition in compliance with this subchapter, the governing body shall order an election submitting to the voters the question of whether this subchapter should be adopted for firefighters, police officers, or both. The election must be held on the first authorized uniform election date prescribed by Chapter 41, Election Code, that occurs after the petition is filed and that allows sufficient time to comply with other requirements of law.

(f) The ballot for an election called under this section shall be printed to permit voting for or against the proposition: "Authorizing (name of the governing body of the municipality) to recognize an employee association as a sole and exclusive bargaining agent for the municipal (insert firefighters, police officers, or both, as applicable,) and authorizing the (name of the governing body of the municipality) to make agreements with the employee association as provided by state law."

(g) An election authorized by this section shall be held and the returns shall be prepared and canvassed in conformity with the Election Code.

(h) The municipality may operate under the other provisions of this subchapter only if a majority of the votes cast at the election favor the proposition.

(i) Notwithstanding Subsections (a) and (h), a municipality with a population of less than 560,000 that has not recognized an association as the sole and exclusive bargaining agent as provided

by Section 143.304 before September 1, 2005, may adopt rules for police officers converting vacation and sick leave days to hours that supersede the provisions of Section 142.0013, Section 143.045, and Section 143.046 provided that:

(1) A police officer is entitled to earn 120 hours of vacation leave each year with pay, as a minimum, if the officer has been regularly employed in the department or departments for at least one year.

(2) In computing the length of time a police officer may be absent from work on vacation leave, only those hours that the person would have been required to work if not on vacation may be counted as vacation leave.

(3) A police officer shall be granted the same number of vacation hours and holiday hours, or hours in lieu of vacation hours or holiday hours, granted to other municipal employees who work the same number of hours in a regular work day and have worked for the municipality for the same number of years.

(4) A police officer shall be granted sick leave with pay accumulated at the rate of 10 hours for each full month employed in a calendar year, so as to total 120 hours to the person's credit each 12 months.

(5) A police officer who leaves the classified service for any reason is entitled to receive in a lump-sum payment the full amount of the person's salary for accumulated sick leave if the person has accumulated not more than 720 hours of sick leave, the person's employer may limit payment to the amount that the person would have received if the person had been allowed to use 720 hours of accumulated sick leave during the last six months of employment. The lump-sum payment is computed by compensating the police officer for the accumulated time at the highest permanent pay classification for which the person was eligible during the last six months of employment. The police officer is paid for the same period for which the person had taken the sick leave but does not include additional holidays and any sick leave or vacation time that the person might have accrued during the 720 hours.

Added by Acts 2001, 77th Leg., ch. 425, Sec. 1, eff. May 28, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1193 (H.B. 304), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 145 (S.B. 189), Sec. 1, eff. May 21, 2007.

Sec. 143.302. DEFINITIONS. In this subchapter:

(1) "Association" means an organization in which fire fighters or police officers participate and that exists for the purpose, in whole or in part, of dealing with one or more employers, whether public or private, concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work affecting public employees.

(2) "Public employer" means any municipality or agency, board, commission, or political subdivision controlled by a municipality that is required to establish the wages, salaries, rates of pay, hours, working conditions, and other terms and conditions of employment of public employees. The term may include, under appropriate circumstances, a mayor, manager, administrator of a municipality, municipal governing body, director of personnel, or personnel board or one or more other officials, regardless of the name by which they are designated.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.303. GENERAL PROVISIONS RELATING TO AGREEMENTS, RECOGNITION, AND STRIKES. (a) A municipality may not be denied local control over wages, salaries, rates of pay, hours of work, other terms and conditions of employment, or other personnel issues on which the public employer and an association that is recognized as the sole and exclusive bargaining agent for all fire fighters or police officers in the municipality agree. A term or condition on which the public employer and the association do not agree is governed by the applicable statutes, local ordinances, and civil service rules. An agreement must be reduced to writing. This subchapter does not require the public employer and the association to meet and confer or reach an agreement on any issue.

(b) A public employer and an association recognized under this subchapter as a sole and exclusive bargaining agent may meet

and confer only if the association does not advocate the illegal right to strike by public employees.

(c) A fire fighter or police officer of a municipality may not engage in a strike or organized work stoppage against this state or a political subdivision of this state. A fire fighter or police officer who participates in a strike forfeits all civil service rights, reemployment rights, and other rights, benefits, or privileges the fire fighter or police officer enjoys as a result of the person's employment or previous employment with the municipality. This subsection does not affect the right of a person to cease employment if the person is not acting in concert with other fire fighters or police officers.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.304. RECOGNITION OF FIRE FIGHTERS OR POLICE OFFICERS ASSOCIATION. (a) The public employer may recognize an association that submits a petition signed by a majority of the paid fire fighters or police officers in the municipality, excluding the head of the department and assistant department heads in the rank or classification immediately below that of the department head, as the sole and exclusive bargaining agent for all of the covered fire fighters or police officers unless recognition of the association is withdrawn by a majority of the covered fire fighters or police officers.

(b) A question of whether an association is the majority representative of the covered fire fighters or police officers shall be resolved by a fair election conducted according to procedures agreed on by the parties. If the parties are unable to agree on election procedures, either party may request the American Arbitration Association to conduct the election and to certify the results. Certification of the results of an election under this subsection resolves the question concerning representation. The association shall pay the costs of the election, except that if two or more associations seeking recognition as the bargaining agent submit petitions signed by a majority of the covered fire fighters or police officers, the associations shall share equally the costs of the election.

(c) The public employer's manager or chief executive and the police chief or fire chief, as appropriate, shall designate a team to represent the public employer as its sole and exclusive bargaining agent for issues related to the fire department and a separate team to represent the public employer as its sole and exclusive bargaining agent for issues related to the police department.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.305. OPEN RECORDS REQUIRED. An agreement made under this subchapter is a public record for purposes of Chapter 552, Government Code. The agreement and any document prepared and used by the municipality in connection with the agreement are available to the public under the open records law, Chapter 552, Government Code, only after the agreement is ratified by the municipality's governing body. This section does not affect the application of Subchapter C, Chapter 552, Government Code, to a document prepared and used by the municipality in connection with the agreement.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.306. ENFORCEABILITY OF AGREEMENT. (a) A written agreement made under this subchapter between a public employer and an association is binding on the public employer, the association, and fire fighters or police officers covered by the agreement if:

(1) the municipality's governing body ratifies the agreement by a majority vote; and

(2) the applicable association ratifies the agreement by a majority vote of its members by secret ballot.

(b) An agreement ratified as described by Subsection (a) may establish a procedure by which the parties agree to resolve disputes related to a right, duty, or obligation provided by the agreement, including binding arbitration on interpretation of the agreement.

(c) The district court of the judicial district in which the municipality is located has full authority and jurisdiction on the application of either party aggrieved by an act or omission of the

other party related to a right, duty, or obligation provided by a written agreement ratified as described by Subsection (a). The court may issue proper restraining orders, temporary and permanent injunctions, or any other writ, order, or process, including a contempt order, that is appropriate to enforce the agreement.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.307. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a) An agreement under this subchapter supersedes a previous statute concerning wages, salaries, rates of pay, hours of work, or other terms and conditions of employment to the extent of any conflict with the statute.

(b) An agreement under this subchapter preempts any contrary statute, executive order, local ordinance, or rule adopted by the state or a political subdivision or agent of the state, including a personnel board, a civil service commission, or a home-rule municipality.

(c) An agreement under this subchapter may not diminish or qualify any right, benefit, or privilege of an employee under this chapter or other law unless approved by a majority vote by secret ballot of the members of the association recognized as a sole and exclusive bargaining agent.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.308. REPEAL OF AGREEMENT BY ELECTORATE. Not later than the 45th day after the date an agreement is ratified by both the municipality and the association, a petition signed by at least 10 percent of the qualified voters of the municipality may be presented to the municipal secretary calling an election for the repeal of the agreement. On receipt of the petition by the municipal secretary, the governing body shall reconsider the agreement and either repeal the agreement or call an election of the qualified voters to determine if they desire to repeal the agreement. The election shall be called for the next municipal election or a special election called by the governing body for that purpose. If at the election a majority of the votes are cast in favor of the repeal of the adoption of the agreement, the agreement

is void. The ballot shall be printed to permit voting for or against the proposition: "Repeal of the adoption of the agreement ratified by the municipality and the _____ (fire fighters or police officers, as appropriate) association concerning wages, salaries, rates of pay, hours of work, and other terms and conditions of employment."

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.309. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES. (a) For the purpose of any disciplinary appeal to the civil service commission or to a hearing examiner, a member of the bargaining unit may choose to be represented by any person of the member's choice or by the association.

(b) An agreement may not interfere with the right of a member of a bargaining unit to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Commission on Human Rights or the Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.310. BINDING INTEREST ARBITRATION. A municipality may be required to submit to binding interest arbitration only if approved by a majority of those voting in a public referendum conducted in accordance with the municipality's charter. This subsection does not affect any disciplinary arbitration or arbitration provision in a ratified agreement.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.311. APPOINTMENTS TO CLASSIFICATION IMMEDIATELY BELOW DEPARTMENT HEAD. Section 143.014(c) does not apply to a municipality to which this subchapter applies.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.312. INVESTIGATION OF FIRE FIGHTERS AND POLICE OFFICERS. (a) This section does not apply to a municipality to which Section 143.123 applies.

(b) In this section:

(1) "Complainant" means a person claiming to be the victim of misconduct by a fire fighter or police officer.

(2) "Investigation" means an administrative investigation, conducted by the municipality, of alleged misconduct by a fire fighter or police officer that could result in punitive action against that person.

(3) "Investigator" means an agent or employee of the municipality who is assigned to conduct an investigation.

(4) "Normally assigned working hours" includes those hours during which a fire fighter or police officer is actually at work or at the person's assigned place of work, but does not include any time when the person is off duty on authorized leave, including sick leave.

(5) "Punitive action" means a disciplinary suspension, indefinite suspension, demotion in rank, written reprimand, or any combination of those actions.

(c) An investigator may interrogate a fire fighter or police officer who is the subject of an investigation only during the fire fighter's or police officer's normally assigned working hours unless:

(1) the seriousness of the investigation, as determined by the fire fighter's or police officer's department head or the department head's designee, requires interrogation at another time; and

(2) the fire fighter or police officer is compensated for the interrogation time on an overtime basis.

(d) The department head may not consider work time missed from regular duties by a fire fighter or police officer due to participation in the conduct of an investigation in determining whether to impose a punitive action or in determining the severity of a punitive action.

(e) An investigator may not interrogate a fire fighter or police officer who is the subject of an investigation or conduct any part of the investigation at that person's home without that person's permission.

(f) A person may not be assigned to conduct an investigation

if the person is the complainant, the ultimate decision-maker regarding disciplinary action, or a person who has any personal involvement regarding the alleged misconduct. A fire fighter or police officer who is the subject of an investigation has the right to inquire and, on inquiry, to be informed of the identities of each investigator participating in an interrogation of the fire fighter or police officer.

(g) Not less than 48 hours before an investigator begins the initial interrogation of a fire fighter or police officer who is the subject of an investigation, the investigator must inform the fire fighter or police officer in writing of the allegations in the complaint. An investigator may not interrogate a fire fighter or police officer based on a complaint by a complainant who is not a fire fighter or police officer unless the complainant verifies the complaint in writing before a public officer who is authorized by law to take statements under oath. In an investigation under this subsection, an investigator may interrogate a fire fighter or police officer about events or conduct reported by a witness who is not a complainant without disclosing the name of the witness. An interrogation may be based on a complaint from an anonymous complainant if the departmental employee receiving the anonymous complaint certifies in writing, under oath, that the complaint was anonymous. This subsection does not apply to an on-the-scene investigation that occurs immediately after an incident being investigated, except that the fire fighter or police officer under investigation must be furnished, as soon as practicable, a written statement of the allegations in the complaint.

(h) An interrogation session of a fire fighter or police officer who is the subject of an investigation may not be unreasonably long. In determining reasonableness, the gravity and complexity of the investigation must be considered. The investigators shall allow reasonable interruptions to permit the fire fighter or police officer to attend to personal physical necessities.

(i) An investigator may not threaten a fire fighter or police officer who is the subject of an investigation with punitive action during an interrogation. An investigator may inform a fire

fighter or police officer that failure to answer truthfully reasonable questions directly related to the investigation or to cooperate fully in the conduct of the investigation may result in punitive action.

(j) If prior notification of intent to record an interrogation is given to the other party, either the investigator or the fire fighter or police officer who is the subject of an interrogation may record the interrogation.

(k) If an investigation does not result in punitive action against a fire fighter or police officer but does result in a written reprimand or an adverse finding or determination regarding that person, the reprimand, finding, or determination may not be placed in that person's personnel file unless the fire fighter or police officer is first given an opportunity to read and sign the document. If the fire fighter or police officer refuses to sign the reprimand, finding, or determination, it may be placed in the personnel file with a notation that the person refused to sign it. A fire fighter or police officer may respond in writing to a reprimand, finding, or determination that is placed in the person's personnel file under this subsection by submitting a written response to the department head not later than the 10th day after the date the fire fighter or police officer is asked to sign the document. The response shall be placed in the personnel file. A fire fighter or police officer who receives a punitive action and who elects not to appeal the action may file a written response as prescribed by this subsection not later than the 10th day after the date the person is given written notice of the punitive action from the department head.

(l) A violation of this section may be considered by the commission or hearing examiner during a disciplinary appeal hearing if the violation substantially impaired the fire fighter's or police officer's ability to defend against the allegations of misconduct.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.

Sec. 143.313. POLYGRAPH EXAMINATIONS. (a) This section does not apply to a municipality to which Section 143.124 applies.

(b) A fire fighter employed by the municipality may not be required to submit to a polygraph examination as part of an internal investigation regarding the conduct of the fire fighter unless:

(1) the complainant submits to and passes a polygraph examination; or

(2) the fire fighter is ordered to take an examination under Subsection (f).

(c) Subsection (b) does not apply if the complainant is physically or mentally incapable of being polygraphed.

(d) For the purposes of this section, a fire fighter passes a polygraph examination if, in the opinion of the polygraph examiner, no deception is indicated in the examination regarding matters critical to the subject matter under investigation.

(e) The results of a polygraph examination that relate to the complaint under investigation are not admissible in a proceeding before the commission or a hearing examiner.

(f) The head of the fire department may order a fire fighter to submit to a polygraph examination if the fire department head:

(1) considers the circumstances to be extraordinary; or

(2) believes that the integrity of a fire fighter or the fire department is in question.

Added by Acts 1995, 74th Leg., ch. 1003, Sec. 1, eff. Aug. 28, 1995.
Amended by Acts 1997, 75th Leg., ch. 1303, Sec. 3, eff. June 20, 1997.

SUBCHAPTER J. LOCAL CONTROL OF POLICE OFFICER EMPLOYMENT MATTERS IN MUNICIPALITIES WITH POPULATION OF 1.5 MILLION OR MORE

Sec. 143.351. APPLICABILITY. This subchapter applies only to a municipality with a population of 1.5 million or more but does not apply to a municipality that has adopted Chapter 174.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997.

Sec. 143.352. DEFINITIONS. In this subchapter:

(1) "Bargaining agent" means the police employee group selected under Section 143.354 to represent all police officers

employed by the municipality, excluding the department head and assistant department heads, during negotiations with the public employer.

(2) "Police employee group" means an organization:

(A) in which at least three percent of the police officers of the municipality participate and pay dues via automatic payroll deduction; and

(B) which exists for the purpose, in whole or part, of dealing with the municipality concerning grievances, labor disputes, wages, rates of pay, benefits other than pension benefits, hours of employment, or conditions of work affecting police officers.

(3) "Public employer" means any municipality or agency, board, commission, or political subdivision controlled by a municipality that is required to establish the wages, salaries, rates of pay, hours, working conditions, and other terms and conditions of employment of police officers. The term includes, under appropriate circumstances, a mayor, manager, administrator of a municipality, municipal governing body, director of personnel, personnel board, or one or more other officials, regardless of the name by which they are designated.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 1, eff. Sept. 1, 2001.

Sec. 143.353. GENERAL PROVISIONS RELATING TO AGREEMENTS, RECOGNITION, AND STRIKES. (a) A municipality may not be denied local control over the wages, salaries, rates of pay, hours of work, and other terms of employment, or other state-mandated personnel issues, if the public employer and the bargaining agent come to a mutual agreement on any of the terms of employment. If an agreement is not reached, the state laws, local ordinances, and civil service rules remain unaffected. All agreements shall be written. Nothing in this subchapter requires either party to meet and confer on any issue or reach an agreement.

(b) A public employer may only meet and confer if the bargaining agent does not advocate the illegal right to strike by

public employees.

(c) Police officers of a municipality may not engage in strikes or organized work stoppages against this state or a political subdivision of this state. A police officer who participates in a strike or work stoppage forfeits all civil service rights, reemployment rights, and any other rights, benefits, or privileges the police officer enjoys as a result of employment or prior employment.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 2, eff. Sept. 1, 2001.

Sec. 143.354. RECOGNITION OF POLICE EMPLOYEE GROUP. (a) The public employer in accordance with this section may recognize a police employee group as the sole and exclusive bargaining agent for all of the police officers in the municipality, excluding the department head and assistant department heads, unless recognition of the police employee group is withdrawn by a majority of those police officers, if the employee group submits a petition signed by 40 percent of:

(1) the number of police officers in the municipality who voted in the last election held under Section 143.360 before the petition is submitted, excluding the head of the department and assistant department heads in the rank or classification immediately below that of the department head; or

(2) the paid police officers in the municipality, excluding the head of the department and assistant department heads in the rank or classification immediately below that of the department head, if an election under Section 143.360 has not been held in the municipality.

(b) A petition submitted under Subsection (a) must clearly show on each page the name of the police employee group circulating the petition. A police officer who signs a petition submitted under Subsection (a) may not be counted towards the 40 percent requirement under that subsection unless that officer's printed name and payroll number and the date of the signature are included on the petition. The petition must be submitted to the municipal

secretary not later than the 60th day after the first date on which a police officer signs the petition.

(c) Within the 30 days after the date the petition is submitted, the municipal secretary shall verify the signatures on the petition and, if the petition complies with this section, call for the election. The election shall be conducted within 45 days after the date on which the municipal secretary calls for the election.

(d) An election required by this section shall be conducted according to procedures agreed on by the parties. If the parties are unable to agree on election procedures, either party may request the American Arbitration Association to conduct the election and to certify the results. Certification of the results of an election under this subsection resolves the question concerning representation. The police employee group shall pay the costs of the election, except that if two or more police employee groups seeking recognition as the bargaining agent submit petitions signed by a majority of the police officers eligible to sign the petition, the police employee groups shall share equally the costs of the election. A police employee group must make payments required by this subsection not later than the 10th day before the date of the election.

(e) The public employer's chief executive officer shall designate a team to represent the public employer as its sole and exclusive bargaining agent for issues related to the police department.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 3, eff. Sept. 1, 2001.

Sec. 143.358. OPEN RECORDS REQUIRED. All documents relating to an agreement between a bargaining agent and a public employer shall be available to the public in accordance with state statutes.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 5, eff. Sept. 1, 2001.

Sec. 143.359. ENFORCEABILITY OF AGREEMENT. (a) A written agreement made under this subchapter between a public employer and a bargaining agent is enforceable and binding on the public employer, the bargaining agent, police employee groups, and the police officers covered by the agreement if:

(1) the municipality's governing body ratified the agreement by a majority vote; and

(2) the agreement is ratified under Section 143.360.

(b) A state district court of the judicial district in which a majority of the population of the municipality is located has full authority and jurisdiction on the application of either party aggrieved by an action or omission of the other party when the action or omission is related to a right, duty, or obligation provided by any written agreement ratified as required by this subchapter. The court may issue proper restraining orders, temporary and permanent injunctions, and any other writ, order, or process, including contempt orders, that are appropriate to enforcing any written agreement ratified as required by this subchapter.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 6, eff. Sept. 1, 2001.

Sec. 143.360. ELECTION TO RATIFY AGREEMENT. (a) The bargaining agent shall call an election to ratify any agreement reached with the public employer.

(b) All police officers of the municipality, other than the department head and assistant department heads, are eligible to vote in the election.

(c) The bargaining agent shall establish procedures for the election.

(d) A majority of all votes cast is required to ratify an agreement.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 7, eff. Sept. 1, 2001.

Sec. 143.361. AGREEMENT SUPERSEDES CONFLICTING PROVISIONS. (a) A written agreement ratified under this subchapter between a public employer and the bargaining agent supersedes a previous statute concerning wages, salaries, rates of pay, hours of work, and other terms of employment other than pension benefits to the extent of any conflict with the previous statute.

(b) A written agreement ratified under this subchapter preempts all contrary local ordinances, executive orders, legislation, or rules adopted by the state or a political subdivision or agent of the state, such as a personnel board, a civil service commission, or a home-rule municipality.

(c) An agreement under this subchapter may not diminish or qualify any right, benefit, or privilege of an employee under this chapter or other law unless approved by a majority of the votes cast at the secret ballot election held by the bargaining agent to ratify the agreement.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 8, eff. Sept. 1, 2001.

Sec. 143.362. REPEAL OF AGREEMENT BY ELECTORATE. Within 45 days after the date an agreement is ratified and signed by the municipality and the bargaining agent, a petition signed by a number of registered voters equal to 10 percent of the votes cast at the most recent mayoral general election in the municipality may be presented to the municipal secretary calling an election for the repeal of the agreement, in which event the governing body shall reconsider the agreement, and, if it does not repeal the agreement, it shall call an election of the qualified voters to determine if they desire to repeal the agreement. The election shall be held as part of the next regularly scheduled municipal election or at a special election called by the governing body for that purpose. If at the election a majority of the votes are cast in favor of the repeal of the adoption of the agreement, the agreement becomes void. The ballot shall be printed to provide for voting for or against the proposition:

"Repeal of the adoption of the agreement ratified by the municipality and the police officers of the municipality concerning wages, salaries, rates of pay, certain benefits, hours of work, and other terms of employment."

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 9, eff. Sept. 1, 2001.

Sec. 143.363. PROTECTED RIGHTS OF INDIVIDUAL EMPLOYEES. (a) For the purpose of any disciplinary appeal to either the civil service commission or a hearing examiner, all police officers have the right to choose to be represented by any person of their choice or by the police employee group selected as the bargaining agent.

(b) An agreement may not interfere with the right of a member of a police employee group to pursue allegations of discrimination based on race, creed, color, national origin, religion, age, sex, or disability with the Commission on Human Rights or the Equal Employment Opportunity Commission or to pursue affirmative action litigation.

Added by Acts 1997, 75th Leg., ch. 1195, Sec. 3, eff. Sept. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 1464, Sec. 10, eff. Sept. 1, 2001.

SUBCHAPTER K. CIVIL SERVICE STATUS OF EMERGENCY MEDICAL SERVICES PERSONNEL IN CERTAIN MUNICIPALITIES

Sec. 143.401. APPLICABILITY. (a) This subchapter applies only to a municipality:

(1) with a population of 460,000 or more that operates under a city manager form of government; and

(2) that employs emergency medical services personnel in a municipal department other than the fire department.

(b) In this subchapter, "emergency medical services personnel" has the meaning assigned by Section 773.003, Health and Safety Code. The term applies only to an individual certified under Chapter 773, Health and Safety Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 708 (H.B. 554), Sec. 1,

eff. June 17, 2011.

Sec. 143.402. ELECTION TO ADOPT OR REPEAL SUBCHAPTER. (a) A municipality may hold an election to adopt or repeal this subchapter as provided by this section.

(b) If the governing body of the municipality receives a petition requesting an election that is signed by a number of registered voters who reside in the municipality equal to at least 10 percent of the number of voters who voted in the most recent municipal general election, the governing body shall order an election submitting to the voters the question of whether this subchapter should be adopted. The election must be held on the first authorized uniform election date prescribed by Chapter 41, Election Code, that occurs after the petition is filed and that allows sufficient time to comply with other requirements of law.

(c) The ballot shall be printed to provide for voting for or against the proposition: "Adoption of the emergency medical services personnel civil service law." If a majority of the votes received in the election favor adoption of this subchapter, the governing body shall implement this subchapter.

(d) A petition for a subsequent election to be held under Subsection (b) may not be filed for at least one year after the date of a previous election under that subsection. To be valid, a petition for a subsequent election must contain the signatures of a number of registered voters who reside in the municipality equal to at least 20 percent of the number of voters who voted in the most recent municipal general election. Any subsequent election must be held at the next municipal general election that occurs after the petition is filed.

(e) If the governing body of a municipality that has operated under this subchapter for at least one year receives a petition requesting an election to repeal this subchapter that is signed by at least 10 percent of the registered voters who reside in the municipality, the governing body shall order an election submitting to the voters the question of whether this subchapter should be repealed. If a majority of the votes received favor repeal of this subchapter, this subchapter is void in that municipality.

Added by Acts 2011, 82nd Leg., R.S., Ch. 708 (H.B. 554), Sec. 1, eff. June 17, 2011.

Sec. 143.403. STATUS OF EMPLOYEES IF SUBCHAPTER ADOPTED. (a) Each person who is employed for more than six months as emergency medical services personnel serving in a municipality at the time this subchapter is adopted in the municipality and who is entitled to civil service classification has the status of a civil service employee and is not required to take a competitive examination to remain in the position the person occupies at the time of the adoption.

(b) On adoption of this subchapter, the governing body of the municipality employing emergency medical services personnel shall classify the personnel in accordance with Section 143.021 and the duties performed by the personnel.

(c) To the extent it can be made applicable, each provision of this chapter, including the provisions relating to eligibility lists, examinations, promotions, appointments, educational incentive pay, longevity or seniority pay, certification pay, assignment pay, salary, vacation leave, and disciplinary appeals, applies to emergency medical services personnel covered by this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 708 (H.B. 554), Sec. 1, eff. June 17, 2011.