

**CHAPTER 37**

S.B. No. 273

AN ACT

relating to grievance procedures for fire fighters and police officers in certain cities.

*Be it enacted by the Legislature of the State of Texas:*

SECTION 1. Subsection (d), Section 29, Chapter 325, Acts of the 50th Legislature, Regular Session, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended to read as follows:

(d)(1) The grievance procedure consists of four steps. A member must file in writing a step I grievance as prescribed by this subdivision not later than the 30th day after the date on which the action or inaction for which the member feels aggrieved occurred. If the step I grievance form is not timely filed, the grievance is waived. The following procedure must be followed during step I:

(A) An aggrieved member may obtain a grievance form from the departmental grievance counselor.

(B) The member must return the form to the chief of the department or to the departmental grievance counselor, who shall arrange a meeting between the member, the member's immediate supervisor *and/or the appropriate supervisor who has authority to resolve the grievance as determined by the chief of the department or the grievance counselor*, and the person or persons against whom the grievance was lodged. *The step meeting shall be scheduled not later than 30 calendar days after the date on which the grievance was filed.* If the grievance was lodged against the chief of the department, the chief may send his representative.

(C) The immediate supervisor *and/or appropriate supervisor* shall fully, candidly and openly discuss the grievance with the member in a sincere attempt to resolve it.

(D) Regardless of the outcome of the meeting, the immediate supervisor *and/or appropriate supervisor* shall respond in writing to the member, with a copy to the grievance counselor, not later than the *supervisor's* fifth working day after the date on which the meeting occurred. The response must include the supervisor's evaluation and proposed solution. The response shall either be personally delivered to the member or be mailed by certified mail, return receipt requested, to the last home address provided by the member.

(E) If the proposed solution is not acceptable, the member may file a step II grievance form with the chief of the department or the departmental grievance counselor. If the aggrieved member fails to timely file a step II grievance form, the solution is considered accepted.

(2) The following procedure must be followed during step II:

(A) If the member rejects the proposed solution, the member must complete a step II grievance form and return it to the chief of the department or to the departmental grievance counselor not later than the fifth *calendar* day after the date on which the member received the supervisor's response.

(B) The departmental grievance counselor shall arrange a meeting between the member, the member's immediate supervisor *and/or appropriate supervisor*, and the chief of the department or the chief's representative of at least the rank of assistant chief or the equivalent. The meeting must be held not later than the *aggrieved member's* fifth working day after the date on which the step II grievance form was submitted to the chief or departmental grievance counselor.

(C) Regardless of the outcome of the meeting, the chief or the chief's representative shall provide the member with a written response to the grievance not later than the *chief's or chief's representative's* 10th working day after the date on which the meeting occurred. The response shall either be personally delivered to the member or be mailed by certified mail, return receipt requested, to the last home address provided by the member.

(D) If the proposed solution is not acceptable, the member may file a step III grievance form with the director. If the member fails to timely file a step III grievance form, the solution is considered accepted.

(3) The following procedure must be followed during step III:

(A) If the member rejects the proposed solution, the member must complete a step III grievance form and return it to the director not later than the 10th *calendar* day after the date on which the member received the chief's response.

(B) The director shall arrange a hearing with the member and a grievance examiner to be chosen by the commission under Subsection (e) of this section. The hearing must be

held not later than the *aggrieved member's* 15th working day after the date on which the step III grievance form was submitted to the director.

(C)(i) A hearing is conducted as an informal administrative procedure. Grievances arising out of the same or similar fact situations may be heard. A court reporter shall record the hearing. All witnesses shall be examined under oath.

(ii) The member, the member's immediate supervisor *and/or appropriate supervisor*, the chief of the department *and/or his designated representative*, and all persons specifically named in the grievance are parties to the hearing.

(iii) The burden of proof is on the aggrieved member.

(D) The grievance examiner shall make written findings and a recommendation for solution of the grievance not later than the *aggrieved member's* 10th working day after the date on which the hearing concluded. The findings and recommendation shall be given to the commission and copies mailed to the member by certified mail, return receipt requested, to the last home address provided by the member, and to the chief of the department.

(E) If the proposed solution is not acceptable to either the member or the chief of the department, either party may file a step IV grievance form with the director. If the member or the chief fails to timely file a step IV grievance form, the solution is considered accepted.

(4) The following steps must be followed during step IV:

(A) If the chief or the member rejects the proposed solution, the chief *or the chief's designated representative* or member must complete a step IV grievance form and return it to the director not later than the 10th *calendar* day after the date on which the chief or member received the hearing examiner's recommendation.

(B) The commission shall review the grievance examiner's findings and recommendation and consider the transcript of the hearing at the commission's next regularly scheduled meeting or as soon as is practicable *not to exceed 60 calendar days after the date on which the step IV grievance was filed*.

(C) The commission's decision shall be based solely on the transcript and demonstrative evidence offered and accepted at the step III hearing. The commission shall furnish the member, the chief of the department, and the grievance examiner with a written copy of its order. The copy to the member shall be mailed by certified mail, return receipt requested, to the last home address provided by the member. The decision of the commission is final.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on March 26, 1987, by the following vote: Yeas 30, Nays 0. Passed the House on April 15, 1987, by a non-record vote.

Approved April 29, 1987.

Effective 90 days after date of adjournment.