

CHAPTER 275

S.B. No. 279

AN ACT

relating to firemen's and policemen's civil service; providing penalties.

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

SECTION 1. Subsection (a), Section 16b, Chapter 325, Acts of the 50th Legislature, 1947, as amended (Article 1269m, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) In a city having a population of 1,500,000 or more according to the most recent federal census, the head of either the fire or the police department may suspend an officer or employee under his jurisdiction or supervision for disciplinary purposes, for reasonable periods, not to exceed 15 days. If offered by the chief or head of the department, the officer or employee may agree in writing to voluntarily accept, with no right of appeal, a suspension of not less than 16 nor more than 90 calendar days for violation of civil service rules. The officer or employee must accept the offer not later than the fifth working day after the offer is made. If the officer or employee refuses an offer of suspension of not less than 16 nor more than 90 calendar days and wishes to appeal to the commission, the officer or employee must file a written appeal with the commission not later than the 15th day after the date the officer or employee receives the statement. If the department suspends a person, the department head shall file with the commission not later than the 120th hour after the person is *notified of the suspension* [~~suspended~~] a written statement of action, and the commission shall, on appeal of the suspended officer or employee, hold a public hearing as prescribed by Section 17 of this Act. *The chief or department head has the right to suspend an employee under this subsection only if the employee violates a civil service rule. However, a chief or department head may not suspend an employee later than the 180th day after the date on which the department discovers or becomes aware of the civil service rule violation.* The commission shall determine whether just cause exists for the suspension. If the department head fails to file the statement with the commission within the 120-hour time period *or if the suspension is imposed later than the 180th day after the date on which the department discovers or becomes aware of the violation that warranted the suspension*, the suspension is void and the employee is entitled to his full salary. The commission may reverse the decision of the department head and instruct the department head to immediately restore the employee to his position and to repay the employee for any lost wages. If the commission finds that the period of disciplinary suspension should be reduced, it may order a reduction in the period of suspension. If the department head refuses to obey the order of the commission, the provisions of Section 16 of this Act relating to salaries of employees, the discharge of the department head, and the other provisions relating to the refusal of the department head apply.

SECTION 2. Subsection (h), Section 29, Chapter 325, Acts of the 50th Legislature, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended to read as follows:

(h)(1) A member may represent himself or obtain a representative at any time during the grievance procedure. The representative is not required to be an attorney. The city is not obligated to provide or pay the costs of providing representation.

(2) A member 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 a member. *If a meeting or hearing is scheduled at a time other than the member's normally assigned working hours and the member prevails in the grievance, the member shall be compensated on an overtime basis for the time the member spends at the meeting or hearing.*

(3) *If notice that the meeting or hearing is to be recorded is provided to all persons present at the meeting or hearing, a member, the department head, or the department head's designee may record the grievance meeting or hearing.*

SECTION 3. Subsection (b), Section 30, Chapter 325, Acts of the 50th Legislature, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended by adding Subdivision (5) to read as follows:

(5) "Normally assigned working hours" includes those hours during which an employee is actually at work or at the employee's assigned place of work, but does not include any time when the employee is off duty on authorized leave, including sick leave.

SECTION 4. Subsection (e), Section 30, Chapter 325, Acts of the 50th Legislature, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) Investigators may not interrogate an employee who is subject to an investigation or conduct any aspect of an investigation at the employee's home without the permission of the employee.

SECTION 5. Subsection (l), Section 30, Chapter 325, Acts of the 50th Legislature, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended to read as follows:

(l) A person who knowingly or intentionally violates a provision of this section is subject to a civil penalty of not less than \$100 nor more than \$200 for the first violation. If it is shown on the trial of a person that the person has previously been found to have violated this section, the person is subject to a civil penalty of not less than \$200 nor more than \$1,000 [~~The governing body may, by ordinance, adopt the provisions of this section verbatim.~~].

SECTION 6. Chapter 325, Acts of the 50th Legislature, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is amended by adding Section 15A to read as follows:

Sec. 15A. **PERMANENT PERSONNEL FILE.** (a) In a city with a population of 1,500,000 or more according to the most recent federal census, the Director or the Director's designee shall maintain a permanent 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 Act; 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 permanent 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 permanent personnel file as provided by Subdivision (2) of Subsection (a) of this section 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 permanent personnel file, the Director or the Director's designee shall, within 30 days, 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 permanent personnel file. The

city 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 permanent 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, but 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.

SECTION 7. Section 30A, Chapter 325, Acts of the 50th Legislature, 1947 (Article 1269m, Vernon's Texas Civil Statutes), is repealed.

SECTION 8. 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 April 24, 1987, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 25, 1987, by the following vote: Yeas 29, Nays 0. Passed the House, with amendments, on May 22, 1987, by the following vote: Yeas 148, Nays 0, one present not voting.

Approved June 11, 1987.

Effective June 11, 1987.