

LOCAL GOVERNMENT CODE

TITLE 5. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE B. COUNTY OFFICERS AND EMPLOYEES

CHAPTER 158. COUNTY CIVIL SERVICE

SUBCHAPTER A. COUNTY CIVIL SERVICE SYSTEM

Sec. 158.001. DEFINITIONS. In this subchapter:

(1) "Commission" means a county civil service commission.

(2) "Employee" means a person who obtains a position by appointment and who is not authorized by statute to perform governmental functions involving an exercise of discretion in the person's own right, unless the person is included by a local civil service rule adopted under the procedures outlined in Section 158.009; or a person included in the coverage of a county civil service system as the result of an election held under Section 158.007. The term does not include a person who holds an office the term of which is limited by the constitution of this state.

(3) "Department" means a county, district, or precinct office or officer, agency, or board that has jurisdiction and control of the performance of employees' official duties. The term includes a sheriff's department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 881, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 833 (H.B. 831), Sec. 1, eff. June 15, 2007.

Sec. 158.002. ELIGIBLE COUNTIES. A county with a population of 190,000 or more may, in accordance with this subchapter, create a county civil service system to include all the employees of the county who are not exempted from the system by the express terms or judicial interpretations of this subchapter or by the operation of Subchapter B.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 833 (H.B. 831), Sec. 2, eff. June 15, 2007.

Sec. 158.0025. CREATION OF SHERIFF'S DEPARTMENT CIVIL SERVICE SYSTEM IN CERTAIN COUNTIES NOT COVERED BY SUBCHAPTER B. (a) This section applies only to a county with a population of 190,000 or more, other than:

(1) a county that has created a civil service system under this subchapter to include those employees of the county described by Section 158.002; or

(2) a county in which the sheriff's department is eligible to create a civil service system under Subchapter B.

(b) Notwithstanding any other provision of this subchapter, the commissioners court of a county to which this section applies may create a civil service system under this section to include only the employees of the sheriff's department of the county.

(c) A sheriff's department civil service system may be created under this section by an order in accordance with Section 158.003 or by an election in accordance with Section 158.004.

(d) Notwithstanding Section 158.005(b), if an election is ordered under Section 158.004 on the question of the creation of a sheriff's department civil service system under this section, the commissioners court shall order the ballot at the election to be printed to provide voting for or against the proposition: "Creation of a civil service system for the sheriff's department of the county."

(e) Notwithstanding Section 158.014(c), if an election is called to determine whether a sheriff's department civil service system created under this section will be dissolved under that section, the commissioners court shall order the ballot at the election to be printed to provide voting for or against the proposition: "Dissolution of the civil service system for the sheriff's department of the county."

(f) Sections 158.0065 and 158.007 do not apply to a sheriff's department civil service system created under this section.

(g) Except as otherwise provided by this section, the provisions of this subchapter that would govern the operation of a civil service system created for all employees of a county under this chapter apply to the operation of a civil service system created for the employees of the sheriff's department of a county under this section.

Added by Acts 2005, 79th Leg., Ch. 414 (S.B. 1673), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 833 (H.B. 831), Sec. 3, eff. June 15, 2007.

Sec. 158.003. CREATION BY ORDER. (a) A county civil service system may be created by an order adopted by a majority of the members of the commissioners court of the county.

(b) A copy of an order adopted under this section shall be placed in the minutes of the court's proceedings. The copy of the order is public information.

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

Sec. 158.004. CREATION BY ELECTION. (a) A county civil service system may be created by approval of the system by a majority of the qualified voters of the county voting at an election called for that purpose.

(b) The commissioners court by order may call an election on the question of the creation of a county civil service system.

(c) The commissioners court shall hold the election called under this section on the first authorized uniform election date prescribed by Chapter 41, Election Code, that allows sufficient time for publication of the notice required by Subsection (e) and for compliance with any other requirements established by law.

(d) The order calling the election must specify the date, time, and place of the election, the form of the ballots, and the name of the presiding judge for each voting place.

(e) In addition to the notice required by Chapter 4, Election Code, the commissioners court must publish in a newspaper of general circulation in the county a substantial copy of the order calling the election. The first publication must be made on or before the 15th day before the date of the election and continue once a week for two consecutive weeks.

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

Sec. 158.005. BALLOTS AND VOTING AT ELECTION TO CREATE SYSTEM. (a) Each qualified voter of the county is entitled to vote at the election.

(b) The commissioners court shall order the ballot at the election to be printed to provide for voting for or against the proposition: "Creation of a county civil service system."

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

Sec. 158.006. RESULT OF ELECTION TO CREATE SYSTEM. (a) The presiding judge of each voting place shall supervise the counting of votes cast at the election.

(b) Within 24 hours after the election, each judge shall certify to the commissioners court the results of the election at the voting place.

(c) A copy of the results of the election shall be filed with the county clerk. The copy on file with the county clerk is a public record.

(d) If the proposition is approved, the commissioners court shall declare the result and by order create the county civil service system. A copy of the order creating the system shall be placed in the minutes of the court's proceedings.

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

Sec. 158.0065. PETITION TO CREATE BY ORDER OR ELECTION. (a) This section applies only in a county with a population of 290,000 or more that would not be eligible to expand or dissolve the system under Section [158.007](#).

(b) The commissioners court of a county that receives a petition signed by at least 50 percent of the county's employees requesting the creation of a county civil service system shall vote not later than the 30th day after the date that the court receives the petition whether to create a system by adopting an order under Section [158.003](#). If the court does not create a system as provided by Section [158.003](#), the court shall call an election to decide the question as provided by Sections 158.004-158.006.

Added by Acts 1991, 72nd Leg., ch. 548, Sec. 1, eff. June 15, 1991.

Sec. 158.007. EXPANDED COVERAGE OR DISSOLUTION OF SYSTEM IN POPULOUS COUNTIES. (a) In a county that has a population of more than 1.3 million and a civil service system created under this subchapter, the qualified voters of the county, voting at an election called for that purpose, may determine whether the system will be dissolved or expanded to cover the employees, except licensed attorneys, of the office of district or criminal district attorney, the adult and juvenile probation officers and their assistants, personnel in the county auditor's office including all assistant county auditors, and all other employees of the county not included in the coverage of the system and not specifically exempted by Section [158.013](#) or Subchapter B.

(b) The commissioners court of an eligible county by order may call an election on the question of the expansion or dissolution of a county civil service system as provided by Subsection (a).

(c) Except as otherwise provided by this section, the election must be held in the manner provided for an election to create a county civil service system.

(d) The election must be held on the date of the general election for state and county officers.

(e) Each qualified voter of the county is entitled to vote at the election.

(f) The commissioners court shall order the ballot at the election to be printed to provide for voting for or against the proposition: "Keeping and expanding the county civil service system."

(g) The commissioners court shall declare the results and, if the proposition is approved by a majority of the qualified voters voting at the election, by order expand the coverage of the system as provided by Subsection (a). If the proposition is not so approved, the commissioners court by order shall dissolve the county civil service system. A copy of the order expanding or dissolving the system shall be placed in the minutes of the court's proceedings.

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

Sec. 158.008. APPOINTMENT OF COMMISSION. (a) If a civil service system is created under this subchapter, the commissioners court shall appoint three persons to serve as the members of the civil service commission that administers the system. The commissioners court shall designate one of the members as chairman of the commission.

(b) Each member of the commission is appointed for a term of two years.

(c) The commissioners court shall fill a vacancy on the commission by appointing a person to serve the unexpired part of the term of the member whose position is vacant.

(d) To be eligible for appointment to the commission, a person must:

(1) be at least 25 years old; and

(2) have resided in the county for the three years immediately preceding the date on which the person's term will begin.

(e) A member of the commissioners court of a county with a population of two million or more is not prohibited from being appointed to the civil service commission.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 2001, 77th Leg., ch. 830, Sec. 1, eff. June 14, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1163 (H.B. 2702), Sec. 73, eff. September 1, 2011.

Sec. 158.009. POWERS OF THE COMMISSION. (a) Except as provided by Section 158.010, the commission shall adopt, publish, and enforce rules regarding:

- (1) the definition of a county employee;
- (2) selection and classification of county employees;
- (3) competitive examinations;
- (4) promotions, seniority, and tenure;
- (5) layoffs and dismissals;
- (6) disciplinary actions;
- (7) grievance procedures; and
- (8) other matters relating to the selection of county employees

and the procedural and substantive rights, advancement, benefits, and working conditions of county employees.

(b) The commission may adopt or use as a guide any civil service law or rule of the United States, this state, or a political subdivision in this state to the extent that the law or rule promotes the purposes of this subchapter and serves the needs of the county.

(c) The commission may not adopt or enforce a rule requiring a county employee to retire because of age. The commission may adopt a rule requiring a county employee, on reaching an age set by the commission, to submit annually to the commission an affidavit from a physician stating that the employee is physically and mentally capable of continuing employment.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 881, Sec. 2, eff. Sept. 1, 1989.

Sec. 158.0095. AUTHORITY TO ISSUE SUBPOENAS AND ADMINISTER OATHS. (a) In a proceeding before the commission under this subchapter, the chairman of the commission shall, on request of a person described by Subsection (b):

- (1) administer oaths; and
- (2) issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material.

(b) The affected employee, the county attorney, or a designee of the employee or county attorney may request the chairman of the commission to

subpoena any books, records, documents, papers, accounts, or witnesses that the requestor considers relevant to the case. The request must be made before the 15th day before the date a commission proceeding will be held.

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

(d) A response to a subpoena duces tecum under this section is considered to have been made under oath.

(e) A person who is subpoenaed commits an offense if the person fails to appear as required by the subpoena. An offense under this section is a misdemeanor punishable by a fine up to \$1,000, confinement in the county jail for not more than 30 days, or both the fine and confinement.

Added by Acts 2011, 82nd Leg., R.S., Ch. 851 (H.B. 3788), Sec. 1, eff. June 17, 2011.

Sec. 158.010. EMPLOYMENT BY DEPARTMENTS. (a) The head of each department included in the coverage of a county civil service system may assume responsibility for selecting all persons who are to be employees of that department.

(b) A person employed by a department whose head has assumed responsibility as provided by Subsection (a) serves as a probationary employee during the first six months after selection and may not be included in the coverage of the county civil service system during that six-month period. At the end of the six-month period the person's employment may be terminated or the person may be made a permanent employee by the head of the department.

(c) On becoming a permanent employee, a person comes under the coverage of the county civil service system and is fully entitled to all benefits of and subject to all obligations imposed by the system.

(d) This section does not affect the status of any person who is an employee of a department under a county civil service system on the date the head of the department assumes responsibility for selecting persons who are to be employees of that department.

(e) The rules adopted by the commission under Section 158.009 relating to the selection and classification of county employees and to competitive examinations for selection apply to the initial hiring of personnel under this section.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1989, 71st Leg., ch. 881, Sec. 3, eff. Sept. 1, 1989.

Sec. 158.011. COMPENSATION AND STAFF. The members of the commission serve without compensation, but the commissioners court shall reimburse each member for all necessary expenses incurred in performing the member's duties. The commissioners court shall provide the commission with adequate office space and sufficient funds to employ an adequate staff and to purchase necessary supplies and equipment.

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

Sec. 158.012. APPEALS. (a) A county employee who, on a final decision by the commission, is demoted, suspended, or removed from the employee's position may appeal the decision by filing a petition in a district court in the county within 30 days after the date of the decision.

(b) An appeal under this section is under the substantial evidence rule, and the judgment of the district court is appealable as in other civil cases.

(c) If the district court renders judgment for the petitioner, the court may order reinstatement of the employee, payment of back pay, or other appropriate relief.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 68, Sec. 1, eff. Sept. 1, 1997.

Sec. 158.0121. REVIEW UNDER SUBSTANTIAL EVIDENCE RULE. In an appeal under Section 158.012, the district court may not substitute its judgment for the judgment of the commission on the weight of the evidence on questions committed to the commission's discretion but:

- (1) may affirm the commission's decision in whole or in part; and
- (2) shall reverse or remand the case for further proceedings if substantial rights of the petitioner have been prejudiced because the commission's findings, inferences, conclusions, or decisions are:
 - (A) in violation of a constitutional or statutory provision;
 - (B) in excess of the commission's authority;
 - (C) made through unlawful procedure;
 - (D) affected by other error of law;
 - (E) not reasonably supported by substantial evidence considering the reliable and probative evidence in the record as a whole;or
 - (F) arbitrary or capricious, characterized by abuse of discretion, or clearly an unwarranted exercise of discretion.

Added by Acts 1997, 75th Leg., ch. 68, Sec. 2, eff. Sept. 1, 1997.

Sec. 158.0122. PROCEDURES FOR REVIEW UNDER SUBSTANTIAL EVIDENCE RULE.

(a) After service of the petition on the commission and within the time permitted for filing an answer or within additional time allowed by the court, the commission shall send to the reviewing court the original or a certified copy of the entire record of the proceeding under review. The record shall be filed with the clerk of the court. The record may be shortened by stipulation of all parties to the review proceedings. The court may assess additional costs against a party who unreasonably refuses to stipulate to limit the record, unless the party pays all costs of record preparation. The court may require or permit later corrections or additions to the record.

(b) A party may apply to the court to present additional evidence. If the court is satisfied that the additional evidence is material and that there were good reasons for the failure to present it in the proceeding before the commission, the court may order that the additional evidence be taken before the commission on conditions determined by the court. The commission may change its findings and decisions by reason of the additional evidence and shall file the additional evidence and any changes, new findings, or decisions with the reviewing court.

(c) The party seeking judicial review shall offer, and the reviewing court shall admit, the commission record into evidence as an exhibit.

(d) The court shall conduct the review sitting without a jury and is confined to the commission record, except that the court may receive evidence of procedural irregularities alleged to have occurred before the commission that are not reflected in the record.

Added by Acts 1997, 75th Leg., ch. 68, Sec. 2, eff. Sept. 1, 1997.

Sec. 158.0123. COST OF PREPARING COMMISSION RECORD. (a) The commission may require a party who appeals a final decision under Section [158.012](#) to pay one-half of the cost of preparation of the original or a certified copy of the record of the commission proceeding that is required to be sent to the reviewing court.

(b) A charge imposed under this section is a court cost and may be assessed by the court in accordance with the Texas Rules of Civil Procedure.

Added by Acts 1997, 75th Leg., ch. 68, Sec. 2, eff. Sept. 1, 1997.

Sec. 158.013. EXEMPTIONS. (a) A person who on August 30, 1971, was an employee of an eligible county under this subchapter may not be required to take a competitive examination or perform any other act to maintain the position held on that date.

(b) This subchapter does not apply to:

- (1) assistant district attorneys, investigators, or other employees of a district or criminal district attorney, except as provided by Section 158.007;
- (2) the official shorthand reporter of a court; or
- (3) an elected or appointed officer under the constitution.

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

Sec. 158.014. DISSOLUTION OF SYSTEM. (a) If, after a civil service system under this subchapter has been in effect for at least one year, 10 percent of the qualified voters of the county petition the commissioners court to dissolve the system, the commissioners court shall call an election to determine whether the system will be dissolved.

(b) An election under this section must be held in the manner provided for an election to create a county civil service system.

(c) The ballot for the election shall be printed to provide for voting for or against the proposition: "Dissolution of the county civil service system."

(d) If the proposition is approved by a majority of the qualified voters voting at the election, the commissioners court shall declare the result and by order dissolve the civil service system. A copy of the order dissolving the system shall be placed in the minutes of the court's proceedings.

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

Sec. 158.015. LIMITATION ON ELECTIONS. The commissioners court may not call an election under Section 158.004 or 158.014 for at least two years after the date of any previous election under either of those sections.

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

SUBCHAPTER B. SHERIFF'S DEPARTMENT CIVIL SERVICE SYSTEM IN CERTAIN COUNTIES

Sec. 158.031. DEFINITIONS. In this subchapter:

(1) "Commission" means a sheriff's department civil service commission.

(2) "Department" means a sheriff's department.

(3) "Employee" means an employee of a sheriff's department. The term includes a deputy sheriff.

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

Sec. 158.032. ELIGIBLE DEPARTMENTS. A sheriff's department in a county with a population of more than 500,000 may, in accordance with this subchapter, create a civil service system.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 127, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 597, Sec. 92, eff. Sept. 1, 1991.

Sec. 158.033. PETITION AND ELECTION. (a) If at least 20 percent of the employees of an eligible department under this subchapter sign a petition requesting an election under this section and present the petition to the county judge of the employing county, the judge shall order a departmental election on the question of the creation of a sheriff's department civil service system.

(b) The county judge shall hold the election after the 15th day but on or before the 45th day after the date the petition is submitted. The election must be by secret ballot and each employee is entitled to vote at the election.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "Creation of a sheriff's department civil service system."

(d) The county judge shall canvass the votes and declare the result.

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

Sec. 158.034. APPOINTMENT OF COMMISSION. (a) In a county with a population of less than 2.8 million, if a majority of the employees voting at the election approve the creation of a sheriff's department civil service system, the sheriff, commissioners court, and district attorney shall each appoint one person to serve as a member of the civil service commission that administers the system. In a county with a population of 2.8 million or more, if a majority of the employees voting at the election approve the creation of a sheriff's department civil service system, the sheriff,

commissioners court, and district attorney shall each appoint two persons to serve as members of the civil service commission that administers the system, and the three appointing authorities shall appoint one member by joint action requiring the affirmative vote of each of the authorities.

(b) The sheriff shall designate one of the members as chairman of the commission.

(c) Each member of the commission is appointed for a term of two years. However, the initial members of the commission in a county with a population of less than 2.8 million shall determine by lot which two of them will serve a term of two years and which one of them will serve a term of one year. In a county with a population of 2.8 million or more:

(1) the initial member appointed jointly under Subsection (a) serves a term of two years; and

(2) the initial members appointed by each individual appointing authority shall determine by lot which one of the two initial members appointed by the appointing authority will serve a term of two years and which initial member appointed by that authority will serve a term of one year.

(d) The entity that appointed a member of the commission whose position becomes vacant shall appoint a person to serve the unexpired part of the member's term.

(e) To be eligible for appointment to the commission, a person must:

(1) be at least 25 years old; and

(2) have resided in the county for the three years immediately preceding the date on which the person's term will begin.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 534, Sec. 1, eff. May 31, 1997.

Sec. 158.035. POWERS OF COMMISSION. (a) The commission shall adopt, publish, and enforce rules regarding:

(1) selection and classification of employees;

(2) competitive examinations;

(3) promotions, seniority, and tenure;

(4) layoffs and dismissals;

(5) disciplinary actions;

(6) grievance procedures;

(7) the rights of employees during an internal investigation; and

(8) other matters relating to the selection of employees and the procedural and substantive rights, advancement, benefits, and working conditions of employees.

(b) The commission may adopt or use as a guide any civil service law or rule of the United States, this state, or a political subdivision in this state to the extent that the law or rule promotes the purposes of this subchapter and is consistent with the needs and circumstances of the department.

(c) In a county with a population of 2.8 million or more, a panel of three commissioners shall preside at the hearing and vote on the commission's final decision in any case involving termination, demotion, or recovery of back pay. A panel's decision is the final decision of the commission for purposes of Sections 158.0351 and 158.037. The commission shall adopt rules prescribing the commission's procedures for assigning members to a panel. A panel may not include more than one member who was appointed to the commission by the same individual appointing authority.

(d) In rendering a final decision regarding a disciplinary action by the department, the commission may only sustain, overturn, or reduce the disciplinary action. The commission may not enhance a disciplinary action by the department.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 218, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 893, Sec. 1, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 534, Sec. 2, eff. May 31, 1997.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 432 (H.B. 2168), Sec. 1, eff. September 1, 2009.

Sec. 158.0351. PROCEDURES AFTER FELONY INDICTMENT OR MISDEMEANOR COMPLAINT. (a) This section applies only to a county with a population of 2.8 million or more.

(b) If an employee is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor, the sheriff 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.

(c) The sheriff shall notify the suspended employee 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.

(d) An employee indicted for a felony or officially charged with the commission of a Class A or B misdemeanor who has also been charged by the sheriff with a civil service rule violation 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 sheriff temporarily suspends an employee under this section and the employee is not found guilty as charged in the indictment or complaint in a court of competent jurisdiction, the employee may appeal to the commission for recovery of back pay. The commission may:

(1) award all or part of the back pay, even if the employee is a deputy sheriff whose appointment as a deputy was revoked under Section 85.003(c); or

(2) modify or uphold the decision by the sheriff.

(f) Acquittal or dismissal of an indictment or a complaint does not mean that an employee has not violated a civil service rule and does not negate the charges that may have been or may be brought against the employee by the sheriff.

(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 dismissal.

Added by Acts 1993, 73rd Leg., ch. 893, Sec. 2, eff. Sept. 1, 1993.

Sec. 158.0355. AUTHORITY TO ISSUE SUBPOENAS AND ADMINISTER OATHS. (a) In a proceeding before the commission under this subchapter, the chairman of the commission shall, on request of a person described by Subsection (b):

(1) administer oaths; and

(2) issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material.

(b) The affected employee, the county attorney, or a designee of the employee or the county attorney may request the chairman of the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the requestor considers relevant to the case. The request must be made before the 10th day before the date a commission proceeding will be held.

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

(d) A response to a subpoena duces tecum under this section is considered to have been made under oath.

(e) A person who is subpoenaed commits an offense if the person fails to appear as required by the subpoena. An offense under this section is a misdemeanor punishable by a fine up to \$1,000, confinement in the county jail for not more than 30 days, or both the fine and confinement.

Added by Acts 2011, 82nd Leg., R.S., Ch. 851 (H.B. 3788), Sec. 2, eff. June 17, 2011.

Sec. 158.036. COMPENSATION AND STAFF. The members of the commission serve without compensation, but the commissioners court shall reimburse each member for actual and necessary expenses incurred in performing the member's duties. The commissioners court shall provide the commission with adequate office space and sufficient funds to employ an adequate staff and to purchase necessary supplies and equipment.

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

Sec. 158.037. APPEALS. (a) An employee who, on a final decision by the commission, is demoted, suspended, or removed from a position may appeal the decision by filing a petition in a district court in the county within 30 days after the date of the decision.

(b) An appeal under this section is under the substantial evidence rule, and the judgment of the district court is appealable as in other civil cases.

(c) If the district court renders judgment for the petitioner, the court may order reinstatement of the employee, payment of back pay, or other appropriate relief.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1997, 75th Leg., ch. 68, Sec. 3, eff. Sept. 1, 1997.

Sec. 158.0371. REVIEW UNDER SUBSTANTIAL EVIDENCE RULE. (a) The same standards described by Section 158.0121 apply to an appeal under Section 158.037.

(b) The procedures for review under Section 158.037 are the same as provided by Section 158.0122.

(c) The commission may require a party who appeals a decision under Section 158.037 to pay the cost of preparing the commission record in the same manner provided by Section 158.0123.

Added by Acts 1997, 75th Leg., ch. 68, Sec. 4, eff. Sept. 1, 1997.

Sec. 158.038. EXEMPTIONS. (a) A person who is an employee of a department on the date that a civil service system is adopted under this subchapter in the department may not be required to take a competitive

examination or perform any other act under this subchapter to maintain the person's employment.

(b) The sheriff of a county with a population of 3.3 million or less may designate as exempt from the civil service system:

- (1) the position of chief deputy;
- (2) four positions of major deputy;
- (3) one or more positions in the office of departmental legal counsel; and
- (4) additional positions in the department; provided, however, that the sheriff may not designate as exempt a total of more than 10 positions.

(c) The sheriff of a county with a population of more than 3.3 million may designate as exempt from the civil service system:

- (1) the position of chief deputy;
- (2) one or more positions in the office of departmental legal counsel; and
- (3) additional positions in the department, not to exceed 25 in number, that have been determined by the civil service commission to be administrative or supervisory positions; provided, however, that the sheriff may not designate as exempt any position in the deputy classifications of captain or below. The designation of any such additional exempt position by the sheriff shall not diminish the number of positions within the deputy classifications of captain or below.

(d) At the time a new sheriff takes office, an employee holding an exempt position may be transferred to the nonexempt position held by the employee immediately before being promoted to an exempt position. A person who was not an officer in the department when appointed to an exempt position may be transferred only to an entry level position in accordance with the system's civil service rules.

Acts 1987, 70th Leg., ch. 149, Sec. 1, eff. Sept. 1, 1987. Amended by Acts 1991, 72nd Leg., ch. 810, Sec. 1, eff. Aug. 26, 1991; Acts 2001, 77th Leg., ch. 669, Sec. 71, eff. Sept. 1, 2001.

Sec. 158.039. DISSOLUTION OF SYSTEM. (a) If, after a civil service system under this subchapter has been in effect in a department for at least one year, 20 percent of the employees of the department petition the county judge to dissolve the system, the judge shall order a departmental election on the question of the dissolution of the department's civil service system.

(b) The county judge shall hold the election after the 15th day but on or before the 45th day after the date the petition is submitted. The

election must be by secret ballot and each employee is entitled to vote at the election.

(c) The ballots for the election shall be printed to provide for voting for or against the proposition: "Dissolution of the sheriff's department civil service system."

(d) The county judge shall canvass the votes and declare the result.

(e) If the proposition is approved by a majority of the employees voting at the election, the county judge shall declare the sheriff's department civil service system dissolved.

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

Sec. 158.040. EXCLUSIVITY. A civil service system created under this subchapter and in effect applies to the department to the exclusion of a civil service system in that county created under Subchapter A or another law.

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