

BILL ANALYSIS

Senate Research Center
82R10237 JTS-D

H.B. 3788
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Current law provides for a system of civil service for county employees and members of sheriff's departments in certain counties as a mechanism for disciplinary action and appeal for its members and to help address relevant workplace issues. H.B. 3788 seeks to bolster the system by establishing provisions relating to the authority of a county civil service commission to administer oaths and issue subpoenas.

H.B. 3788 amends current law relating to the authority of a county civil service commission to administer oaths and issue subpoenas and provides a penalty.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 158, Local Government Code, by adding Section 158.0095, as follows:

Sec. 158.0095. **AUTHORITY TO ISSUE SUBPOENAS AND ADMINISTER OATHS.**

(a) Requires the chairman of the county civil service commission (commission), in a proceeding before the commission under this subchapter, to, on request of a person described by Subsection (b), administer oaths, and issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material.

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

(c) Provides that 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) Provides that a response to a subpoena duces tecum under this section is considered to have been made under oath.

(e) Provides that a person who is subpoenaed commits an offense if the person fails to appear as required by the subpoena. Provides that 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.

SECTION 2. Amends Subchapter B, Chapter 158, Local Government Code, by adding Section 158.0355, as follows:

Sec. 158.0355. **AUTHORITY TO ISSUE SUBPOENAS AND ADMINISTER OATHS.**

(a) Requires the chairman of the commission, in a proceeding before the commission

under this subchapter, to, on request of a person described by Subsection (b) administer oaths, and issue subpoenas and subpoenas duces tecum for the attendance of witnesses and for the production of documentary material.

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

(c) Provides that 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) Provides that a response to a subpoena duces tecum under this section is considered to have been made under oath.

(e) Provides that a person who is subpoenaed commits an offense if the person fails to appear as required by the subpoena. Provides that 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.

SECTION 3. Effective date: upon passage or September 1, 2011.