

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1190  
By: Gallegos  
Intergovernmental Relations  
4/28/2011  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Chapter 143 (Municipal Civil Service For Firefighters and Police Officers), Local Government Code, provides administrative review of indefinite suspensions imposed upon police officers and fire fighters upon local adoption by voters. The reviewing body, either the local civil service commission or an independent hearing examiner may sustain the department head's decision, reverse it, or reduce the suspension to a definite temporary period. In March 2010, the Fourteenth Court of Appeals in Houston held that an independent hearing examiner exceeded his jurisdiction by reducing a Houston police lieutenant's indefinite suspension to reinstatement without back pay for the 92 days he had been off work. *See Miller v. City of Houston*, 309 S.W.3d 681 (Tex. App.—Houston [14th Dist] 2010, no pet.). The *Miller* court held that the commission or a hearing examiner was limited to a reduction of no more than 15 days of temporary suspension in instances where the facts did not warrant termination. This ignores the legislature's clear intent to provide for period of 16 to 90-day temporary suspensions in lieu of termination, Section 143.119(f), Local Government Code. Furthermore, no commission or independent hearing examiner has ever been so restricted in the past. Unfortunately many other state courts are following this decision, as are most, if not all, independent hearing examiners.

This bill would clarify that local civil service commissions or independent hearing examiners may reduce indefinite suspensions of fire fighters to temporary suspensions that do not exceed 90 days. In doing so, this bill would make clear the Civil Service Act's intent to provide reviewing bodies (i.e. civil service commissions and independent hearing examiners) the same latitude that department head's possess, by providing for periods up to 90-day temporary suspensions in lieu of termination on appeal.

C.S.S.B. 1190 amends current law relating to the appeal of an indefinite suspension of a municipal firefighter.

### **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 Section 143.120, Local Government Code, by adding Subsection (c-1), to prohibit a temporary suspension of a firefighter under Subsection (c)(2) (relating to requiring the Fire Fighters' and Police Officers' Civil Service Commission to state whether the suspended firefighter or police officer is temporarily suspended) from exceeding 90 calendar days.

SECTION 2. Effective date: upon passage or September 1, 2011.