

1-1 By: West S.B. No. 470
 1-2 (In the Senate - Filed January 12, 2017; February 6, 2017,
 1-3 read first time and referred to Committee on State Affairs;
 1-4 April 12, 2017, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 12, 2017,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 470 By: Zaffirini

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the establishment of one or more supplemental county
 1-22 civil service commissions in certain counties.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 158.001, Local Government Code, is
 1-25 amended by adding Subdivision (4) to read as follows:

1-26 (4) "Supplemental commission" means a supplemental
 1-27 commission established under Section 158.0085.

1-28 SECTION 2. Subchapter A, Chapter 158, Local Government
 1-29 Code, is amended by adding Section 158.0085 to read as follows:

1-30 Sec. 158.0085. SUPPLEMENTAL COMMISSION IN CERTAIN
 1-31 COUNTIES. (a) This section applies only to a county:

1-32 (1) with a population of two million or more; and

1-33 (2) in which a civil service system has been created
 1-34 under this subchapter.

1-35 (b) The commissioners court of a county may establish one or
 1-36 more supplemental commissions to assist the commission in
 1-37 administering the system.

1-38 (c) The commissioners court shall appoint three individuals
 1-39 to serve as members of each supplemental commission and shall
 1-40 designate one of the members as chair of the supplemental
 1-41 commission.

1-42 (d) Sections 158.008(b)-(e) apply to the appointment of a
 1-43 member of a supplemental commission in the same manner that those
 1-44 provisions apply to the appointment of a member of the commission.

1-45 SECTION 3. Section 158.009, Local Government Code, is
 1-46 amended to read as follows:

1-47 Sec. 158.009. POWERS OF THE COMMISSION AND SUPPLEMENTAL
 1-48 COMMISSIONS. (a) Except as provided by Subsection (a-1) and
 1-49 Section 158.010, the commission shall, and has exclusive authority
 1-50 to, adopt, publish, and enforce rules regarding:

1-51 (1) the definition of a county employee;

1-52 (2) selection and classification of county employees;

1-53 (3) competitive examinations;

1-54 (4) promotions, seniority, and tenure;

1-55 (5) layoffs and dismissals;

1-56 (6) disciplinary actions;

1-57 (7) grievance procedures; and

1-58 (8) other matters relating to the selection of county
 1-59 employees and the procedural and substantive rights, advancement,
 1-60 benefits, and working conditions of county employees.

1-61 (a-1) Notwithstanding any other provision of this

2-1 subchapter, a supplemental commission shall, and has exclusive
2-2 authority to, adopt, publish, or enforce a rule regarding a matter
2-3 described by Subsection (a) only if the adoption, publication, or
2-4 enforcement of the rule is specifically delegated to the
2-5 supplemental commission by the commissioners court.

2-6 (b) The commission or a supplemental commission may adopt or
2-7 use as a guide any civil service law or rule of the United States,
2-8 this state, or a political subdivision in this state to the extent
2-9 that the law or rule promotes the purposes of this subchapter and
2-10 serves the needs of the county.

2-11 (c) The commission or a supplemental commission may not
2-12 adopt or enforce a rule requiring a county employee to retire
2-13 because of age. The commission or a supplemental commission may
2-14 adopt a rule requiring a county employee, on reaching an age set by
2-15 the commission, to submit annually to the commission an affidavit
2-16 from a physician stating that the employee is physically and
2-17 mentally capable of continuing employment.

2-18 SECTION 4. Sections 158.0095(a) and (b), Local Government
2-19 Code, are amended to read as follows:

2-20 (a) In a proceeding before the commission or a supplemental
2-21 commission under this subchapter, the chair [~~chairman~~] of the
2-22 commission or of the supplemental commission, as applicable, shall,
2-23 on request of a person described by Subsection (b):

- 2-24 (1) administer oaths; and
- 2-25 (2) issue subpoenas and subpoenas duces tecum for the
2-26 attendance of witnesses and for the production of documentary
2-27 material.

2-28 (b) The affected employee, the county attorney, or a
2-29 designee of the employee or county attorney may request the chair
2-30 [~~chairman~~] of the commission or of the supplemental commission, as
2-31 applicable, to subpoena any books, records, documents, papers,
2-32 accounts, or witnesses that the requestor considers relevant to the
2-33 case. The request must be made before the 15th day before the date
2-34 the applicable [~~a~~] commission or supplemental commission
2-35 proceeding will be held.

2-36 SECTION 5. Section 158.010(e), Local Government Code, is
2-37 amended to read as follows:

2-38 (e) The rules adopted by the commission or a supplemental
2-39 commission under Section 158.009 relating to the selection and
2-40 classification of county employees and to competitive examinations
2-41 for selection apply to the initial hiring of personnel under this
2-42 section.

2-43 SECTION 6. Section 158.011, Local Government Code, is
2-44 amended to read as follows:

2-45 Sec. 158.011. COMPENSATION AND STAFF. The members of the
2-46 commission and of a supplemental commission serve without
2-47 compensation, but the commissioners court shall reimburse each
2-48 member for all necessary expenses incurred in performing the
2-49 member's duties. The commissioners court shall provide the
2-50 commission with adequate office space for the commission and each
2-51 supplemental commission and sufficient funds to employ an adequate
2-52 staff and to purchase necessary supplies and equipment.

2-53 SECTION 7. Section 158.012(a), Local Government Code, is
2-54 amended to read as follows:

2-55 (a) A county employee who, on a final decision by the
2-56 commission or a supplemental commission, is demoted, suspended, or
2-57 removed from the employee's position may appeal the decision by
2-58 filing a petition in a district court in the county within 30 days
2-59 after the date of the decision.

2-60 SECTION 8. Section 158.0121, Local Government Code, is
2-61 amended to read as follows:

2-62 Sec. 158.0121. REVIEW UNDER SUBSTANTIAL EVIDENCE RULE. In
2-63 an appeal under Section 158.012, the district court may not
2-64 substitute its judgment for the judgment of the commission or a
2-65 supplemental commission on the weight of the evidence on questions
2-66 committed to the commission or supplemental commission's
2-67 discretion but:

- 2-68 (1) may affirm the commission or supplemental
2-69 commission's decision in whole or in part; and
- 2-70 (2) shall reverse or remand the case for further

3-1 proceedings if substantial rights of the petitioner have been
 3-2 prejudiced because the commission or supplemental commission's
 3-3 findings, inferences, conclusions, or decisions are:
 3-4 (A) in violation of a constitutional or statutory
 3-5 provision;
 3-6 (B) in excess of the commission or supplemental
 3-7 commission's authority;
 3-8 (C) made through unlawful procedure;
 3-9 (D) affected by other error of law;
 3-10 (E) not reasonably supported by substantial
 3-11 evidence considering the reliable and probative evidence in the
 3-12 record as a whole; or
 3-13 (F) arbitrary or capricious, characterized by
 3-14 abuse of discretion, or clearly an unwarranted exercise of
 3-15 discretion.

3-16 SECTION 9. Section 158.0122, Local Government Code, is
 3-17 amended to read as follows:

3-18 Sec. 158.0122. PROCEDURES FOR REVIEW UNDER SUBSTANTIAL
 3-19 EVIDENCE RULE. (a) After service of the petition on the
 3-20 commission or a supplemental commission and within the time
 3-21 permitted for filing an answer or within additional time allowed by
 3-22 the court, the commission or supplemental commission, as
 3-23 applicable, shall send to the reviewing court the original or a
 3-24 certified copy of the entire record of the proceeding under review.
 3-25 The record shall be filed with the clerk of the court. The record
 3-26 may be shortened by stipulation of all parties to the review
 3-27 proceedings. The court may assess additional costs against a party
 3-28 who unreasonably refuses to stipulate to limit the record, unless
 3-29 the party pays all costs of record preparation. The court may
 3-30 require or permit later corrections or additions to the record.

3-31 (b) A party may apply to the court to present additional
 3-32 evidence. If the court is satisfied that the additional evidence is
 3-33 material and that there were good reasons for the failure to present
 3-34 it in the proceeding before the commission or supplemental
 3-35 commission, the court may order that the additional evidence be
 3-36 taken before the commission or supplemental commission, as
 3-37 applicable, on conditions determined by the court. The commission
 3-38 or supplemental commission, as applicable, may change its findings
 3-39 and decisions by reason of the additional evidence and shall file
 3-40 the additional evidence and any changes, new findings, or decisions
 3-41 with the reviewing court.

3-42 (c) The party seeking judicial review shall offer, and the
 3-43 reviewing court shall admit, the commission or supplemental
 3-44 commission record, as applicable, into evidence as an exhibit.

3-45 (d) The court shall conduct the review sitting without a
 3-46 jury and is confined to the commission or supplemental commission
 3-47 record, as applicable, except that the court may receive evidence
 3-48 of procedural irregularities alleged to have occurred before the
 3-49 commission or supplemental commission that are not reflected in the
 3-50 record.

3-51 SECTION 10. The heading to Section 158.0123, Local
 3-52 Government Code, is amended to read as follows:

3-53 Sec. 158.0123. COST OF PREPARING [~~COMMISSION~~] RECORD OF
 3-54 PROCEEDING.

3-55 SECTION 11. Section 158.0123(a), Local Government Code, is
 3-56 amended to read as follows:

3-57 (a) The commission or supplemental commission, as
 3-58 applicable, may require a party who appeals a final decision under
 3-59 Section 158.012 to pay one-half of the cost of preparation of the
 3-60 original or a certified copy of the record of the [~~commission~~]
 3-61 proceeding that is required to be sent to the reviewing court.

3-62 SECTION 12. This Act takes effect immediately if it
 3-63 receives a vote of two-thirds of all the members elected to each
 3-64 house, as provided by Section 39, Article III, Texas Constitution.
 3-65 If this Act does not receive the vote necessary for immediate
 3-66 effect, this Act takes effect September 1, 2017.