

## HB 2930 -1, -2 STAFF MEASURE SUMMARY

### House Committee On Judiciary

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**Prepared By:** Amie Fender-Sosa, Counsel

**Meeting Dates:** 2/22, 3/17, 3/22, 3/25, 4/1

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#### WHAT THE MEASURE DOES:

Removes discipline matrix or discipline guide as a mandatory subject of collective bargaining for law enforcement.

Establishes the Commission on Statewide Law Enforcement Standards of Conduct and Discipline (commission) for the purpose of adopting statewide uniform rules through a public process regarding standards of conduct and disciplinary standards. Requires that membership be a broad representation of the individuals and organizations that will be impacted by the rules adopted by the commission.

Requires the Employment Relations Board (ERB) to appoint an arbitrator from a list of qualified, indifferent, unbiased arbitrators. Allows each party an opportunity to object to the ERB's appointed arbitrator.

Requires an arbitrator in an arbitration for alleged police misconduct to not make a determination different from the agency's determination if evidence exists that would permit a reasonable person to conclude the officer engaged in misconduct. Requires law enforcement agencies and arbitrators presiding over alleged misconduct cases to make discipline determinations that adhere to the rules adopted by the commission.

Applies to collective bargaining agreements entered into or renewed on or after July 1, 2021. Directs commission to submit a report to the Joint Committee on Transparent Policing and Use of Force Reform by July 1, 2021, and annually thereafter. Declares emergency, effective on passage.

#### ISSUES DISCUSSED:

- Police accountability
- Difficulty in disciplining officers for misconduct
- No clear standard of review in arbitration proceedings
- Underlying police department policies
- Lack of specific examples of problem arbitrations
- Number of cases that proceed to arbitration
- Concerns with eliminating arbitration as an option for police grievances
- SB 1604 (2020 Special Session) is untested

#### EFFECT OF AMENDMENT:

-1 Creates a random arbitrator selection process within the Employment Relations Board. Requires the selected arbitrator hold a hearing within 90 days from the date of appointment to the proceeding, and allows the arbitrator to set over the hearing for up to 60 days, for good cause.

-2 Requires law enforcement agency to prove by a preponderance of the evidence that the alleged misconduct occurred. Requires the officer to to prove by a preponderance of the evidence that the discipline imposed by the agency is not proper. States that standards of proof are not subject to collective bargaining.

#### BACKGROUND:

Many state and local government employees, including employees of states, counties, cities, and school districts, are subject to the Public Employee Collective Bargaining Act (PECBA). Law enforcement officers are covered under PECBA. A public employer and a collective bargaining unit may reach a written agreement on grievance procedures. As a condition of enforceability, an arbitration award that orders the reinstatement of a public

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employee or otherwise relieves the employee of responsibility for misconduct must comply with clearly defined public policy in statute or judicial decisions. Resolution of disputes over conditions and terms of a contract may be resolved through binding arbitration.

House Bill 2930 removes the discipline matrix or discipline guide as a mandatory subject of collective bargaining for law enforcement, establishes the Commission on Statewide Law Enforcement Standards of Conduct and Discipline, and requires an arbitrator to apply a reasonable person standard.