SUBJECT:	Records of overturned disciplinary actions against police and fire fighters
COMMITTEE:	Urban Affairs — committee substitute recommended
VOTE:	6 ayes — Hill, Bailey, Burnam, Clark, Hodge, Wohlgemuth
	0 nays
	3 absent — Ehrhardt, Garcia, Shields
SENATE VOTE:	On final passage, May 8 — voice vote
WITNESSES:	No public hearing

BACKGROUND: Chapter 143 of the Local Government Code contains municipal civil service provisions applicable to fire and police departments in certain municipalities that have voted to adopt them. In municipalities except Houston, a department head must order the records of a disciplinary action that has been completely overturned on appeal be expunged from the personnel file of fire fighters or police officers unless the individual was charged with excessive force that resulted in a death or injury and the charge is being investigated by a law enforcement or criminal justice agency other than the department. Departments must maintain for their own use investigatory documents relating to a disciplinary action that was overturned on appeal or any document in the possession of the department that relates to a charge of misconduct that was not sustained. A department may release those documents to another law enforcement agency or fire department.

DIGEST: CSSB 629 would apply to police and fire departments in municipalities that have not adopted civil service provisions and in municipalities with a population of less than 1.5 million (except Houston) that have adopted civil service provisions. The bill would require department or agency heads to promptly order that records of a disciplinary action taken against a fire fighter or police officer be expunged from that individual's records or files if the disciplinary action was entirely overturned on appeal.

All records that indicated disciplinary action was recommended or taken against the fire fighter or police officer, including the recommendations of a

disciplinary committee or a letter of suspension, would have to be expunged. This would not apply if the fire fighter or police officer was charged with using excessive force that resulted in a death or injury and the charge was being investigated by a law enforcement or criminal justice agency other than the fire or police department.

A department could maintain a record in its possession that related to a charge of misconduct, regardless of whether the charge was sustained, only in a file created for its own use. The department could release those records to another law enforcement agency or fire department. However, a record relating to a disciplinary action could only be included in the fire fighter's or police officer's personnel file if disciplinary action was actually taken against the firefighter or police officer and the record included at least a brief summary of the facts on which the disciplinary action was based.

In municipalities that have adopted civil service provisions, records maintained by a department on a fire fighter or police officer could be released to the fire fighter or police officer to whom the information related. Such records could be released to a party in a civil or criminal action only if a court determined that the particular record was relevant and issued an order setting limits on the use of, and persons entitled to examine, the record. A department head who was a party to the action could stipulate that the file was relevant to the action.

CSSB 629 would take effect September 1, 1997, and would apply to records that exist on the effective date or was made on or after the effective date.

NOTES: The committee substitute added a definition of "record," the requirement that records to be included in personnel files indicate any disciplinary action taken and provisions addressing municipalities that have not adopted Chapter 143 civil service provisions. It also changed the court order requirements for the release of records to parties in legal actions.