

SUBJECT: Creating office of fire marshal for emergency services districts

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 6 ayes — Ramsay, G. Lewis, Brown, Farabee, Salinas, Shields  
0 nays  
3 absent — Chisum, Hilderbran, Krusee

WITNESSES: For — Howard Katz, Galveston City Emergency Services District # 1,  
Association of Fire Districts and Emergency Services Districts  
Against — None

DIGEST: CSHB 1950 would authorize an emergency services district to appoint a district fire marshal if the encompassing county did not have a fire marshal. A district fire marshal and any investigators commissioned by the district to assist the fire marshal would be considered peace officers.

The marshal would have to post a bond conditioned on the faithful and strict performance of the marshal's duties for the district and could not have a financial interest in the sale of fire-fighting equipment or be in the business of fire-insurance.

The marshal would have not have jurisdiction in a municipality or county that had its own marshal unless assistance was requested. The marshal's authority in a county or municipality that created an office of fire marshal would cease within 30 days of the office's creation.

The fire marshal would have to begin an investigation within 24 hours after a fire and would have the authority to inspect a building where a fire had occurred or a property or building for fire hazards. If fire hazards were found, the marshal would have the authority to order the property owner to correct the hazards. In an investigation, the marshal would have the authority to subpoena witnesses, administer oaths, take written statements, and require production of documents. The marshal also could:

- ! conduct an investigation in private;
- ! exclude a person who was not under investigation;
- ! separate witnesses from each other until each witness was examined.

The marshal's investigation would not affect the rights of a policyholder or insurer regarding a loss due to fire and could not be admitted as evidence in a civil action trial brought under an insurance policy.

A person would commit an misdemeanor offense punishable by a fine up to \$25 if as a witness in an investigation for refusing to be sworn, refusing to appear and testify, or failing to produce documents relating to an investigation. A property owner or occupant would commit a class B misdemeanor offense if they failed to comply with a district marshal's order.

The district could charge a fee for responding to a hazardous materials leak or spill to a responsible party. A responsible party could not be a governmental entity or a member of the general public who possessed the hazardous material for noncommercial purposes.

The bill also would require write-in candidates for emergency services commissioner to file a declaration of candidacy in order for votes for that candidate to be counted, as with city and other elections.

The bill would take effect September 1, 2001.

**NOTES:**

The companion bill, SB 1167 by Madla, passed the Senate on the Local and Uncontested Calendar on April 24 and was reported favorably, without amendment, by the House County Affairs Committee on May 2. SB 1167 has been set on the Local, Consent, and Resolutions Calendar for May 8th.

The substitute differs from the original by eliminating an increase in the maximum property tax rate for an emergency services district in Harris County.