

- SUBJECT:** Modifying investigation procedures for Houston firefighters
- COMMITTEE:** Urban Affairs — favorable, without amendment
- VOTE:** 5 ayes — Bailey, Murphy, Menendez, Latham, Mallory Caraway  
0 nays  
2 absent — Cohen, Martinez Fischer
- WITNESSES:** For — Johnny Villarreal, Houston Fire Fighters  
Against — None
- BACKGROUND:** Local Government Code, ch. 143 authorizes municipalities larger than 10,000 persons that have a paid fire or police department to hold an election to adopt a civil service agreement as provided in that chapter. Ch. 143 subch. G applies to municipalities with a population of 1.5 million or more except as otherwise provided. Sec. 143.123 regulates investigations of fire fighters and police officers employed by departments with a civil service agreement. Sec. 143.123(e) gives a fire fighter or police officer who is the subject of an investigation the right to inquire and be informed of the identities of each investigator participating in an interrogation of the fire fighter or police officer.
- DIGEST:** HB 1561 would amend sec. 143.123(e) to require an investigator reviewing a complaint against a fire fighter to inform the person under review in writing about the nature of the investigation within 30 days after the receipt of the original complaint. Investigators also would have to disclose to fire fighters under review the names of each person who complained. Investigators would be exempt from these requirements if:
- a criminal investigation had been initiated as a result of the complaint; or
  - disclosing this information would hinder a criminal investigation.
- The bill would apply to municipalities with a population greater than 1.5 million (Houston).

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2007.

**SUPPORTERS  
SAY:**

HB 1561 is necessary to protect fire fighters' right to know when they are under investigation. Current laws applicable to the city of Houston do not require fire fighters to be notified that they are being investigated until 48 hours before they are interrogated as part of the investigation. The lack of pre-notification is alarming for many fire fighters, and the situation is exacerbated by a lack of details regarding the nature of the investigation. Fire fighters who undergo investigation often have no clear idea of what they did to induce a complaint.

HB 1561 would make a simple and minor modification to the civil service agreement that governs Houston fire and police departments. The bill would be confined to notification procedures for fire fighters under investigation and would require notification only within 30 days of the date the complaint was received. Departmental protocol concerning the release of complainant names would not be modified, only the timeframe within which the names would have to be released.

Exempting from notification investigations that might involve criminal charges would protect the integrity of investigations into serious matters. However, broadly allowing an exemption from notification on the grounds that the notice could hinder any investigation would leave too much room for subjective judgment. Making such an allowance would remove any strong incentive for investigators to provide notice of an ongoing investigation.

**OPPONENTS  
SAY:**

The bill as written could compromise investigations into complaints submitted against fire fighters. The 30-day notification requirement the bill would establish is not practical given current departmental procedures for investigations. Existing procedures call for complaints to be first transferred to the Office of the Inspector General (OIG) in the Houston Police Department. The OIG then determines whether the complaint merits a criminal or procedural investigation. In the former case, the complaint is submitted to the district attorney for further investigation. If the district attorney determines that there is insufficient evidence for a criminal charge, the complaint is returned to the OIG for potential investigation on procedural grounds.

This process is time intensive and can take much longer than the 30 days the bill would allow for notification. The 30-day timeline could force the Fire Department to notify an employee of an ongoing investigation before it was determined whether the investigation was criminal in nature. Premature notification could compromise an investigation and give an employee an incentive to destroy or hide incriminating evidence. While fire fighters seldom are charged with criminal misconduct, the bill could compromise the department's ability to investigate effectively the few cases that do arise. Investigators should not have to notify employees if such notice could hinder *any* investigation, not solely those criminal in nature. Notification timeframes also should be long enough to provide for the often time-consuming tasks associated with investigations.

NOTES:

The companion bill, SB 632 by Gallegos, is pending in the Senate Intergovernmental Relations Committee.