

**SUBJECT:** Allowing county fire marshals and inspectors to request wiretaps

**COMMITTEE:** Homeland Security and Public Safety — favorable, without amendment

**VOTE:** 8 ayes — S. Miller, Fletcher, Beck, Burnam, Driver, Flynn, Peña, Walle  
0 nays  
1 absent — Mallory Caraway

**WITNESSES:** For — *(Registered, but did not testify:* Mark Clark, Houston Police Officers' Union; Shanna Igo, Texas Municipal League)  
  
Against — None

**BACKGROUND:** In 1989, the 71st Legislature enacted HB 241 by T. Smith, which authorized the use of tracing and tracking devices to intercept electronic communications. It listed city, county, and state law enforcement officers authorized to request warrants to conduct wiretaps and electronic surveillance. In 2009, the 81st Legislature enacted HB 3201 by P. King, which added fire marshals, inspectors, and inspectors to the list of those considered peace officers in Texas.

**DIGEST:** HB 812 would amend, Code of Criminal Procedure, art. 18.21, to include county fire marshals, inspectors, and investigators to the list of peace officers authorized to request wiretaps and other electronic surveillance.  
  
The bill would take effect on September 1, 2011.

**SUPPORTERS SAY:** HB 812 would correct an oversight in legislation enacted last session that was intended to provide protection from liability for county fire marshals and other inspectors conducting arson investigations. Fire marshals already are peace officers subject to the same Texas Commission on Law Enforcement Officers Standards and Education training and certification as other law enforcement officers in the state. Sometimes fire marshals need certain investigational tools to conduct their duties. They should have the discretion to seek authorization for such tools independently. HB 812

would help eliminate duplication and confusion caused by bringing in additional law enforcement agencies for this purpose.

Investigations of this type would be rare and would be subject to the same safeguards applying to wiretaps and electronic surveillance conducted by other law enforcement agencies.

**OPPONENTS  
SAY:**

HB 812 is unnecessary and would expand authority for wiretaps to individuals that are not as well suited or trained in relevant constitutional and civil liberties issues as other peace officers. Currently, any fire marshal who needs to conduct such an investigation can simply request either the local police department or sheriff's office to work with them, or ask the Department of Public Safety to handle the wiretap in a joint operation.