

- SUBJECT:** State fire marshal's investigation of firefighter deaths
- COMMITTEE:** Urban Affairs — favorable, without amendment
- VOTE:** 6 ayes — Dutton, Alvarado, Mallory Caraway, Parker, Paxton, Simpson
0 nays
1 present not voting — Callegari
2 absent — Gutierrez, P. King
- WITNESSES:** For — Jerry Gardner, Texas Fire Chiefs Association, City of Killeen; Scott Kerwood, Hutto Fire Rescue, Texas Fire Chiefs Association; (*Registered, but did not testify:* Chris Barron, State Firemen's and Fire Marshals' Association; Chris Connealy, Texas Fire Chiefs Association; Glenn Deshields, Mike Higgins, Texas State Association of Fire Fighters; Scott Houston, Texas Municipal League; Johnny Villarreal, Houston Fire Fighters Local 341)

Against — None

On — Ed Salazar, State Fire Marshal-Texas Department of Insurance
- BACKGROUND:** In 2001, the 77th Legislature enacted HB 1450 by Tillery, which required the state fire marshal to investigate the death of any firefighter killed in the line of duty. The report must investigate the cause and origin of the fire, the conditions of the structure, and the suppression operation.
- DIGEST:** HB 956 would require the state fire marshal to investigate the death of a firefighter that occurred in the line of duty or while on duty. It would delete references to deaths that occurred during firefighting, and would require the fire marshal to consider any factor that may have contributed to the firefighter's death, rather than just the cause and origin, conditions of the structure, and suppression operation.

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, 2011.

**SUPPORTERS
SAY:**

HB 956 would grant the state fire marshal authority to investigate all on-duty fatalities involving firefighters, including training accidents. Deaths during such activities are not common. According to the U.S. Fire Administration, training accidents accounted for about 6 percent of firefighter deaths during the last decade. However, the January 2009 deaths of two Kilgore firefighters and injuries to three more demonstrate the dangerous nature of the profession even during drills. The fire marshal should be allowed to investigate such accidents to improve firefighter safety and develop best practices for the profession.

Additional investigation by the fire marshal would not change much about how litigation is handled in firefighting training fatalities. The goal of the fire marshal reports would not be to assign liability in a legal action. That determination would remain for the courts.

**OPPONENTS
SAY:**

Information found during official investigations into fatal accidents is routinely used as part of the legal process. The same would probably be the case with fire marshal reports.

NOTES:

The companion bill, SB 396 by Deuell, passed the Senate by 31-0 on the Local and Uncontested Calendar on March 17. The House Urban Affairs Committee has scheduled a public hearing on SB 396 for today.