

SUBJECT: Allowing protections for firefighters who are under investigation

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 9 ayes — Button, Shaheen, J. González, Goodwin, E. Johnson, Middleton, Morales, Patterson, Swanson

0 nays

WITNESSES: For — John Riddle, Texas State Association of Firefighters

Against — (*Registered, but did not testify:* Julie Acevedo, Texas Fire Chiefs Association)

On — John Carlton, Texas State Association of Fire and Emergency Districts

BACKGROUND: Government Code ch. 614 subch. B governs complaints against firefighters. Sec. 614.021(b) states that the subchapter does not apply to firefighters who are covered under a meet and confer or collective bargaining agreement if that agreement includes provisions relating to the investigation of, and disciplinary action resulting from, a complaint against a firefighter.

Local Government Code sec. 143.123 governs investigations of firefighters in municipalities with populations of 1.5 million or more. Sec. 143.312 governs investigations in municipalities with populations of 460,000 or more that operate under a city manager form of government and are not governed by sec. 143.123.

Both sections include protections for firefighters who are the subjects of administrative investigations by a municipality for alleged misconduct that could result in punitive action. These protections include, among others, prohibitions on:

- punishing the individual being investigated for missing work time

due to the investigation;

- interrogating or conducting any part of the investigation at the individual's home without the individual's permission;
- interrogating the individual for an unreasonably long period; and
- assigning to the investigation the complainant, the decision-maker regarding disciplinary action, or anyone with a personal involvement in the alleged misconduct.

DIGEST: CSHB 1895 would prohibit a city from taking punitive action against a firefighter unless an investigation was conducted in accordance with Local Government Code sec. 143.123 or 143.312 or other applicable law.

Cities that were not governed by one of those sections or another substantially similar investigation requirement would have to adopt and comply with procedures substantially identical to those required by Local Government Code sec. 143.312.

The bill would not apply to an investigation of a firefighter for alleged offenses that involved family violence or were punishable as a felony or class A or class B misdemeanor.

CSHB 1895 would apply to firefighters employed by municipalities regardless of whether they were covered by a meet and confer or collective bargaining agreement under Local Government Code chs. 143 or 174.

The bill would go into effect September 1, 2019, and would apply only to investigations initiated by a city on or after the effective date.

SUPPORTERS SAY: CSHB 1895 would ensure that firefighters were not punished without an investigation or treated unfairly during the process of that investigation. The bill would guarantee that the rights and protections currently enjoyed by firefighters who work in large cities were extended to those who worked in smaller ones.

Current law establishes that some meet and confer or collective bargaining

agreements clearly supersede certain sections of code. Concerns that the bill would overturn contracts between firefighters and their cities are unfounded.

**OPPONENTS
SAY:**

CSHB 1895 should clarify that contract provisions would be protected, as it does not clearly establish which section of statute would take precedence. Otherwise, the bill could affect protections for firefighters in contracts that some city departments and unions have reached together through meet and confer or collective bargaining agreements.