

SUBJECT: Continuing the Texas Commission on Fire Protection

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 8 ayes — Cortez, Holland, Bernal, Campos, Gates, Minjarez, Morales
Shaw, Slaton

0 nays

1 absent — Jarvis Johnson

SENATE VOTE: On final passage, April 9 — 31-0, on Local and Uncontested Calendar

WITNESSES: None

BACKGROUND: The Texas Commission on Fire Protection (TCFP) was established in 1961 as the Commission on Fire Protection and Personnel Standards. TCFP's mission is to aid in the protection of lives and property of Texas citizens through the development and enforcement of recognized professional standards for individuals and the fire service. The fire service includes paid firefighters and other fire service personnel, fire training facilities, and fire departments.

Functions. The commission certifies fire service personnel in 44 levels of certification within 15 disciplines including structure firefighting, fire inspection, and arson investigations for which the commission develops and maintains certification curricula and exams based on national standards. TCFP also regulates training providers and approves training courses for certifications, and it provides fire education and research materials and gathers fire service personnel injury data. The commission inspects fire departments and other regulated facilities for compliance with state law and agency rules.

Governing structure. TCFP consists of 13 members appointed by the governor with the advice and consent of the Senate. The 13 members are appointed to staggered six-year terms and include:

- one fire protection instructor from a higher education institution;
- one fire protection inspector or arson investigator;
- one fire protection engineer;
- two paid firefighters with a rank of battalion chief or below, one from a political subdivision with a population under 100,000;
- two fire chiefs, one who is the head of his or her department, and one from a political subdivision with a population under 100,000;
- two volunteer firefighters; and
- four public members.

The governor appoints the fire chief, paid firefighter, and volunteer members from a list of names submitted by three fire service associations.

TCFP must seek input from the Fire Fighter Advisory Committee before adopting or amending a rule. The committee is established by statute and consists of nine fire service personnel. TFPF also uses seven other committees to help in carrying out its functions, including development of certification curricula, giving input on exams, and informing policy development.

Funding. TCFP is required to cover the cost of its operations and collect an additional \$1.5 million in revenue across the biennium, as required by a budget rider. In fiscal 2019, TCFP received about \$4.9 million in revenue, mostly from fees generated by testing and from issuing and renewing certifications, and the commission spent about \$2.1 million of that revenue on its operating costs, sending about \$2.8 million to the General Revenue Fund. Overall, TCFP spends about 56 percent of its funds on the certification and regulation of fire services personnel and fire departments.

Staffing. TCFP employed 31 staff in fiscal 2019, most of whom are based at the main TCFP office in Austin. TCFP employs seven staff for its largest program, compliance, and those staff include the compliance manager in Austin and one field inspector working in each of six regions across the state.

TCFP will be discontinued on September 1, 2021, if not continued in statute.

DIGEST:

CSSB 709 would continue the Texas Commission on Fire Protection (TCFP) until September 1, 2033, and adopt certain Sunset Advisory Commission recommendations, including limiting advisory committee member terms of service and aligning TCFP's licensing and rulemaking processes with regulatory best practices.

Advisory committees. The bill would specify that members appointed to an advisory committee to assist the TCFP in the performance of its duties would be limited to staggered, six-year terms and could not be appointed to more than two consecutive terms.

The bill also would remove references throughout applicable statute to the Fire Fighter Advisory Committee.

Biennial renewal. The bill also would authorize TCFP to provide biennial renewal for certifications as opposed to the current requirement of annual renewal for certifications. The frequency of renewal would be determined by TCFP rule.

Reciprocity. The bill would allow for certification through reciprocity by authorizing TCFP to waive any prerequisites to obtaining a certificate for an applicant who held a license or certificate issued by another jurisdiction:

- that had licensing or certification requirements substantially equivalent to those of Texas; or
- with which Texas had a reciprocity agreement.

TCFP would be authorized to make an agreement with another state to allow for certification by reciprocity.

Reporting requirement. The bill would remove a provision requiring TCFP to report on the commission's activities to the governor and to the

Legislature by January 1 of each odd-numbered year.

Other provisions. The bill would adopt certain across-the-board Sunset recommendations on commission member training and maintaining a complaints system. The bill would provide for transition to the new training requirements for commission members appointed before the bill's effective date. The bill also would revise how certain individuals were described in statute. Statutory language on an unused account in the general revenue fund dedicated for use by TCFP would be removed.

The bill would take effect September 1, 2021, and would apply to a member of TCFP appointed before, on, or after that date.

**SUPPORTERS
SAY:**

CSSB 709 would continue the Texas Commission on Fire Protection (TCFP) so it could continue providing an important benefit to Texas by inspecting fire departments to help ensure they had proper equipment and met state and national standards to effectively protect communities across the state. The bill also would adopt Sunset recommendations aimed to improve the effectiveness and transparency of TCFP's advisory committees and to improve governance through across-the-board standards.

Advisory committees. Currently, TCFP does not have clear guidance for some of its advisory committees. The Fire Fighter Advisory Committee is duplicative of the commission, and even though it has effectively been abolished, it has continued to operate, essentially duplicating the policymaking function of TCFP instead of acting as an advisory body.

The Fire Fighter Advisory Committee and TCFP's seven other advisory committees have never had term limits for members, resulting in TCFP hearing from the same voices for many years. By implementing staggered, six-year terms with consecutive term limitations, the bill would ensure that TCFP had the opportunity to hear new and differing expertise.

Biennial renewal and reciprocity. The bill would require TCFP to improve certain agency procedures that do not reflect regulatory best

practices, specifically in relation to certification renewals and the reciprocity process. By authorizing TCFP to renew certifications every two years rather than annually, the bill could help the agency develop more efficient internal processes and ease the regulatory burden on certified individuals and fire departments.

Statute currently authorizes TCFP to waive most certification requirements for an applicant with a certification from another state with substantially equivalent requirements but does not authorize the commission to enter into formal reciprocity agreements with another state. By allowing for certification by reciprocity for certificate holders from another state and by authorizing TCFP to enter into reciprocity agreements, the bill would reduce the administrative burden on the commission and ensure that in-state and out-of-state applicants are treated equally.

Reporting requirement. TCFP currently is required to report to the governor and Legislature every two years on the agency's activities, but statute does not specify what the report should include and review found the commission had inconsistently complied with this reporting requirement since it was added several decades ago. The governor's office and Legislature have other opportunities for oversight of the commission, so removing the reporting requirement would simply eliminate a report that is no longer needed.

Restructuring governing board. While some have called for changing the composition of TCFP's board to address concerns about the underrepresentation of firefighters from large cities who are regulated by the commission and overrepresentation of volunteer firefighters who are not, the current board structure does not prevent firefighters from large cities from being appointed as commission members, and some volunteer firefighters voluntarily choose to hold TCFP certifications or work for a fire department regulated by the commission.

CRITICS
SAY:

CSSB 709 would not implement needed restructuring to the governing

board to ensure appropriate stakeholder representation. TCFP is charged with adoption and enforcement of standards for career fire departments of all sizes but is dominated by the influence of smaller and volunteer departments, which are not governed by those regulations. It is unreasonable for such individuals to have such significant representation on the board of a commission charged with regulating only the career fire service. Restructuring the governing board of TCFP to better represent the larger fire departments in Texas would help ensure that the commission's decisions and actions took into account the needs and constraints of such larger departments.

NOTES:

The House companion bill, HB 1845 by Canales, was considered by the House Urban Affairs Committee in a public hearing on April 7 and was left pending.