

## **BILL ANALYSIS**

Senate Research Center

S.B. 1286  
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Intergovernmental Relations  
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As Filed

### **DIGEST**

S.B. 1286 would amend current law to make changes regarding the investigation, interrogation, suspension, and trial of a fire fighter or police officer for alleged misconduct and sets forth provisions regarding the rights of a fire fighter or police officer during such proceedings.

### **PURPOSE**

As proposed, S.B. 1286 sets forth the guidelines regarding the rights fire fighters and police officers have during an investigation, interrogation, suspension, or trial for alleged misconduct; and sets forth provisions regarding anonymous complaints.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Sections 143.015(a), (b), and (d), Local Government Code, to require a petition to be filed within 10 days after the date the final Fire Fighters' and Police Officers' Civil Service Commission (commission) decision is sent by certified mail and received by the fire fighter or police officer, rather than within 10 days after the date the final commission decision is sent to the fire fighter or police officer by certified mail. Requires the district court to grant no deference to the commission's decision. Requires the court, if the court finds for the fire fighter or police officer, to order the municipality to pay all wages that the fire fighter or police officer would have received from the municipality had the municipality not suspended the fire fighter or police officer, rather than requiring the court to order the municipality to pay lost wages to the fire fighter or police officer.

SECTION 2. Amends Chapter 143D, Local Government Code, by adding Section 143.058, as follows:

Sec. 143.058. FURNISHING OF DOCUMENTS OF INVESTIGATION. Provides that this section does not apply to an on-the-scene investigation that occurs immediately after an incident being investigated if the limitations of this section or of Section 143.123(f) would unreasonably hinder the essential purpose of the investigation. Sets forth provisions regarding a departmental investigation that may result in disciplinary action against the fire fighter or police officer. Requires the investigator, 48 hours before an interrogation of a fire fighter or police officer regarding an allegation based on a complaint, affidavit, or witness statement, to give the fire fighter or police officer a copy of any complaint affidavit, or witness statement in the investigator's possession. Requires the investigator to provide the fire fighter or police officer with a copy of the original witness statement of a witness who is not a complainant, except that the investigator may delete the name and other personal information of the witness from the copy. Sets forth provisions applicable if Subsection (b) or (c) is violated. Provides that the requirements of this section are cumulative of any other requirement in this chapter.

SECTION 3. Amends Section 143.117(c), Local Government Code, to require the fire or police department (department) head, if the department head suspends a fire fighter or police officer, within 120 hours after the fire fighter or police officer is notified of the suspension, to file the written statement and charges with the commission, rather than a written statement of action with the

commission.

SECTION 4. Amends Sections 143.119(b), (c), (d), and (e), Local Government Code, to set forth provisions applicable if the department head suspends a fire fighter or police officer. Requires the copy of the written statement and charges to inform the suspended fire fighter or police officer that if the person wants to appeal to the commission, the person must file a written appeal with the commission within 10 days after the date the person receives the copy of the written statement and charges. Makes conforming changes.

SECTION 5. Amends Sections 143.120(f) and (g), Local Government Code, to set forth provisions applicable if the department head intentionally or knowingly refuses, for at least 10 days, to obey a certain order. Sets forth provisions applicable if a department head refuses, rather than intentionally refuses, to obey a lawful commission order or reinstatement.

SECTION 6. Amends Section 143.1215(a), Local Government Code, to set forth provisions applicable if the commission, a hearing examiner, or a district court orders that a fire fighter or police officer suspended without pay be reinstated.

SECTION 7. Amends Section 143.123(a), Local Government Code, to redefine "complainant" and to define "interrogation."

SECTION 8. Amends Sections 143.123(c), (f), and (k), Local Government Code, to provide that participation in the conduct of an investigation includes a reasonable amount of time to confer with legal counsel regarding the investigation. Requires an investigator, before an investigator may interrogate a fire fighter or police officer who is subject of an investigation, in addition to the documents that must be provided under Section 143.058, to inform the fire fighter or police officer in writing of the nature of the investigation and the name of each complainant, rather than the name of each person who complained about the fire fighter or police officer concerning the matters under investigation. Prohibits an investigator from conducting an interrogation of a fire fighter or police officer based on a complaint by a complainant, rather than by a complainant who is not a peace officer, unless the complainant verifies the complaint in writing before a public officer who is authorized by law to take statements under oath. Deletes certain provisions regarding an investigation authorized under this subsection. Sets forth provisions applicable if the limitation would hinder the investigation or interrogation. Sets forth provisions applicable if the department head or any investigator violates any of the provision of the this section while conducting an investigation. Prohibits a department head from adopting, certifying, or validating a complaint that is not verified by the nonanonymous complainant or, if the complaint is anonymous, certified in writing by the departmental employee who received the anonymous complaint. Provides that an investigator violates this section under certain conditions. Makes conforming changes.

SECTION 9. Amends Section 143.128, Local Government Code, by adding Subsection (f), to require the grievance to be upheld in its entirety without further processing of the grievance, if a meeting is not timely arranged under Subsection (b) or if a written response is not timely provided to the fire fighter or police officer under Subsection (d).

SECTION 10. Amends Section 143.129, Local Government Code, by adding Subsection (e), to require the grievance to be upheld in its entirety without further processing of the grievance, if a meeting is not timely arranged under Subsection (b) or if a written response is not timely provided to the fire fighter or police officer under Subsection (c).

SECTION 11. Amends Section 143.130, Local Government Code, by adding Subsection (f), to require the grievance to be upheld in its entirety without further processing of the grievance, if a hearing is not timely arranged under Subsection (b) or if written findings and a recommendation are not timely made under Subsection (d).

SECTION 12. Amends Section 143.134(h), Local Government Code, to require the department head to implement the relief granted to the fire fighter or police officer not later than the 10th calendar day after the date on which the decision is issued, if the decision of the commission under Section 143.131 or the decision of a hearing examiner under Section 143.129 that has become

final is favorable to a fire fighter or a police officer. Makes conforming changes.

SECTION 13.           Effective date: September 1, 1997.  
                          Makes application of this Act prospective.

SECTION 14.           Emergency clause.