

BILL ANALYSIS

Senate Research Center

S.B. 1460
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Enrolled

DIGEST AND PURPOSE

The current laws governing the powers and duties of county fire marshals were first established in 1987 and have undergone only minor changes. Over the past 16 years a number of counties and their fire marshals have identified several areas for improvement in the law that would enhance efficiency, effectiveness, and flexibility of the administration of fire safety by Texas counties. S.B. 1460 allows the county fire marshal to investigate fires that cause personal injury; gives the commissioners court the authority to promulgate rules determining which fires warrant fire marshal investigation; allows the fire marshal to require timely reports from fire departments and emergency medical services agencies to ensure timely prosecution by the district attorney; updates the list of conditions for which the fire marshal may inspect a structure; clarifies the authority of the fire marshal to enforce fire safety orders; allows a fire marshal to promulgate rules requiring a fire department to participate in the Texas or National Fire Incident Reporting System; allows a commissioners court to authorize a fire marshal to conduct training programs, operate a training facilities, and collect a fee for its service; and increases the penalties for noncompliance with a fire safety order.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Sections 352.013, 352.014, and 352.016, Local Government Code, as follows:

Sec. 352.013. INVESTIGATION OF FIRES. (a) Requires the county fire marshal to perform certain acts.

(b) Requires the commissioners court of a county, with the advice of the county fire marshal, to adopt rules and procedures for determining which fires warrant investigation by the county fire marshal. Requires the county fire marshal to begin an investigation within 24 hours after the receipt of information regarding a fire that warrants investigation under commissioners court rules and procedures.

(c) Deletes language requiring the marshal to conduct an examination in a manner designed to impose the least inconvenience to any persons living in the building.

Sec. 352.014. RECORD OF INVESTIGATION. Requires each fire department and state or local agency that provides emergency medical services to submit reports requested by the county fire marshal in a timely manner.

Sec. 352.016. New heading: INSPECTION OR REVIEW OF PLAN FOR FIRE OR LIFE SAFETY HAZARDS. (a) Defines "fire or life safety hazard."

(b) Authorizes the county fire marshal, in the interest of safety and fire prevention, to inspect for fire or life safety hazards any structure, appurtenance, fixture, or real property located within 500, rather than 200, feet of a structure, appurtenance, or fixture. Authorizes the county fire marshal, in the absence of a

county fire code, to conduct an inspection using any nationally recognized code or standard adopted by the state. Requires an owner or occupant, if ordered to do so, to correct the hazardous situation in accordance with the order. Makes conforming changes.

(b-1) Requires the county fire marshal, in the interest of safety and fire prevention, to, if required, review the plans of a business, single-family residence, multi-family dwelling, or commercial property for fire or life safety hazards. Authorizes the county fire marshal to make such a review on request.

(c) Authorizes the commissioners court by order to authorize the county fire marshal to charge a fee to the owner of a business, a multi-family dwelling, or commercial property for a plan review or inspection conducted under this section in a reasonable amount determined by the commissioners court to cover the cost of the plan review or inspection.

(d) Makes conforming changes.

SECTION 2. Amends Section 352.017(b), Local Government Code, to require service of process required by this subchapter to be made by a peace officer, rather than constable or sheriff, and to be signed by the county fire marshal or the fire marshal's deputy.

SECTION 3. Amends Section 352.019, Local Government Code, by amending Subsections (b) and (c) and adding Subsections (b-1), (e), (f), and (g) as follows:

(b) Authorizes the county fire marshal, on request, to assist a rural fire prevention district or emergency services district located wholly or partially in the county to accomplish its powers and duties.

(b-1) Requires the commissioners court, if the commissioners court establishes procedures for firefighter certification under Subsection (b), to ensure that the procedures are at least as stringent as the minimum qualifications set by the Texas Commission on Fire Protection (TCFP) under Section 419.032, Government Code. Provides that this subsection does not apply to a volunteer firefighter as defined by Section 419.001, Government Code.

(c) Authorizes the county fire marshal or the county fire marshal's designee to perform as the incident commander in a major event if the incident commander of the responsible fire department consents. Prohibits the county fire marshal from enforcing orders and decrees within a municipality in the county unless specifically required to do so by inter-local agreement and authorizes the fire marshal to act in a cooperative and advisory capacity there only on request.

(e) Authorizes a county commissioners court to authorize the fire marshal to provide training programs and operate a training facility for the various fire-fighting and fire prevention units in the county. Authorizes the county to establish and collect a reasonable fee for the training programs, use of the facility, and services provided by the facility.

(f) Authorizes the commissioners court and county fire marshal to jointly adopt voluntary guidelines, including voluntary funding guidelines, for fire departments located in unincorporated areas of the county, including fire departments located within rural fire prevention districts or emergency services districts, regarding participation in the Texas Fire Incident Reporting System (TXFIRS) or the National Fire Incident Reporting System (NFIRS), or both. Authorizes the commissioners court to establish certain model procedures for voluntary use by the various fire departments in the county.

(g) Requires the fire marshal, if a commissioners court authorizes a fire marshal to provide training programs and operate a training facility under Subsection (e), to ensure

that the training programs and operation of the training facility are at least as stringent as the minimum qualifications set by TCFP under Section 419.032, Government Code. Provides that this subsection does not apply to a volunteer firefighter as defined by Section 419.001, Government Code.

SECTION 4. Amends Section 352.021(b), Local Government Code, to provide that an offense under this section is a misdemeanor punishable by a fine of not more than \$2,000, rather than \$25.

SECTION 5. Amends Section 352.022, Local Government Code, as follows:

Sec. 352.022. PENALTY FOR FAILURE TO COMPLY WITH ORDER. Provides that an owner or occupant who is subject to an order issued under Section 352.016 commits an offense if that person fails to comply with the order. Provides that each refusal to comply is a separate offense. Provides that the offense is a Class B, misdemeanor unless it is shown on the trial of the offense that the defendant has been previously convicted two or more times under this section, in which event the offense is a state jail felony.

SECTION 6. Reenacts and amends Article 12.01, Code of Criminal Procedure, as follows:

Art. 1201. FELONIES. Increases the statute of limitation for arson, in the list of felony indictments, from five years to 10 years from the date of the commission of the offense. Makes nonsubstantive changes.

SECTION 7. Makes application of this Act prospective.

SECTION 8. Effective date: September 1, 2003.