

## **BILL ANALYSIS**

H.B. 1648  
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Urban Affairs  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Chapter 143 of the Local Government Code provides a statutorily created system of discipline for fire fighters and police officers who are covered by that law. Chapter 143, however, does not provide clear direction regarding the investigation of allegations of misconduct when a citizen makes a complaint against a fire fighter or police officer in a city not covered by that law.

H.B. 1648 adds a specific process for an investigation following a citizen complaint to Chapter 143 affecting fire fighters and police officers not covered elsewhere in the chapter. The bill does not apply to a city already covered by that chapter or to a person who serves as a volunteer fire fighter.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

H.B. 1648 amends the Local Government Code to add provisions affecting fire fighters and police officers who are not covered by identical provisions affecting fire fighters and police officers in a municipality with a population of 460,000 or more that operates under a city manager form of government, with certain exceptions or similar provisions affecting fire fighters and police officers in municipalities with a population of 1.5 million or more and certain other municipalities. The bill specifies that its provisions do not apply to a municipality to which those provisions apply.

H.B. 1648 authorizes an investigator to interrogate a fire fighter or police officer who is the subject of an investigation only during the fire fighter's or police officer's normally assigned working hours unless the seriousness of the investigation, as determined by the fire fighter's or police officer's department head or the department head's designee, requires interrogation at another time and the fire fighter or police officer is compensated for the interrogation time on an overtime basis. The bill prohibits the department head from considering work time missed from regular duties by a fire fighter or police officer due to participation in the conduct of an investigation in determining whether to impose a punitive action or in determining the severity of a punitive action. The bill prohibits an investigator from interrogating a fire fighter or police officer who is the subject of an investigation or conducting any part of the investigation at that person's home without that person's permission. The bill prohibits a person from being assigned to conduct an investigation if the person is the complainant, the ultimate decision-maker regarding disciplinary action, or a person who has any personal involvement regarding the alleged misconduct. The bill establishes that a fire fighter or police officer who is the subject of an investigation has the right to inquire and, on inquiry, to be informed of the identities of each investigator participating in an interrogation of the fire fighter or police officer.

H.B. 1648 requires an investigator, not less than 48 hours before the investigator begins the initial interrogation of a fire fighter or police officer who is the subject of an investigation, to

inform the fire fighter or police officer in writing of the allegations in the complaint. The bill prohibits an investigator from interrogating a fire fighter or police officer based on a complaint by a complainant who is not a fire fighter or police officer unless the complainant verifies the complaint in writing before a public officer who is authorized by law to take statements under oath. The bill authorizes the investigator to interrogate a fire fighter or police officer about events or conduct reported by a witness who is not a complainant without disclosing the name of the witness. The bill authorizes an interrogation to be based on a complaint from an anonymous complainant if the departmental employee receiving the anonymous complaint certifies in writing, under oath, that the complaint was anonymous. The bill makes these provisions inapplicable to an on-the-scene investigation that occurs immediately after an incident being investigated, except that the fire fighter or police officer under investigation must be furnished, as soon as practicable, a written statement of the allegations in the complaint.

H.B. 1648 prohibits an interrogation session of a fire fighter or police officer who is the subject of an investigation from being unreasonably long. The bill requires the gravity and complexity of the investigation to be considered in determining reasonableness. The bill requires the investigators to allow reasonable interruptions to permit the fire fighter or police officer to attend to personal physical necessities. The bill prohibits an investigator from threatening a fire fighter or police officer who is the subject of an investigation with punitive action during an interrogation. The bill authorizes an investigator to inform a fire fighter or police officer that failure to answer truthfully reasonable questions directly related to the investigation or to cooperate fully in the conduct of the investigation may result in punitive action. The bill authorizes either the investigator or the fire fighter or police officer who is the subject of an interrogation to record the interrogation if prior notification of intent to record an interrogation is given to the other party.

H.B. 1648 establishes that if an investigation does not result in punitive action against a fire fighter or police officer but does result in a written reprimand or an adverse finding or determination regarding that person, the reprimand, finding, or determination may not be placed in that person's personnel file unless the fire fighter or police officer is first given an opportunity to read and sign the document. The bill establishes that if the fire fighter or police officer refuses to sign the reprimand, finding, or determination, it may be placed in the personnel file with a notation that the person refused to sign it. The bill authorizes a fire fighter or police officer to respond in writing to a reprimand, finding, or determination that is placed in the person's personnel file by submitting a written response to the department head not later than the 10th day after the date the fire fighter or police officer is asked to sign the document. The bill requires the response to be placed in the personnel file. The bill authorizes a fire fighter or police officer who receives a punitive action and who elects not to appeal the action to file a written response not later than the 10th day after the date the person is given written notice of the punitive action from the department head.

H.B. 1648 establishes that a violation of the bill's provisions may be considered by the Fire Fighters' and Police Officers' Civil Service Commission or hearing examiner during a disciplinary appeal hearing if the violation substantially impaired the fire fighter's or police officer's ability to defend against the allegations of misconduct.

H.B. 1648 defines "complainant," "investigation," "investigator," "normally assigned working hours," and "punitive action."

**EFFECTIVE DATE**

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.