

**BILL ANALYSIS**

C.S.H.B. 2870  
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Urban Affairs  
Committee Report (Substituted)

**BACKGROUND AND PURPOSE**

Interested parties have raised concerns regarding municipal employees other than permanent, full-time fire protection personnel being assigned to wildland firefighting duty and cite changes in the law that are necessary to provide the proper use of fire protection personnel and other fire department employees with respect to fighting wildfires. C.S.H.B. 2870 seeks to address these concerns by amending the applicable law.

**CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

**RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission on Fire Protection in SECTION 1 of this bill.

**ANALYSIS**

C.S.H.B. 2870 amends the Government Code to prohibit an employee of a municipality that has adopted the fire fighters' and police officers' civil service law from performing a duty that is classified as a wildland firefighting duty, including conducting a prescribed burn, unless the employee is a permanent, full-time fire department civil service employee regularly assigned to perform one or more specified duties that typically are assigned to fire protection personnel and distinguish such personnel from other fire department employees, regardless of whether the person holds a certificate issued by the Texas Commission on Fire Protection. The bill expressly does not prohibit a municipal employee from performing a duty that may be classified as a wildland firefighting duty if the municipal employee is not acting as an employee of a municipality but acting as a member of a volunteer fire department when performing the duty. The bill requires the commission, not later than January 1, 2016, to adopt rules relating to the application of the bill's provisions to a fire department.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2870 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
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SECTION 1. Subchapter B, Chapter 419, Government Code, is amended by adding Section 419.0323 to read as follows:

Sec. 419.0323. RESTRICTIONS ON CERTAIN CERTIFICATE HOLDERS. (a) A person who is a municipal employee may not perform a duty that is classified as a wildland firefighting duty, including conducting a prescribed burn, unless the person is a permanent, full-time fire department employee regularly assigned to perform one or more duties listed under Section 419.021(3)(C), regardless of whether the person holds a certificate issued by the commission under this chapter.

(b) This section does not prohibit a municipal employee from performing a duty that may be classified as a wildland firefighting duty if the municipal employee: (1) is not acting as an employee of a municipality when performing the duty; and (2) is acting as a member of a volunteer fire department when performing the duty.

No equivalent provision. *(But see SECTION 2 below.)*

SECTION 2. Section 419.909, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The commission shall adopt and implement rules relating to the application of this section to a fire department.

SECTION 3. The Texas Commission on Fire Protection shall adopt the rules required under Section 419.909, Government Code, as amended by this Act, not later than January 1, 2016.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

SECTION 1. Subchapter B, Chapter 419, Government Code, is amended by adding Section 419.0323 to read as follows:

Sec. 419.0323. RESTRICTIONS ON CERTAIN CERTIFICATE HOLDERS. (a) An employee of a municipality that has adopted Chapter 143, Local Government Code, may not perform a duty that is classified as a wildland firefighting duty, including conducting a prescribed burn, unless that person is a permanent, full-time fire department civil service employee regularly assigned to perform one or more duties listed under Section 419.021(3)(C), regardless of whether the person holds a certificate issued by the commission under this chapter.

(b) This section does not prohibit a municipal employee from performing a duty that may be classified as a wildland firefighting duty if the municipal employee: (1) is not acting as an employee of a municipality when performing the duty; and (2) is acting as a member of a volunteer fire department when performing the duty.

(c) The commission shall adopt and implement rules relating to the application of this section to a fire department.

No equivalent provision. *(But see SECTION 1, subsection (c), above.)*

SECTION 2. The Texas Commission on Fire Protection shall adopt the rules required under Section 419.0323, Government Code, as added by this Act, not later than January 1, 2016.

SECTION 3. Same as introduced version.