

BILL ANALYSIS

C.S.H.B. 2351
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Urban Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties note the need to strengthen the rights of fire fighters with regard to administrative investigations for alleged misconduct. C.S.H.B. 2351 seeks to address this need by setting out provisions relating to the investigation of fire fighters employed by certain municipalities and emergency services districts.

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

ANALYSIS

C.S.H.B. 2351 amends the Local Government Code to apply provisions relating to the investigation of a fire fighter or police officer in certain municipalities under fire fighters' and police officers' civil service law to the investigation of a fire fighter conducted by a municipality, except a municipality with a population of 1.5 million or more under fire fighters' and police officers' civil service law. The bill, for a municipality to which fire fighters' and police officers' civil service law does not apply, authorizes a violation of provisions relating to the investigation of a fire fighter or police officer in certain municipalities under fire fighters' and police officers' civil service law to be considered by the appropriate authority, as provided by those violated provisions, during any disciplinary appeal hearing provided by the municipality.

C.S.H.B. 2351 applies provisions relating to the investigation of a fire fighter or police officer in certain municipalities under fire fighters' and police officers' civil service law to the investigation of a fire fighter conducted by an emergency services district. The bill authorizes a violation of such provisions to be considered by the appropriate authority, as provided by those provisions, during any disciplinary appeal hearing provided by the district. The bill prohibits an emergency services district and certain municipalities under fire fighters' and police officers' civil service law from taking punitive action against a fire fighter unless an investigation has been conducted in substantial compliance with statutory provisions relating to investigation of fire fighters and police officers. The bill exempts from its provisions the investigation of a fire fighter that directly relates to the facts and circumstances of an offense for which the fire fighter has been convicted that involves family violence and is punishable as a felony or Class A or Class B misdemeanor.

C.S.H.B. 2351 grants control to its provisions to the extent that Government Code provisions relating to a complaint against a law enforcement officer or fire fighter apply and conflict with

the bill's provisions. The bill defines, among other terms, "fire fighter" and "investigation."

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2351 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

SECTION 1. Chapter 180, Local Government Code, is amended by adding Section 180.008 to read as follows:

Sec. 180.008. INVESTIGATION OF CERTAIN FIRE FIGHTERS.

(a) In this section:

(1) "Emergency services district" means an emergency services district created under Chapter 775, Health and Safety Code.

(2) "Fire fighter" means a paid employee of a municipal fire department or emergency services district who:

(A) holds a position that requires substantial knowledge of fire fighting;

(B) has met the requirements for certification by the Texas Commission on Fire Protection under Chapter 419, Government Code; and

(C) performs a function listed in Section 143.003(4)(A).

(3) "Investigation" means an administrative investigation, conducted by a municipality or an emergency services district, of alleged misconduct by a fire fighter that could result in punitive action against the fire fighter.

(4) "Punitive action" has the meaning assigned by Section 143.312.

(b) Except as provided by this subsection, Section 143.312 applies to the investigation of a fire fighter conducted by a municipality. This subsection does not apply to a municipality to which Section 143.123 applies. For a municipality to which Chapter 143 does not apply, a violation of Section 143.312 may be considered as provided by Section 143.312(l) by the appropriate authority during any disciplinary appeal hearing provided by the municipality.

(c) Section 143.312 applies to the

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 180, Local Government Code, is amended by adding Section 180.008 to read as follows:

Sec. 180.008. INVESTIGATION OF CERTAIN FIRE FIGHTERS REQUIRED.

(a) In this section:

(1) "Emergency services district" means an emergency services district created under Chapter 775, Health and Safety Code.

(2) "Fire fighter" means a paid employee of a municipal fire department or emergency services district who:

(A) holds a position that requires substantial knowledge of fire fighting;

(B) has met the requirements for certification by the Texas Commission on Fire Protection under Chapter 419, Government Code; and

(C) performs a function listed in Section 143.003(4)(A).

(3) "Investigation" means an administrative investigation, conducted by a municipality or an emergency services district, of alleged misconduct by a fire fighter that could result in punitive action against the fire fighter.

(4) "Punitive action" has the meaning assigned by Section 143.312.

(b) Except as provided by Subsection (e), Section 143.312 applies to the investigation of a fire fighter conducted by a municipality, other than a municipality to which Section 143.123 applies. For a municipality to which Chapter 143 does not apply, a violation of Section 143.312 may be considered as provided by Section 143.312(l) by the appropriate authority during any disciplinary appeal hearing provided by the municipality.

(c) Except as provided by Subsection (e), Section 143.312 applies to the investigation

investigation of a fire fighter conducted by an emergency services district. For purposes of this subsection, a reference to a municipality or a municipal department head in Section 143.312 is considered to be a reference to the district or the official of the district responsible for the performance of the duty to which the provision applies. For purposes of Section 143.312(l), a violation of Section 143.312 may be considered as provided by Section 143.312(l) by the appropriate authority during any disciplinary appeal hearing provided by the district.

(d) To the extent that Subchapter B, Chapter 614, Government Code, applies and conflicts with this section, this section controls.

SECTION 2. Section 180.008, Local Government Code, as added by this Act, applies only to an investigation of a fire fighter, as those terms are defined by that section, initiated by a municipality or emergency services district on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 2017.

of a fire fighter conducted by an emergency services district. For purposes of this subsection, a reference to a municipality or a municipal department head in Section 143.312 is considered to be a reference to the district or the official of the district responsible for the performance of the duty to which the provision applies. For purposes of Section 143.312(l), a violation of Section 143.312 may be considered as provided by Section 143.312(l) by the appropriate authority during any disciplinary appeal hearing provided by the district.

(d) Except as provided by Subsection (e), a municipality to which Subsection (b) applies and an emergency services district may not take punitive action against a fire fighter unless an investigation has been conducted in substantial compliance with Section 143.312.

(e) This section does not apply to the investigation of a fire fighter that directly relates to the facts and circumstances of an offense for which the fire fighter has been convicted that:

(1) involves family violence, as defined by Section 71.004, Family Code; and

(2) is punishable as a felony or Class A or Class B misdemeanor.

(f) To the extent that Subchapter B, Chapter 614, Government Code, applies and conflicts with this section, this section controls.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.