

SUBJECT: Rule changes and grants and loans by Commission on Fire Protection

COMMITTEE: Urban Affairs — favorable, as amended

VOTE: 7 ayes — Talton, Wong, Menendez, A. Allen, Bailey, Blake, Rodriguez
0 nays

WITNESSES: For — Mike Higgins, Texas State Association of Fire Fighters
Against — None

BACKGROUND: The Texas Commission on Fire Protection enforces statewide fire laws and assists local governments in ensuring that the lives and property of the public are protected from fires and related hazards. To accomplish these goals, the agency certifies and regulates fire departments and their personnel, promulgates rules, conducts educational programs, and administers a grant and loan program that provides funding to local fire departments for facilities, equipment, and training.

To adopt or amend a non-emergency rule, the commission must hold at least two public meetings considering the rule. The commission also must allow an advisory committee to review and comment on the proposed rule.

The State Fire Marshall collects and maintains data from fire departments through the Texas Incident Reporting System in order to determine the impact of fires on lives and property in Texas. The National Incident Management System was created by the U.S. Department of Homeland Security to standardize incident management processes, protocols, and procedures used by responders to coordinate and conduct response actions.

DIGEST: HB 1956, as amended, would authorize the Commission on Fire Protection to make nonsubstantive changes to a rule or adjust the amount of a rule-prescribed fee without review by an advisory committee.

The commission could not approve an application for a scholarship, grant, loan, or other financial assistance from a fire department that provides fire suppression services if the department did not provide proof that it routinely and consistently reported incidents to the Texas Fire Incident

Reporting System and participated in the National Incident Management System (NIMS) in accordance with the Federal Emergency Management Agency timeline.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005.

**SUPPORTERS
SAY:**

HB 1956 would enhance the efficiency of the Texas Commission on Fire Protection by permitting the commission to make day-to-day, non-substantive changes to its rules without first gaining the approval of its advisory committee. Although the advisory committee serves an important role in deliberations on substantive matters, requiring every clerical change to be reviewed by the advisory committee, which only meets twice a year, significantly hinders the agency's work. For example, when the Texas Building and Procurement Commission required state agencies to implement a new fee structure for costs associated with open records requests, it took nearly a year for commission to implement the change. Allowing the commission to adopt these types of changes without consulting its advisory committee would streamline the rule-making process, while substantive changes still would be subject to the additional advisory review. Public scrutiny would not be compromised since any changes made by the commission still would be subject to the Texas Register Act and require a public hearing.

Requiring grant and loan applicants to report to the state fire marshal not only would assist the marshal in compiling essential data, but also would help ensure that the applicant was a bona fide fire department. Small or rural departments would not be disproportionately affected since these reporting requirements are not burdensome, nor would training facilities be affected, as they do not provide fire suppression services. Fire departments that report to the state fire marshal already would be in compliance with NIMS, since under executive order RP40, the governor has declared NIMS the state standard for incident management.

**OPPONENTS
SAY:**

While promoting efficiency is important, fee changes ought to be subject to particular scrutiny to determine their necessity. Fee changes should continue to be subject to review by an advisory committee in order to ensure that they are appropriate and reasonable.

NOTES:

The committee amendment would require fire department applying for financial assistance to have participated in the National Incident Management System (NIMS) in accordance with the Federal Emergency Management Agency timeline.

The companion bill, SB 879 by Gallegos, passed the Senate by 28-1 (Nelson) on April 19 and was reported favorably, without amendment, by the House Urban Affairs Committee on May 3, making it eligible to be considered in lieu of HB 1956.