

SUBJECT: Prohibiting certain municipal employees from wildland firefighting duties

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 5 ayes — Alvarado, Hunter, R. Anderson, Bernal, Elkins

2 nays — Schaefer, M. White

WITNESSES: For — Randy Moreno, Austin Firefighters Association; (*Registered, but did not testify*: Wayne Delanghe; Mike Martinez)

Against — William Conrad, City of Austin

BACKGROUND: Under 4 Texas Administrative Code, part 13, sec. 225.1(16), the Prescribed Burn Board defines prescribed burning as the controlled application of fire to fuels under specified environmental conditions in accordance with a written prescribed burn plan.

Local Government Code, ch. 143 provides requirements and standards of municipal civil service for firefighters and police officers. The provisions of ch. 143 apply only to a municipality with a population of 10,000 or more that has a paid fire or police department and has voted to adopt this chapter.

DIGEST: CSHB 2870 would prohibit certain employees of a municipality that has adopted Local Government Code, ch. 143 from performing wildland firefighting duties, including conducting a prescribed burn.

This prohibition would not apply to permanent, full-time fire department civil service employees that were regularly assigned to perform one or more duties of fire protection personnel, such as fire inspection and suppression, regardless of whether the person held a certificate issued by the Texas Commission on Fire Protection (TCFP). A municipal employee could perform wildland firefighting duties if the employee was acting as a member of a volunteer fire department and not as an employee of the municipality when performing the duty.

TCFP would be required to adopt rules relating to the application of this bill to a fire department by January 1, 2016.

This 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, 2015.

**SUPPORTERS
SAY:**

CSHB 2870 would ensure that prescribed burns were conducted safely and efficiently by requiring that only fire professionals perform this and other wildland firefighting duties. Prescribed burns can be beneficial land-management, ecosystem-restoration, and educational tools, but with any activity involving fire-related equipment, fire professionals should be involved.

Prescribed burns are highly dangerous and carefully orchestrated events that require a high standard of safety that only a fire department can provide. If a spillover occurred during a prescribed burn, a fire department could suppress it quickly. Currently, Austin Water Utility conducts prescribed burns with the Austin Fire Department as support; however, the Fire Department should have the lead and authority over the prescribed burn for safety and efficiency purposes.

**OPPONENTS
SAY:**

CSHB 2870 would reclassify prescribed burning as a wildfire-fighting duty rather than a land-management tool. Prescribed burning historically has been considered a land-management tool because it controls vegetative fuels that can contribute to wildfires and helps restore ecosystems. The bill could negatively impact certain cities that depend on municipal departments to conduct prescribed burns.

CSHB 2870 could create administrative confusion about the authority to regulate prescribed burning. The Prescribed Burn Board (PBB), under the Texas Department of Agriculture, already regulates prescribed burning. This bill would give authority for prescribed burning to the Texas Commission on Fire Protection (TCFP), even though regulations already exist under the PBB. The PBB trains, educates, and certifies burn

managers in leading prescribed burns.

The bill could keep trained land-management personnel from fulfilling an important duty and could prohibit city employees who might be highly trained in prescribed burning from conducting the activity. Cities are in the best position to decide which of their employees may or may not perform a specific duty.