

BILL ANALYSIS

Senate Research Center

H.B. 2351
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Currently, many paid municipal fire fighters in Texas have few statutory rights relating to investigative procedures for alleged misconduct. This lack of rights has resulted in fire fighters being given punishments based on unfounded allegations, coercive techniques, and investigations that are not formal in nature.

Section 143.312, Local Government Code, currently provides for investigative rules and conduct guidelines applicable to fire fighters only in certain municipalities.

H.B. 2351 makes certain investigative rights and safeguards offered within the Local Government Code applicable to only paid fire fighters in a municipal fire department. These rights are currently bracketed only to those with a population of 460,000 or more in cities that have not adopted Chapter 174, Local Government Code. In addition, this bill prohibits disciplinary action from being taken against a fire fighter subject to an investigation that has not been conducted in substantial compliance with these safeguards.

This bill does not apply to a crime that arises from the same facts and circumstances as a felony indictment or misdemeanor complaint for an offense involving "family violence" as defined under Chapter 71, Family Code.

This bill applies only to an investigation initiated on or after September 1, 2017.

H.B. 2351 amends current law relating to the investigation of fire fighters employed by certain municipalities.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 180, Local Government Code, by adding Section 180.008, as follows:

Sec. 180.008. INVESTIGATION OF CERTAIN FIRE FIGHTERS REQUIRED. (a) Defines "fire fighter," "investigation," and "punitive action."

(b) Provides that, except as provided by Subsection (d), Section 143.312 (Investigation of Fire Fighters and Police Officers) applies to the investigation of a fire fighter conducted by a municipality, other than a municipality to which Section 143.123 (Investigation of Fire Fighters and Police Officers) applies. Authorizes a violation of Section 143.312, for a municipality to which Chapter 143 (Municipal Civil Service for Firefighters and Police Officers) does not apply, to be considered as provided by Section 143.312(l) (relating to authorizing a violation of this section to be considered by certain persons during a disciplinary appeal hearing under certain circumstances) by the appropriate authority during any disciplinary appeal hearing provided by the municipality.

(c) Prohibits a municipality to which Subsection (b) applies, except as provided by Subsection (d), from taking punitive action against a fire fighter unless an investigation has been conducted in substantial compliance with Section 143.312.

(d) Provides that 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 involves family violence, as defined by Section 71.004 (Family Violence), Family Code, and is punishable as a felony or Class A or Class B misdemeanor.

(e) Provides that, to the extent that Subchapter B (Complaint Against Law Enforcement Officer or Fire Fighter), Chapter 614 (Peace Officers and Fire Fighters), Government Code, applies and conflicts with this section, this section controls.

SECTION 2. Provides that 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 on or after the effective date of this Act.

SECTION 3. Effective date: September 1, 2017.