

- SUBJECT:** Requiring disclosure of investigations to Houston police and fire fighters
- COMMITTEE:** Urban Affairs — committee substitute recommended
- VOTE:** 7 ayes — Talton, Van Arsdale, Bailey, Edwards, Menendez, Hunter, Wong
0 nays
- WITNESSES:** For — Alvin White, Houston Professional Fire Fighters Local 341
Against — Chris Connealy, City of Houston
- BACKGROUND:** Local Government Code, Ch. 143, subch. G applies only to a municipality with a population of 1.5 million or more (Houston).
- Sec. 143.123 authorizes the city to conduct investigations of fire fighters and police officers. An investigation means an administrative investigation of alleged misconduct by a fire fighter or police officer that could result in punitive action against the employee.
- This section also stipulates that an investigator may not be the complainant, the ultimate decision maker regarding disciplinary action, or a person who has any personal involvement regarding the alleged misconduct. In addition, a fire fighter or police officer under investigation has various rights, including:
- the right to inquire about and learn the identities of each investigator participating in the interrogation;
 - the right to written notice of the nature of any investigation and the name of each person who complained about the fire fighter or police officer; and
 - the right to receive a copy of the affidavit, complaint, or resulting statement that formed the basis of the interrogation no less than 48 hours before the start of any interrogation.
- DIGEST:** CSHB 2361 would require that an investigator, not later than 30 days after receiving a complaint against a fire fighter or police officer, inform the fire fighter or police officer in writing of the nature of the investigation and the

name of each person who complained about the fire fighter or police officer concerning the matters under investigation. The investigator would not be required to make this disclosure if a criminal investigation had been initiated as a result of the complaint or if the disclosure would hinder a criminal investigation.

The bill would take effect September 1, 2003, and would apply only to a complaint received by an investigator on or after this date.

**SUPPORTERS
SAY:**

Fire fighters and police officers who risk their lives to protect public safety deserve to know if they are under investigation long before receiving notice of an interrogation, or even discovering that an investigation against them had been completed without their knowledge. These dangerous jobs require teamwork and high morale to ensure effectiveness and safety. In addition, the nature of this work can result in frivolous complaints by members of the public. For these reasons, fire fighters and police officers deserve timely notice of any complaint that might be lodged against them. The absence of such notice can damage the morale of these public servants, potentially placing their safety and the safety of others at risk.

In addition, if a fire fighter or police officer were under investigation for an ongoing activity, this bill would provide sufficient notice to give the employee a chance to scrutinize his or her conduct and end it immediately, if it was improper. Adequate notice of an investigation therefore could end an ongoing improper activity before it resulted in harm to the employee or anyone else, helping to preserve the integrity of the department as well as the public trust. However, this bill would ensure that early notice did not compromise a criminal investigation by prohibiting notice under these circumstances.

**OPPONENTS
SAY:**

HB 2361 would impose an unnecessary burden on fire and police department investigators and administration. Fire fighters and police officers already have substantial rights and protections under law. This bill would inconvenience investigators and could cause a renegade fire fighter or police officer in violation of a regulation to attempt to hide evidence of wrongdoing.

As public servants entrusted with exceptional powers, fire fighters and police officers are held to a higher standard of conduct. Public trust demands that

administrators not be encumbered by too many procedural rules that could hinder efficient and thorough investigations of complaints against these public servants.

NOTES:

The committee substitute differs from the bill as introduced by prohibiting notice that might compromise a criminal investigation.

The companion bill, SB 633 by Gallegos, was reported favorably, as substituted, by the Senate Intergovernmental Relations Committee by 4-1 (Wentworth) on April 7.