

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for
2 Senate Bill No. 834, Page 12, Section 217.947, Line 9, by inserting after all of said section and line
3 the following:
4

5 "285.600. 1. For purposes of this section, the following terms mean:

6 (1) "Firefighter", a paid or volunteer firefighter employed by a public agency. The term
7 "firefighter" shall include, but not be limited to, any firefighter who is a paramedic or emergency
8 medical technician (EMT), but shall not include probationary employees;

9 (2) "Interrogation", any formal interview, inquiry, or questioning of any firefighter by the
10 appointing authority's designee regarding misconduct or violation of policy;

11 (3) "Public concern", anything reasonably considered as relating to any matter of political,
12 social, or other concern to a community;

13 (4) "Punitive action", any action that may lead to dismissal, demotion, suspension, reduction
14 in salary, written reprimand, or transfer for purposes of punishment;

15 (5) "Social media account", any electronic service or account or any electronic content
16 including, but not limited to, videos, photographs, blogs, video blogs, podcasts, instant or text
17 messages, email programs or services, online services, or website profiles.

18 2. When any firefighter is under investigation and is subject to interrogation, the
19 interrogation shall be conducted according to the following minimum standards:

20 (1) Prior to the commencement of the interrogation, the firefighter under investigation shall
21 be notified in writing of the nature of the investigation; the rank, name, and command of the officer
22 or other persons conducting the interrogation; the identity of all persons present during such
23 interrogation; the names of the complainants; and the specific charges or violations being
24 investigated;

25 (2) The interrogation shall be conducted at a reasonable hour and at a time when the
26 firefighter is on duty, unless an imminent threat to the safety of the public requires otherwise. If the
27 interrogation occurs during an off-duty time, the firefighter shall be compensated at his or her
28 regular rate of pay, as applicable;

29 (3) The session of interrogation shall be for a reasonable period of time, taking into
30 consideration the gravity and complexity of the issue or issues being investigated. The firefighter

Action Taken _____ Date _____

1 under interrogation shall be allowed reasonable breaks to attend to his or her own personal or
2 physical necessities and to confer with union representatives and legal counsel;

3 (4) The session of interrogation shall take place at the facility where the investigating officer
4 is assigned or at the facility that has jurisdiction over the place where the incident under
5 investigation allegedly occurred, as designated by the investigating officer;

6 (5) All questions directed to a firefighter under interrogation shall be asked by and through
7 no more than two interrogators during the session of interrogation;

8 (6) The firefighter under interrogation, and any of the firefighter's representatives, shall be
9 allowed to take notes during the session of interrogation;

10 (7) A firefighter shall not be subjected to offensive language during an interrogation and
11 shall not be offered any incentive as an inducement to answering any question during or before an
12 interrogation;

13 (8) If, prior to or during the interrogation of a firefighter, it is determined that the firefighter
14 being interrogated could be charged with a criminal offense, such firefighter shall be immediately
15 informed of his or her relevant constitutional rights;

16 (9) Prior to the commencement of an interrogation that could result in criminal charges, and
17 during any interrogation in which it is discovered that criminal charges could result, the firefighter
18 under interrogation shall have the following rights and shall be informed of such rights:

19 (a) To be informed of the allegations involved;

20 (b) To be asked only questions that are specifically directed at and narrowly tailored to the
21 performance of the firefighter's official duties;

22 (c) To have statements made during the course of any interviews or interrogations be used
23 only as possible evidence of misconduct or as a possible basis for seeking disciplinary action against
24 the firefighter;

25 (d) To have statements made during the course of any interviews or interrogations not be
26 used against the firefighter in any subsequent criminal proceeding, and to have the outcome of any
27 of such statements not be used against the firefighter in any subsequent criminal proceeding;

28 (e) To request that a person of the firefighter's choice be present to serve as a witness, union
29 representative if applicable, or legal counsel during any interviews or interrogations; and

30 (f) To be informed that the firefighter may be subject to dismissal if he or she refuses to
31 answer questions relating to his or her performance of official duties;

32 (10) Prior to the commencement of a meeting between a firefighter and his or her supervisor
33 that may result in discipline, the firefighter's employer shall:

34 (a) Inform the firefighter that he or she has a right to have a union representative present;

35 (b) Inform the firefighter that the meeting could result in discipline;

36 (c) Inform the firefighter that he or she has the right to take notes during the meeting;

37 (d) Afford the firefighter an opportunity to meet privately with his or her union
38 representative before and during the meeting; and

39 (e) Inform the firefighter that if the employer denies the request for union representation and

1 continues to ask questions, the firefighter has a right to refuse to answer any such questions and
2 shall not be disciplined as a result of his or her refusal to answer;

3 (11) Upon the filing of a formal written statement of charges, or whenever an interrogation
4 focuses on matters that may result in punitive action against any firefighter, the firefighter under
5 investigation shall, at his or her request, have the right to be represented by a representative of his or
6 her choice who may be present at all times during any interrogation. The representative shall not be
7 a person subject to the same investigation. The representative shall not be required to disclose, and
8 shall not be subject to any punitive action for refusing to disclose, any information received from the
9 firefighter under investigation for noncriminal matters;

10 (12) A firefighter shall be entitled to the presence of his or her counsel or representative, or
11 both, at any interrogation in connection with an investigation. A firefighter's representative or
12 counsel shall be allowed to offer advice to the firefighter and shall be allowed to ask questions and
13 make statements at any interrogation in the course of an investigation;

14 (13) The counsel or representative for a firefighter under investigation may call witnesses to
15 testify on the firefighter's behalf;

16 (14) A firefighter's photograph, home address, telephone number, or other contact
17 information shall not be given to the press or news media without the firefighter's written consent;
18 and

19 (15) A firefighter under investigation shall not be lent or temporarily reassigned to any
20 location where a firefighter in his or her department would not normally be sent under similar
21 circumstances. A firefighter under investigation shall not be given a duty assignment that a
22 firefighter in his or her department would not normally be given under similar circumstances.

23 3. No firefighter shall be disciplined, demoted, dismissed, or subject to any punitive action
24 unless an investigation is conducted in accordance with this section. Any discipline, demotion,
25 dismissal, or adverse action taken against a firefighter without full compliance with the provisions
26 of this section shall be null and void.

27 4. No firefighter under investigation shall be subjected to any punitive action, denied
28 promotion, discharged, disciplined, or be threatened with such, because of the lawful exercise of
29 rights under this section or the lawful exercise of any rights under any existing administrative
30 grievance procedures, statutes, or constitutional provisions.

31 5. All firefighter investigations shall be completed within three months of their
32 commencement unless a firefighter under investigation is incapacitated or otherwise unavailable.
33 An investigation may be reopened if significant new evidence is discovered that is likely to affect
34 the outcome of an investigation. To reopen an investigation, the newly discovered significant
35 evidence shall be evidence that could not reasonably have been discovered in the normal course of
36 the initial investigation.

37 6. Upon the conclusion of an investigation, if the employer decides to impose discipline on
38 the firefighter, the firefighter shall be notified in writing of the employer's decision within five days
39 of such decision and at least forty-eight hours prior to the actual imposition of discipline.

1 7. An employer shall not, either directly or indirectly, require, request, suggest, or cause any
2 firefighter to disclose the username, password, or any other information that would provide access to
3 any of his or her personal social media accounts.

4 8. An employer shall not discharge, discipline, discriminate against in any manner, or deny
5 employment or promotion to, or threaten to take any such action against, any firefighter who
6 refuses, declines, or fails to disclose the username, password, or any other information that would
7 provide access to any of his or her personal social media accounts.

8 9. An employer shall not discharge, discipline, discriminate against in any manner, deny
9 employment or promotion to, or threaten to take any such action against, any firefighter who does
10 not report violations of social media policy to his or her supervisor.

11 10. When a firefighter is off duty and not speaking as part of his or her job duties but is
12 speaking as a citizen on a matter of public concern, he or she shall be subject only to such
13 restrictions on speech that are necessary for his or her employer to operate efficiently and
14 effectively.

15 11. A member of any fire department or fire protection district shall not be prohibited from
16 seeking public office and may:

17 (1) Be a candidate for elected public office;

18 (2) Solicit votes and campaign funds if he or she is off duty or not in uniform; and

19 (3) Engage in political activity if he or she is off duty or not in uniform.

20 12. A firefighter shall not have his or her locker or other assigned space for storage searched
21 except in his or her presence or with his or her consent, unless a valid search warrant has been
22 obtained. This subsection shall apply only to searches of lockers and other spaces for storage that
23 are owned by the firefighter's employer. Firefighters shall be notified in writing of the employer's
24 ownership of such assigned spaces and of the employer's rights to search those spaces subject to the
25 provisions of this subsection.

26 13. The provisions of this section shall not be construed to diminish any rights or privileges
27 of firefighters that are guaranteed to all citizens by the Constitution of the United States or by the
28 laws of the United States or the laws of this state, or to limit the granting of any other broader rights
29 by law, ordinance, or other rule. Such other rights shall include, but are not limited to, the right to
30 bring suit against any person, group of persons, association, organization, or corporation for
31 damages suffered during the performance of a firefighter's official duties and the right to bring suit
32 for any violation or modification of the firefighter's existing rights, civil or otherwise, relating to the
33 performance of the firefighter's official duties."; and

34
35 Further amend said bill by amending the title, enacting clause, and intersectional references
36 accordingly.