

Legislative Analysis



FIREFIGHTERS TRAINING COUNCIL ACT REVISIONS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 264 reported by House committee as Substitute (H-1)
Senate Bill 265 as reported without amendment

Analysis available at
<http://www.legislature.mi.gov>

Sponsor: Sen. Jim Stamas

House Committee: Regulatory Reform

Senate Committee: Regulatory Reform

Complete to 10-09-17

(Enacted as Public Acts 144 and 145 of 2017)

BRIEF SUMMARY: Senate Bill 264 would do the following:

- Increase the membership of the Firefighters Training Council from 7 to 9.
- Both revise and expand duties of the state fire marshal and Council regarding the development of standards and examination requirements for certification as a fire service member.
- Require a person hired as a part-time firefighter, to be eligible to continue his or her employment, to pass both Part 1 and Part 2 of the certification exam within 12 months after being hired.
- Prohibit the fire marshal from waiving the certification examination for a person certified in another state under certain conditions.
- Establish and charge a fee to recover the costs of testing and training a person who is not employed by an organized fire department or public safety department but is seeking employment as a fire service member.
- Require the fee to be deposited in the Fireworks Safety Fund and used to fund firefighter training.
- Allow other funding sources identified by the Council or fire marshal to be used to fund firefighter training.
- Require the fire marshal, with Council approval, to promulgate rules establishing a disciplinary process for the suspension or revocation of certification and any necessary retraining requirements to maintain or restore certification after certification is suspended or revoked.
- Include public safety departments in provisions that apply to organized fire departments.
- Authorize the Council to allow 2 or more counties to form and jointly operate a regional training committee charged with the oversight of training needs in those counties.
- Require an organized fire department or public safety department to maintain an employment history record for each fire service member it employs.
- Define numerous terms; e.g., "fire investigator" would be defined to exclude a fire investigator employed by a law enforcement agency.

Senate Bill 265 would allow money received from the training and testing fee propose by Senate Bill 264 to be expended from the Fireworks Safety Fund for the training of new firefighters.

The bills will take effect 90 days after enactment.

FISCAL IMPACT: The changes proposed by the bills would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs, as detailed later in the analysis.

THE APPARENT PROBLEM:

Apparently, firefighter training standards for Michigan fire fighters have not been updated in more than 30 years. This is despite expansion of the types of responses demanded of today's fire departments. Changes in building materials and design, toxic chemical spills and homebased meth labs, and hazmat and technical rescues, to name a few, all require specialized training. For example, materials such as pressed board in modern furniture and building construction cause fires to burn faster than materials used in the past. Further, many smaller and rural communities still rely on mostly volunteer fire fighters. However, people are more mobile these days and work longer or more irregular hours, thus they are less likely to develop the ties to neighborhoods and communities that historically encouraged service to the local fire department. It has been suggested that the standards regulating equipment used by fire departments and the training of fire fighters be updated to better reflect their duties and training needs.

THE CONTENT OF THE BILLS:

Senate Bill 264 would revise the Firefighters Training Council Act (MCL 29.362 et al.). The bill makes numerous changes of a technical or editorial nature, and also deletes obsolete provisions. A description of more significant revisions follows.

Firefighters Training Council

Created in the Bureau of Fire Services within the Department of Licensing and Regulatory Affairs (LARA), the Council currently consists of 7 members. The bill would increase membership to 9 by adding 1 member from a list of 3 names submitted by the Michigan Fire Inspectors Society or its successor organizer and 1 member from a list of 3 names of active fire service members submitted by the State Fire Marshal. Appointments would be by the governor. The governor would be required to appoint, instead of being allowed to designate, a member of the council to serve as chairperson. The Council must appoint, instead of being allowed to designate, a member to serve as vice-chairperson for 2 years (instead of 1 year).

The annual report to the governor and Legislature provided by the Council that includes pertinent data regarding the standards established and the degree of participation of *municipalities* in the training program would instead include the data and degree of participation of organized fire departments and public safety departments in the training programs established under the act.

Establishment of Standards, Duties of Fire Marshal and Council

Currently, the state fire marshal, with the approval of the Council, must prepare and publish standards with due consideration to varying factors and special requirements of organized fire departments in certain areas. The bill would retain many of the current provisions, revise some, and add new requirements. Changes made by the bill include the following:

- Require the fire marshal, with the approval of a majority of the Council, to prepare and publish rules that establish minimum standards for certification as a fire service

member. The standards would have to comply with the Michigan Occupational Safety and Health Administration general industry safety standard. To maintain compliance, the employer of a fire service member must provide initial and continued training to the member commensurate with and specific to the duties that the member is expected to perform. The training must be provided before the member is permitted to perform emergency operations.

- Require the fire marshal, with the approval of a majority of the Council, to do the following (in addition to other things carried over from current law):
 - Create advisory standards of criminal history (in addition to physical and educational fitness) that govern the recruitment, selection, and certification of a person as a fire service member.
 - Develop and administer certification examinations, testing procedures, and reciprocity recognition for credentialing in the various fire service disciplines. Requirements for each discipline must meet the respective professional qualifications in the current and appropriate national fire protection standard.
 - Upon request, administer the certification examination in each county not less than once annually, and allow the examination to be administered in two parts or, if requested by a county training committee or regional training center, as a combined Fire Fighter I and Fire Fighter II examination.
 - Establish eligibility criteria for students to retake a failed written, oral, or practical certification examination.
- Require both a full-time and part-time firefighter to pass both Part I and Part 2 of the certification examination not more than 12 months after being hired or appointed as a full-time or part-time firefighter in order to continue employment as a full-time or part-time firefighter.
- Require the state fire marshal to waive the examination requirements and extend reciprocity certification to a person from another state who seeks to volunteer in the fire service in Michigan if the person was certified in the other state after completing a program meeting or exceeding the national standards for the applicable fire service discipline (currently, this is in place if the person seeks employment in the fire service in Michigan). Certification examination could not be waived if either of the following apply:
 - The person's out-of-state certification was revoked by that state or another issuing organization.
 - The person has been convicted of a felony under the laws of Michigan, another state, or the U.S.
- Require the fire marshal to issue a certificate to a person certified under the act within 30 days after becoming certified. The certificate remains the property of the fire marshal.
- Require an organized fire department or public safety department to maintain an employment history record for each fire service member employed by the entity.

- Eliminate a provision allowing the Council to enter into agreement with other agencies, colleges, and universities to carry out the intent of the act.
- Require each organized fire department or public safety department or local government clerk to file a statement with the council designating the chief or director of the department and providing contact information for the organized fire department or public safety department. If the chief or director changes, require the appropriate department to notify the Council in writing by filing a statement of the change not more than 7 days after the change.
- Require the Council to develop and provide to each organized fire department or public safety department, upon request and at no charge, a digital video disc or other electronic form of video display to be used in training firefighters. The disc or other video display would have to be based on the Council-approved training programs. A reasonable fee could be imposed for loss, damage, or late return of a digital video disc or video display provided to an organized fire department or public safety department. The Council would have to have available at least two copies of each digital video disc or other electronic form of video display for an organized fire department's or public safety department's use.
- Require the Council to make recommendations with respect to both of the following:
 - The category or classification of advanced in-service training programs for all fire service disciplines and minimum courses of study and attendance requirements for the category or classification needed for certification under the act.
 - The standards required under the Act for certification in each of the fire service disciplines.

Additional Permissible Actions and Fees

The act currently allows either the fire marshal or the Council to do certain things, such as visit and inspect any firefighter training school. The bill would retain the allowed activities, but would instead state that the Council may do them under the direction of the state fire marshal. In addition, the bill would add the following permissible actions:

- Establish preservice basic training programs at high schools, colleges, community colleges, and universities.
- Require an examination in order to pass each of the fire service courses qualifying under the standards set forth in the act.
- Establish continuing education requirements for maintaining certification.
- Establish the requisite level of fire instructor activity to maintain certification as a fire instructor.
- Establish and charge a fee to recover the cost of testing and training provided to a person who was not employed by an organized fire department or public safety department of Michigan and who sought to be employed as a fire service member. Fees collected under this provision must be deposited into the Fireworks Safety Fund created in Section 11 of the Michigan Fireworks Safety Act and spent on funding firefighter training provided under this act. Training may also be funded by any additional funding sources identified by the Council or fire marshal.

- Promulgate rules for the development, conduct, and responsibilities of a county training committee in each county in the State.

Two or more counties could be allowed by the Council to form and jointly operate a regional training committee charged with the oversight of training needs in those counties.

Disciplinary rules

The bill would require the fire marshal, with the approval of the Council, to promulgate rules establishing a disciplinary process for the suspension or revocation of certification and any necessary retraining requirements to maintain or restore certification after a suspension or revocation for a fire service member for one or more of the following:

- Conviction of a felony.
- Making a materially false statement, causing a materially false statement to be made, or otherwise committing fraud during the application for certification process.
- Violating Council and fire marshal-adopted policies regarding a fire service member's use of the fire marshal's training information network because the fire service member wrongfully disclosed exam information from that network.

Expenditures

Currently, from the amount annually deposited in and appropriated to the Fireworks Safety Fund for firefighter training, the Council may request and the fire marshal may approve annual training expenditures for the purpose of payments to *counties to reimburse organized fire departments for firefighter training and other activities required under the act*. The bill would delete the italicized text and instead allow the payments to the designated fiduciary of each county's training committee to fund firefighter training and provide for firefighter training equipment and other related activities required under the act. The fire marshal could deny requests not meeting the requirements of the act. The money approved under this provision would be disbursed to county training committees under the formula currently used to disburse the funds. Further, the bill would specify that money must be distributed under this provision only to conduct training for personnel from an organized fire department or public safety department that has adhered to the standards established under the act for personnel recruited or trained by the organized fire department or public safety department during the current and prior fiscal years and that has complied with the incident reporting requirements under Section 4 of the Fire Prevention Code during the 12 months preceding an application made under this act.

Other current provisions would be revised to update language and to comport with other revisions proposed by the bill.

Definitions

The bill would add definitions for numerous terms, including "certification", "fire inspector" and "fire instructor", "fire service", "technical rescue responder", and "volunteer", among others.

"Fire investigator" would mean an employee of or volunteer assigned by a political subdivision to assist an organized fire department or public safety department who was certified under National Fire Protection Association Standard No. 1033, whose job description, duties, or

responsibilities include investigating the origin and cause of fires, and who has obtained the skills and knowledge necessary to conduct, coordinate, and complete a fire investigation. The term would not include a fire investigator employed by a law enforcement agency, other than a public safety department or a licensed professional investigator.

The definition currently in the act for "firefighter training" would be revised to include other training programs as approved by the state fire marshal; apply also to a public safety department; and eliminate a provision specifying that the term would include, but not be limited to, training required for fire fighter I and fire fighter II standards under "Standard for Fire Fighter Professional Qualifications" (National Standard Fire Protection Association Standard No. 1001). That standard provided minimum job performance standards for career and volunteer fire fighters whose duties are primarily structural.

Senate Bill 265

The bill would amend the Michigan Fireworks Safety Act (MCL 28.461). In addition to other allowable expenditures from the Fireworks Safety Fund, the bill would allow one hundred percent of the money received from the fees collected under Section 11 of the Firefighters Training Council Act to be used for the training of firefighters under the direction and approval of the Firefighters Training Council.

The bill is tie-barred to Senate Bill 264, meaning that it cannot take effect unless Senate Bill 264 is also enacted into law.

HOUSE COMMITTEE ACTION:

The committee substitute revises the definitions of "firefighter training" and "fire investigator" and adds a definition for the term "volunteer". The substitute bill also makes several minor changes for clarity and conformity.

FISCAL INFORMATION:

Senate Bills 264 and 265 would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs. Senate Bill 264 establishes numerous responsibilities that must be fulfilled by the State Fire Marshal and the Firefighters Training Council regarding firefighter training, examination, and certification. The bill would enable the council to establish a fee to recover the cost of testing and training individuals not employed by an organized fire department, but who wish to gain employment as fire service members. This fee would presumably allow LARA to defray costs associated with the provisioning of training services and examinations. Any revenues collected from this fee would be deposited to the Fireworks Safety Fund, to cover costs associated with firefighter training. Senate Bill 265 would require that all monies collected from the aforementioned fee be used to fund the training of firefighters.

ARGUMENTS:

For:

Changes proposed by Senate Bill 264 would provide the authority and flexibility to the Fire Fighters Training Council to develop rules and offer certification in areas of fire safety that require specialized training, such as technical rescues and responding to incidents involving

hazardous materials or environmental clean-ups. In so doing, those most familiar with national fire fighter standards and best practices will be designing programs that will meet the needs of today's fire fighters and the communities they serve. The bill also addresses other needs, such as defining terms and clarifying that the act does not pertain to members of the law enforcement community. The bill would also provide a mechanism by which a fee could be charged to recover the cost of training a person who had not yet been hired by a fire department but who was seeking such employment. The bill addresses other concerns, as well, and should result in the adoption of training standards that will serve fire fighters and their communities better and that may help in the recruitment and retention of both career and volunteer fire fighters.

The companion bill, Senate Bill 265, would ensure that funds meant to provide training to fire fighters would be used for that purpose and not sit unused in the fund, as has occurred in the past.

Against:

No arguments in opposition to the bills were offered during committee testimony.

POSITIONS:

Representatives from the following entities testified in or indicated support for the bills:

Michigan Association of Fire Chiefs
Michigan State Fireman Association
Michigan Professional Firefighters
Michigan Fire Inspectors
Michigan Fire Service Instructors Association
Michigan State Police
Michigan Fire Inspectors Society
Northern Michigan Fire Chiefs Association
Michigan Bureau of Fire Services
Michigan Department of Licensing and Regulatory Affairs

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Marcus Coffin

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.