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BILL



ANALYSIS

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Senate Bills 264 and 265 (as passed by the Senate)
Sponsor: Senator Jim Stamas
Committee: Regulatory Reform

Date Completed: 5-10-17

RATIONALE

The Firefighters Training Council Act creates the Firefighters Training Council in the Bureau of Fire Services within the Department of Licensing and Regulatory Affairs, and prescribes the Council's duties, the duties of the State Fire Marshal, and certain duties of fire departments and other organizations. In addition, the Act provides for the allocation of money to local governmental agencies participating in a firefighter training program. The State Fire Marshal's and the Council's responsibilities include the preparation and publication of standards, which include training and equipment standards. Apparently, the Act is considered out-of-date and does not reflect the modern duties of a firefighter and the training for those tasks. It has been suggested that amendments to the Act should include these responsibilities and any required training, among other changes.

CONTENT

Senate Bill 264 would amend the Firefighters Training Council Act to do the following:

- Increase, from seven to nine, the number of members of the Firefighters Training Council.
- Revise and expand the duties of the State Fire Marshal and the Council with respect to the development of standards and examination requirements for certification as a fire service member.
- Require a person who was a hired as a part-time firefighter to pass both Part 1 and Part 2 of the certification exam within 12 months after being hired, to be eligible to continue his or her employment.
- Prohibit the State Fire Marshal from waiving the certification examination for a person who was certified in another State if certain circumstances applied.
- Allow the Council to establish and charge a fee for the cost of testing and training provided to a person who was not employed by an organized fire department or public safety department in Michigan but sought employment as a fire service member.
- Require the fee to be deposited into the Fireworks Safety Fund and used to fund firefighter training; and allow firefighter training to be funded by any additional funding sources identified by the Council or State Fire Marshal.
- Require the chairperson of a firefighter training committee established in each county to spend money for firefighter training, training equipment, or other required activities.
- Require the State Fire Marshal, with the Council's approval, to promulgate rules establishing a disciplinary process for the suspension or revocation of a certification for certain violations.
- Include public safety departments in provisions that apply to organized fire departments.

- Specify that certification as a fire service member granted to a person would be valid unless or until the Council revoked the certification as part of a disciplinary action.
- Authorize the Council to allow two 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 employed.

Senate Bill 265 would amend the Michigan Fireworks Safety Act to require the Department of Treasury to spend from the Fireworks Safety Fund 100% of the money received from the testing and training fee proposed by Senate Bill 264, for the training of firefighters under the direction and approval of the Firefighters Training Council.

Each bill would take effect 90 days after its enactment.

Senate Bill 265 is tie-barred to Senate Bill 264.

Senate Bill 264

Firefighters Training Council

The Firefighters Training Council must consist of the State Fire Marshal, or his or her designated representative, and the following six members appointed by the Governor:

- Two from a list of five or more members submitted by the Michigan Association of Fire Chiefs.
- One from a list of three or more members submitted by the Michigan Professional Fire Fighters Union.
- One from a list of three or more names submitted by the Michigan State Fireman's Association.
- One from a list of three or more names submitted by the Michigan Fire Service Instructors Association.
- One member from a list of two or more names submitted by the Michigan Townships Association and two or more names submitted by the Michigan Municipal League.

The bill, instead, would require the Council to include the State Fire Marshal, or his or her designated representative, and the following eight members appointed by the Governor:

- Two from a list of five members submitted by the Michigan Association of Fire Chiefs or its successor organization.
- One from a list of three members submitted by the Michigan Professional Fire Fighters Union or its successor organization.
- One from a list of three names submitted by the Michigan State Fireman's Association or its successor organization.
- One from a list of three names submitted by the Michigan Fire Service Instructors Association or its successor organization.
- One from a list of three names submitted by the Michigan Fire Inspectors Society or its successor organization.
- One from a list of two names submitted by the Michigan Townships Association and two names submitted by the Michigan Municipal League or a respective successor organization.
- One from a list of three names of active fire service members, submitted by the State Fire Marshal.

Under the Act, a member of the Council must be appointed for a term of four years. A vacancy created other than by expiration of a term must be appointed for the unexpired term of the member who is to succeed in the same manner as the original appointment. The bill would retain the four-year term of appointment, but specifies that a vacancy created by the expiration of a term or in any other manner would have to be filled in the same manner as the original appointment.

The Act allows the Governor to designate a member of the Council to serve as chairperson at his or her pleasure, and allows the Council to designate a member as vice-chairperson to serve for one year. The bill, instead, would require the Governor to designate a member of the Council to serve as chairperson, and would require the Council to appoint a member to serve as vice-chairperson for two years.

The bill also would delete a provision stating that membership on the Council does not constitute holding a public office.

The Act requires the Council to provide to the Governor, the Michigan Senate, and the Michigan House of Representatives an annual report that includes pertinent data regarding the standards established and the degree of participation of municipalities in the training program. Under the bill, the report would have to include pertinent data regarding the standards established and the degree of participation of organized fire departments and public safety departments in the training programs established under the Act.

The Act states that members of the Council must serve without compensation, but are entitled to their actual expenses in attending meetings and in the performance of their duties, subject to available appropriations. The bill would delete the condition that the compensation be subject to available appropriations.

Duties, Requirements, & Testing

The Act requires the State Fire Marshal, with the approval of the Council, to prepare and publish standards with due consideration to varying factors and special requirements of organized fire departments in the following areas:

- Advisory standards of physical, educational, mental, and moral fitness, which must govern the recruitment, selection, and appointment of firefighters.
- The approval by the Council of firefighter training schools, which must address, at least, the qualification and certification of instructors; the course of study, attendance, record-keeping requirements, equipment, and facilities; and the visitation and evaluation of instructors and schools.
- The establishment of subordinate regional training centers in strategic geographic locations in order to serve the greatest number of organized fire departments that are unable to support their own training programs.

Each organized fire department must file with the Council a statement designating at least one training officer or training coordinator for the fire department. If a training officer or coordinator is changed, the organized fire department must file a statement notifying the Council of the change within seven days.

The Council must develop and provide to each organized fire department, upon request of the department and at no charge, as proposed by the State Fire Marshal, training material in an electronic format to be used in training firefighters. The electronic training material must be based on the standards for Firefighter I and Firefighter II set forth in "Standard for Fire Fighter Professional Qualifications", National Fire Protection Association Standard No. 1001.

The State Fire Marshal, with the approval of the Council, must develop and administer an examination, which must include a practical demonstration, a written or oral test, or a combination thereof, to determine a person's competency in regard to the knowledge and skill requirements set forth in the standards for Firefighter I and Firefighter II. The Council, upon the request of an organized fire department, must administer the exam in each county at least once every year. The exam must be administered in two parts. Part 1 must test the knowledge and skill requirements set forth for Firefighter I, and Part 2 must test the knowledge and skill requirements set forth for Firefighter II. The exam may be retaken as necessary, upon request from an organized fire department.

Within 12 months after a person is hired as a full-time firefighter, he or she must pass both Part 1 and Part 2 of the exam to be eligible for continued or permanent full-time employment as a firefighter. Within 24 months after a person is appointed as a volunteer or paid on-call firefighter, he or she must pass Part 1 of the exam to be eligible for continued volunteer or paid on-call service as a firefighter.

The examination requirements do not apply to a person who was employed or under appointment as a firefighter on October 1, 1988, unless he or she subsequently changes his or her status from a volunteer or paid on-call firefighter to a full-time firefighter. The State Fire Marshal may waive the exam requirements for a veteran who served in and is separated from the armed forces and provides a form DD214 or DD215 or any other form satisfactory to the Department of Licensing and Regulatory Affairs that demonstrates that he or she was separated from the service with an honorable character of service or under honorable conditions character of service, upon verification that the veteran completed firefighter training that meets the standards for Firefighter I and Firefighter II, while serving in the United States armed forces.

The State Fire Marshal, with the approval of the Council, must review and monitor the State and Federal standards relating to live fire training exercises in structures and make recommendations to the General Industry Safety Standards Commission for any new or modified standards necessary for the protection of firefighter trainees.

The State Fire Marshal must waive the exam requirements and extend reciprocity certification to a firefighter from another state who seeks to work as a firefighter in Michigan if he or she was certified in the other state after successfully completing a program that meets or exceeds the standards for Firefighter I and Firefighter II.

The bill would modify or delete these provisions.

Under the bill, the State Fire Marshal, with the approval of a majority of the Council, would have to prepare and publish rules that established minimum standards for certification as a fire service member. The standards would have to comply with the Michigan Occupational Safety and Health Administration (MIOSHA) General Industry Safety Standard, R 408.17411 of the Michigan Administrative Code. To maintain compliance with that MIOSHA Standard, the employer of a fire service member would have to provide initial and continued training to the member commensurate with and specific to the duties that he or she would be expected to perform. The training would have to be provided before the member would be permitted to perform emergency operations.

(Rule 408.17411 of the Michigan Administrative Code specifies requirements that apply to an employer under Part 74 (Fire Fighting) of the General Industry Safety Standards. Specifically, an employer must comply with all of the following:

- Provide initial and continuing training to an employee commensurate with and specific to the duties and functions that the employee is expected to perform, before the employee is permitted to perform emergency operations.
- Assure that prospective fire service personnel are physically fit and able to perform assigned emergency operations.
- Assure that job-required equipment and tools are maintained free of recognized defects that could cause an injury.
- Develop a basic procedure that covers the treatment and transport of injured employees from the emergency scene to a medical facility.
- Provide in the workplace first aid supplies or kits appropriate for the hazard history, to minimally comply with the requirements of the Occupational Health Standard Part 472 "Medical Services and First Aid".
- Comply with the requirements of Part 74, review with, and make available a copy of Part 74 for employees.

Also, an employer must prepare and maintain a statement or written policy that establishes its basic organizational structure and the type, amount, and frequency of training to be provided to fire service personnel, and maintain training records.)

The bill would define "certification" as either of the following:

- A determination by the State Fire Marshal that a person meets the certification requirements for a position within the fire service, as established by the Council as authorized under the Act.
- A determination by the State Fire Marshal that a person was employed as a firefighter before October 1, 1988, and that he or she is otherwise authorized under the Act to be employed as a firefighter.

Recognized positions in the fire service would include firefighter, fire chief, public safety director, fire inspector, plans examiner, fire investigator, fire officer, hazardous materials responder, technical rescue responder, airport rescue firefighter, and fire service instructor. Certifications for each position within the fire service would have to comply with the MIOSHA General Industry Safety Standard.

The bill would require the State Fire Marshal, with the approval of a majority of the Council, to do the following:

- Create advisory standards of physical, criminal history, and educational fitness that governed 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 recognized under the Act.
- Establish subordinate regional training centers in strategic geographic locations in order to serve the greatest number of organized fire departments and public safety departments that were unable to support their own training programs.
- Establish eligibility criteria for students to retake a failed written, oral, or practical certification examination.

The requirements for each fire service discipline would have to meet the respective professional qualifications in the current and appropriate National Fire Protection Association standard.

("Fire service discipline" would mean each of the respective certifiable fire service positions included under the Act. The term would include fire chief, fire inspector, fire instructor, fire investigator, fire officer, public safety director, plans examiner, firefighter, hazardous materials responder, technical rescue responder, and airport rescue firefighter.)

The bill also would require the State Fire Marshal, with the approval of a majority of the Council, to develop and administer certification examinations that included a practical demonstration and a written or oral test to determine a person's competency in regard to the knowledge and skill requirements in the current edition of the National Fire Protection Association standards for each of the fire service disciplines recognized under the Act. Upon request, the State Fire Marshal, or his or her designee, would have to administer the exam in each county of the State at least once every year. The exam could be administered in two parts. If it were, Part 1 would have to test the knowledge and skill requirements set forth in the standards for Firefighter I in the current edition of the Standards for Fire Fighter Professional Qualifications, National Fire Protection Association Standard No. 1001, and Part 2 would have to test the knowledge and skill requirements set forth in the standards for Firefighter II in the current edition of those standards. The exam also could be administered as a combined Firefighter I and Firefighter II exam if a county training committee or regional training center requested a combined exam.

A person who was hired as a full-time or part-time firefighter would have to pass both Part 1 and Part 2 of the certification exam within 12 months after he or she was hired as a full-time or part-time firefighter to be eligible to continue his or her employment as a full-time or part-time firefighter.

A person who was appointed or hired as a volunteer or paid on-call firefighter would have to pass Part 1 of the certification exam within 24 months after he or she was appointed or hired as a volunteer or paid on-call firefighter to be eligible to continue his or her employment or appointment as a volunteer or paid on-call firefighter, as applicable.

The certification exam requirement would not apply to a person who was employed or under appointment as a firefighter on or before October 1, 1988, unless he or she subsequently sought to change his or her status from a volunteer or paid on-call firefighter to a part-time or full-time firefighter.

As currently provided, the State Fire Marshal could waive the exam requirements for a veteran who served in and was separated from the United States armed forces. "Armed forces" would mean the Air Force, Army, Navy, Marine Corps, Coast Guard, or other military force designated by Congress as part of the armed forces of the United States.

Except as provided below, the State Fire Marshal would have to waive the examination requirements and extend reciprocity certification to a person from another state who sought to become employed or volunteer in the fire service in Michigan if he or she were certified in the other state after successfully completing a program that met or exceeded the National Fire Protection Association standards for the applicable fire service discipline recognized under the Act. The State Fire Marshal could not waive the certification examination for a person who was certified in another state if either of the following applied:

- His or her out-of-State certification was revoked by that state or another issuing organization.
- He or she had been convicted of a felony under the laws of Michigan, another state, or the United States.

The State Fire Marshal would have to issue a certificate to a person who was certified under the Act within 30 days after the person became certified. A certificate issued under the Act would remain the property of the State Fire Marshal.

The State Fire Marshal and the Council would have to review and monitor the State and Federal standards relating to live fire training exercises in structures and make recommendations regarding the General Industry Safety Standards for any new or modified standards necessary for the protection of firefighter trainees under Part 74 of MIOSHA General Industry Safety Standard.

Each organized fire department, public safety department, or local government clerk would have to file with the Council a statement designating the chief or director of the department and provide contact information for the organized fire department or public safety department. If the department chief or director changed, the organized fire department or public safety department would have to notify the Council in writing within seven days after the change occurred.

(The bill would define "public safety department" as a department of a political subdivision providing both law enforcement and fire services or using a combined response force with personnel trained and certified as both firefighters and law enforcement officers under the direction and administration of a single director.)

The Council would have to develop and provide to each organized fire department or public safety department, upon request of the department 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. The Council could impose a reasonable fee for loss, damage, or late return of a digital video disc or other electronic form of 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.

The Council would have 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.

Also, the Act allows the Council to enter into agreement with other agencies, colleges, and universities to carry out the intent of the Act. The bill would delete this provision.

Additional Permissible Actions & Fees

Under Section 11 of the Act, the State Fire Marshal or the Council may do the following:

- Visit and inspect any firefighter training school, or examine the curriculum or training procedures, for which application for approval has been made.
- Issue certificates to firefighter training schools qualifying under the regulations promulgated under the Act.
- Authorize the issuance of certificates of graduation or diplomas by approved firefighter training schools to firefighters who have satisfactorily completed minimum courses of study.
- Cooperate with State, Federal, and local fire agencies in establishing and conducting local or area schools or regional training centers for instruction and training of firefighters of the State and its cities, counties, townships, and villages.
- Make recommendations to the State Fire Marshal, the Governor, and the Legislature on matters pertaining to qualification and training of firefighters.

Under the bill, the Council could perform these actions, and do the following, under the direction of the State Fire Marshal:

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

Fees collected under this provision would have to be deposited into the Fireworks Safety Fund created in the Michigan Fireworks Safety Act. The fees would have to be spent on funding firefighter training provided under the Firefighters Training Council Act. Firefighter training also could be funded by any additional funding sources identified by the Council or State Fire Marshal.

Promulgation of 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.

Spending Requirements

Under the Act, from the amount annually deposited in and appropriated to the Fireworks Safety Fund for firefighter training, the Council may request, and the State Fire Marshal may approve, annual training expenses for the purposes of payments to counties to reimburse organized fire departments for firefighter training and other activities required under the Act. The State Fire Marshal may deny requests not meeting the requirements of the Act. Under the bill, instead, the payments would be 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 Act requires the chairperson of a firefighter training committee established in each county to survey the training needs of organized fire departments in the county and distribute the money received by the county as prioritized by the organized fire departments in the county. The bill would require the chairperson to survey the training needs of public safety departments in addition to organized fire departments, and to spend money for firefighter training, firefighter training equipment, or other activities required under the Act as prioritized by the organized fire departments or public safety departments in the county.

Under the Act, money may be distributed only to an organized fire department that has adhered to the standards established under the Act for personnel recruited or trained by the organized fire department during the current and prior fiscal years. The bill specifies, instead, that money could be distributed only to conduct training for personnel from an organized fire department or public safety department that had 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 had complied with the incident reporting requirements under Section 4 of the Fire Prevention Code during the 12 months preceding an application made under the Act.

(Section 4 of the Fire Prevention Code requires the chief of an organized fire department, or the clerk of each city, village, or township that does not have an organized fire department, to file a complete fire incident report of a fire that resulted in the loss of life or property with the Bureau of Fire Services; and contains further provisions regarding fire incident reports and requirements for insurance companies to report certain data to the Bureau.)

Senate Bill 265

The Michigan Fireworks Safety Act provides for the creation of the Fireworks Safety Fund within the Department of Treasury. The State Treasurer may receive money or other assets from any source for deposit into the Fund.

The Department must spend money deposited in the Fund as follows:

- 100% of the money received from fireworks safety fees under the Act to be used for the training of firefighters under the direction and approval of the Firefighters Training Council.
- 100% of the money received from consumer fireworks safety certificates under the Act to administer the Act and to pay the costs of delegating inspections under the Act to local units of government.

The bill also would require the Department to spend 100% of the money received in the Fund 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.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Firefighters' responsibilities have expanded beyond responding to fire emergencies and suppression; firefighters also react to medical and hazardous material incidents, and perform fire safety inspections, fire investigations, and technical rescues, among other things. All of these tasks require specialized instruction and training. However, current law limits the training courses that may be provided. Senate Bill 264 would update the Firefighters Training Council Act to reflect the modern demands of a fire service member, allow for certification in several fire service disciplines, and allow for the preparation and execution of up-to-date training curricula for those disciplines.

Also, the bills would ensure that funding for fire departments and public service departments was used to assist in the instruction and training of firefighters. According to Committee testimony, with the payment of fireworks safety fees, the State could allocate over \$5.0 million to support firefighter training.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs (LARA) and a likely positive fiscal impact on local units of government that operate a fire department. Senate Bill 264 would make a number of changes regarding the particular details around firefighter training and certification; it is not clear what fiscal impact, if any, this would have on LARA. The bill also would allow the Firefighter Training Council to establish and charge a fee to recover the costs of testing and training individuals not employed by a fire department who wish to gain employment as a firefighter. This would seem to alleviate some financial burden on local fire departments for the training of people who chose to pursue training and certification on their own, as those costs would be borne by the individual rather than his or her potential future employer, presumably a fire department. There are no data to indicate how many would pursue this, but the current price of the Fire Fighter I and II courses is \$13,275. Revenue generated from the proposed fee would be deposited in the Fireworks Safety Fund, and Senate Bill 265 would require that fee revenue to be used to provide firefighter training. The fee would generate an unknown amount of revenue for firefighter training, in addition to revenue already collected from the 6% tax on consumer fireworks that is currently credited to the Fund for that purpose.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.