

# WEST VIRGINIA LEGISLATURE

## 2021 REGULAR SESSION

**Introduced**

### **House Bill 2621**

**FISCAL  
NOTE**

BY DELEGATES STEELE, MAYNARD, SKAFF, LOVEJOY,

STATLER, DISERIO AND D. KELLY

[BY REQUEST OF THE DEPARTMENT OF HOMELAND  
SECURITY]

[Introduced February 19, 2021; Referred to the  
Committee on Fire Departments and Emergency  
Medical Services then Government Organization]

1 A BILL to amend and reenact §15A-11-8 and 15A-11-9 of the Code of West Virginia 1931, as  
2 amended, all relating to requiring the Fire Officer 2 training to contain a component on  
3 current laws, rules and regulations governing the fire service; requiring the Firefighter 1  
4 training to contain a section on the Fire Commission, Fire Marshal's Office and the  
5 operations of both; establishing a mandatory certification program for fire chiefs, or acting  
6 chiefs of every fire department; requiring the Fire Commission propose emergency  
7 legislative rules and legislative rules to implement the certification process; setting forth  
8 the process of denial, suspension, or revocation of fire departments, chiefs, or acting  
9 chiefs, and the conditions under which the certification can be denied, suspended or  
10 revoked; allowing persons with specialized training to be members of volunteer fire  
11 departments who are not certified as firefighters; limiting the actions of specialized  
12 members of fire departments who are not certified fire fighters; requiring the fire  
13 commission to propose emergency legislative rules and legislative rules to implement the  
14 process of allowing specialized members of departments; allowing the fire commission to  
15 propose emergency rules and legislative rules governing the activities of junior firefighters;  
16 requiring the fire Marshal to issue certificates to departments following a department  
17 evaluation, and requiring that the certificate of evaluation be posted at the fire department  
18 in a conspicuous place to be visible to members of the department and to members of the  
19 public.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 11. FIRE COMMISSION.**

### **§15A-11-8. Powers, duties, and authority of State Fire Commission.**

1 (a) All state and area training and education in fire service shall be coordinated by the  
2 State Fire Commission. The State Fire Marshal shall ensure that these programs are operated  
3 throughout the state at a level consistent with needs identified by the commission. Beginning on  
4 the effective date of the amendment to this section, all trainings approved by the State Fire

5 Commission for Fire Officer 2, shall contain a section on the current laws, rules and regulations  
6 governing the fire service. All trainings approved by the State Fire Commission for Firefighter 1,  
7 shall contain a section on the Fire Commission, and the Fire Marshal's Office, and the operations  
8 of both.

9 (b) The State Fire Commission may make recommendations to the State Insurance  
10 Commissioner regarding town classifications for fire insurance rates.

11 (c) The formation of any new fire department, including volunteer fire departments,  
12 requires the concurrence of the State Fire Commission. The State Fire Commission shall develop  
13 a method of certification which can be applied to all fire departments and volunteer fire  
14 departments.

15 (d) The State Fire Commission shall certify the chief, or acting chief, of every department.  
16 The Fire Commission shall propose emergency legislative rules for promulgation in accordance  
17 with § 29A-3-1 et seq. of this code to implement the program established pursuant to this  
18 subsection.

19 ~~(d)~~ (e) The State Fire Commission shall develop a plan for fire prevention and control  
20 which shall include, but not be limited to, the following areas: manpower needs, location of training  
21 centers, location of fire prevention and control units, communications, fire-fighting facilities, water  
22 sources, vehicular needs, public education and information, public participation, standardization  
23 in recordkeeping, evaluation of personnel, reporting of fire hazards, programs on mutual aid,  
24 location of public safety agencies, outline of fire prevention programs, and accessibility of fire  
25 prevention information.

26 ~~(e)~~ (f) The State Fire Commission shall establish fire protection areas and at such times  
27 as funds are available shall establish field offices for inspection, planning, and certification.

28 ~~(f)~~ (g) The State Fire Marshal may accept, on behalf of the State Fire Commission, gifts,  
29 grants, court-ordered civil forfeiture proceedings, and bequests of funds or property from  
30 individuals, foundations, corporations, the federal government, governmental agencies, and other

31 organizations or institutions. The State Fire Marshal, acting on behalf of the State Fire  
32 Commission, may enter into, sign, and execute any agreements, and do and perform any acts  
33 that may be necessary, useful, desirable, or convenient to effectuate the purposes of this article.  
34 Moneys from gifts, grants, civil forfeiture proceedings, and bequests received by the State Fire  
35 Marshal shall be deposited into the special account set forth in §15A-10-7 of this code, and the  
36 State Fire Marshal, with the approval of the State Fire Commission, ~~has the authority to~~ may make  
37 expenditures of, or use of any tangible property, in order to effectuate the purposes of this article.

38 ~~(g)~~ (h) The State Fire Commission shall establish standards and procedures for fire  
39 departments to implement the provisions of this section with regard to the following:

40 (1) Fire prevention and control;

41 (2) Uniform standards of performance, equipment, and training;

42 (3) Certification;

43 (4) Training and education in fire service, subject to the rule-making requirements set forth  
44 in section nine of this article; and

45 (5) The creation, operation, and responsibilities of fire departments throughout the state.

46 ~~(h)~~ (i) The State Fire Commission may establish advisory boards as it considers  
47 appropriate to encourage representative participation in subsequent rulemaking from groups or  
48 individuals with an interest in any aspect of the State Fire or Building Code or related construction  
49 or renovation practices.

50 ~~(i)~~ (j) The State Fire Commission may deny, suspend, or revoke certification of any fire  
51 department, or any chief or acting chief, in the State of West Virginia if a fire department is not in  
52 compliance with all applicable laws, rules, and regulations, or the chief or acting chief, does not  
53 operate the department in compliance with all applicable laws, rules and regulations, or allows  
54 the department, or members of the department to act or operate in a manner that is not in  
55 compliance with all applicable laws, rules and regulations.

56 ~~(j)~~ (k) Appeals from any final decision of the Fire Commission shall be heard by the Office

57 of Administrative Hearings pursuant to this chapter, except as otherwise provided in §15A-10-9(b)  
58 of this code.

59 (l) The State Fire Commission shall develop procedures to authorize persons with  
60 specialized training, but who are not certified as firefighters, to be members of a volunteer fire  
61 department to only perform specialized functions, none of which shall be or include fire fighting or  
62 the support of fire fighting. These specialized functions can include, but are not limited to, swift  
63 water rescue, search and rescue, trench rescue, and confined space rescue. The State Fire  
64 Commission shall propose legislative rules, and may propose emergency legislative rules, for  
65 promulgation in accordance with §29A-3-1 et seq. of this code to implement this program, and to  
66 set minimum training standards for these types of specialized members.

67 (m) The State Fire Commission shall, in compliance with §21-6-11 of this code, propose  
68 emergency legislative rules for promulgation in accordance with § 29A-3-1 et seq. of this code to  
69 specify what activities junior fire fighters may and may not participate in.

**§15A-11-9. Volunteer firefighters' training and equipment.**

1 (a) The State Fire Commission shall maintain oversight and authority over training,  
2 equipment requirements, and performance standards for volunteer fire departments and its  
3 members, establishing and maintaining said requirements pursuant to legislative rule, in  
4 accordance with the provisions of §29A-3-1 et seq. of this code, to establish training requirements  
5 for firefighters which:

6 (1) Provide for:

7 (A) Minimum training levels for rescue and firefighting;

8 (B) Minimum levels of equipment needed to protect life and property within fire service  
9 areas;

10 (C) Minimum performance standards the departments ~~must~~ shall meet in response times,  
11 communications, levels of water flow, and pressure; and

12 (D) Other performance measures as considered necessary to meet the overall goals of

13 improved fire prevention and control;

14 (2) Allow the training to be offered in segments, blocks, or modules: *Provided*, That no  
15 firefighter may engage in fire fighting activities, except in response to wildland fires, until he or  
16 she has completed all firefighter one training: *Provided, however*, That support members may  
17 provide ancillary assistance to firefighters as defined by the rule;

18 (3) Provide for online training;

19 (4) Allow testing to be done in person or online; and

20 (5) Establish the testing requirements which include:

21 (A) If the individual is required to test in person, then the tests ~~must~~ shall be given  
22 regionally at various times throughout the year; or

23 (B) If the individual is authorized to test online, then the requirements for online testing  
24 ~~must~~ shall be established.

25 (b) Notwithstanding any provision of this code to the contrary, the State Fire Commission  
26 may establish or continue a pilot project program which implements changes to standards  
27 imposed on volunteer fire fighting that address problems facing volunteer fire departments in the  
28 state, including issues related to training, recruitment, and retention.

29 (1) The State Fire Commission may limit the number of participating volunteer fire  
30 departments in the pilot project program.

31 (2) The State Fire Commission shall set the rules and conditions for participating volunteer  
32 fire departments by policies adopted and ratified by the commission.

33 (3) On July 1 of each year, the State Fire Commission shall annually provide a full  
34 summary report of the status of the program to the Joint Committee on Government and Finance.

35 (c) After conducting its evaluations of any fire department, the Office of the State Fire  
36 Marshal shall issue a certificate of evaluation to the chief of that department, which shall be made  
37 and issued in duplicate. The certificate of evaluation shall show the date of each evaluation and  
38 the notations relating thereto by the Office of the State Fire Marshal, and the most recent

39 certificate of evaluation shall be posted at the fire department in such a conspicuous place and  
40 manner that the results are visible to the members of the department, and to members of the  
41 public.

NOTE: The purpose of this bill is to mandate certification for certain members of fire departments, require certain types of training, allow specialized personnel who are not firefighters to be members of a department, and require the postings of fire department evaluations.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.