

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

House Bill 2621

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(BY REQUEST OF THE DEPARTMENT OF HOMELAND SECURITY)

[Originating in the Committee on Government

Organization; March 1, 2021]

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 requirements of fire departments; requiring the Fire Officer 2
3 training to contain a component on current laws, rules and regulations governing the fire
4 service; requiring the Firefighter 1 training to contain a section on the Fire Commission,
5 Fire Marshal's Office and the operations of both; establishing a mandatory certification
6 program for fire chiefs, or acting chiefs, of every fire department; requiring the Fire
7 Commission propose emergency legislative rules and legislative rules to implement the
8 certification process; setting forth the process of denial, suspension, or revocation of fire
9 departments, chiefs, or acting chiefs, and the conditions under which the certification can
10 be denied, suspended or revoked; allowing persons with specialized training to be
11 members of volunteer fire departments who are not certified as firefighters; limiting the
12 actions of specialized members of fire departments who are not certified fire fighters;
13 requiring the Fire Commission to propose emergency legislative rules and legislative rules
14 to implement the process of allowing specialized members of departments; allowing the
15 Fire Commission to propose emergency rules and legislative rules governing the activities
16 of junior firefighters; requiring the Fire Marshal to issue certificates to departments
17 following a department evaluation, and requiring that the certificate of evaluation be posted
18 at the fire department in a conspicuous place to be visible to members of the department
19 and to members of the 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.
62 These specialized functions can include, but are not limited to, swift water rescue, search and
63 rescue, trench rescue, and confined space rescue. The State Fire Commission shall propose
64 legislative rules, and may propose emergency legislative rules, for promulgation in accordance
65 with §29A-3-1 et seq. of this code to implement this program, and to set minimum training
66 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 firefighters 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.