

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

House Bill 4608

BY DELEGATES STATLER, RILEY, MAYNARD, HARDY,
PAYNTER, JENNINGS, HONAKER, MAYNOR, PHILLIPS,
QUEEN, AND PACK

[Originating in the Committee on Government
Organization; February 23, 2022]

1 A BILL to amend and reenact §15A-11-8 of the Code of West Virginia, 1931, as amended, relating
2 to the probationary status of volunteer firefighters; defining terms; and providing for an
3 effective date.

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 (e) The State Fire Commission shall develop a plan for fire prevention and control which
20 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 (f) The State Fire Commission shall establish fire protection areas and at such times as
27 funds are available shall establish field offices for inspection, planning, and certification.

28 (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, may make expenditures of,
37 or use of any tangible property, in order to effectuate the purposes of this article.

38 (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 §15A-11-9 of this code; and

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

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

50 (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 (k) Appeals from any final decision of the Fire Commission shall be heard by the Office of
57 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.

70 (n) The State Fire Commission shall, by legislative rules proposed for promulgation in
71 accordance with §29A-3-1 et seq. of this code, establish minimum probationary volunteer
72 firefighter standards.

73 (1) For the purpose of this subsection, a probationary firefighter means an active member
74 of a volunteer fire department who is 18 years old or older and is not a certified firefighter.

75 (2) A person may serve as a probationary firefighter, at the discretion of the fire chief, for
76 a period not to exceed five years.

77 (3) The Legislature finds that an emergency exists, and therefore, the Fire Commission
78 shall propose an emergency rule to implement the provisions of this subsection in accordance
79 with §29A-3-15 of this code by October 1, 2022.