

SENATE BILL REPORT

SB 6013

AS REPORTED BY COMMITTEE ON WAYS & MEANS, FEBRUARY 7, 1994

Brief Description: Changing provisions relating to fire protection services.

SPONSORS: Senators Haugen, Winsley, Skratek, Vognild, Snyder, Sheldon, McAuliffe and Ludwig

SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Majority Report: That Substitute Senate Bill No. 6013 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Haugen, Chairman; Drew, Vice Chairman; Loveland, McCaslin, Oke, Owen and Winsley.

Staff: Eugene Green (786-7405)

Hearing Dates: January 13, 1994; January 21, 1994

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 6013 as recommended by Committee on Government Operations be substituted therefor, and the substitute bill do pass.

Signed by Senators Rinehart, Chairman; Quigley, Vice Chairman; Bauer, Bluechel, Gaspard, Hargrove, Hochstatter, Ludwig, Moyer, Owen, Pelz, Roach, Snyder, Spanel, Sutherland, Talmadge, West and Wojahn.

Staff: Martin Chaw (786-7711)

Hearing Dates: February 2, 1994; February 7, 1994

BACKGROUND:

During the 1993 session of the Legislature, representatives of the state fire service community asked that a legislative study be undertaken to identify and make recommendations concerning (1) the state's role in providing fire services and (2) the relationship between the state and local providers in assuring an adequate and efficient delivery of fire services. A Fire Study Work Group was appointed under the auspices of the Senate Committee on Government Operations. The Fire Study Work Group met throughout the 1993 interim and analyzed and made recommendations in six areas: gathering and reporting fire statistics; fire service training; fire service inspection; fire investigation; governance; and funding.

Gathering and Reporting Fire Statistics: The Washington Fire Incident Reporting System (WAFIRS) was created in the mid-70s with a grant from the National Fire Academy (then the U.S.

Fire Administration); several other states were also involved. WAFIRS was intended to provide a data base of fire incident information that could be used for a number of purposes, with reciprocal benefits for both local and state agencies. It was hoped that a nationwide fire information system could be developed. The major goal was to develop profiles of trends in fire incidents, based on a number of variables, including fire causes, hazards based on new technology, types of structures and settings, and demographic data.

In addition to providing detailed descriptions of fire incidents, it was intended to include data such as: medical examiner records; hospital records; Labor and Industries fire injury records; fireworks incidents; and insurance claims data. The grant moneys helped fund development of a computer program, a reporting and analytical format, and hiring technical staff.

However, WAFIRS was beset with problems:

- ∅ Partly because of the complexity of the data requirements and insufficient funds for adequate technical training, only approximately 150 of 600+ departments took part.
- ∅ It was not possible to deliver a useful product for several reasons: data reported were not refined by any analytical tools, and there was no way to tie fire data to significant demographic information which would have given the system utility.
- ∅ In the late 1980s, the Department of Community Development made several attempts to revise the system, but a sufficient variety of skills were not available to its Fire Protection Services Division (FPS).

Because the grant for the reporting system was not continued, a line item of approximately \$270,000 was included in the 1989-91 budget for general fund state dollars. However, the appropriation was cut after one year, dropping actual state funding to about \$135,000. In preparing for the 1991-93 budget, the Fire Protection Services Division and the Fire Protection Policy Board were faced with even deeper cuts for all programs. The board decided that WAFIRS was one of two programs (curriculum development was the other) which would be cut. The hope was that if funding could be found at a later date, the program could be restored, and possibly enhanced.

Fire Training Issues: Two general types of training are required to assure that a fire force is prepared to protect life and property. First is the standard type of instruction covering the various functions a fire fighter must perform. It can take place in a firehouse, a classroom, or an equipment fire site. The second type of training provides the "live burn" experience, for which the Fire Training Center outside of North Bend was designed. Each type presents different issues.

The usual level of training for the various ranks of personnel are: basic recruit, training certificate; fire fighter 1 and 2, an associate of applied science (AAS) from an accredited institution; fire officer 1 and 2, an AAS or possibly four-year degree (bachelor of science); and fire officer 3 and 4, the bachelor of science degree. The two-year AAS is currently being offered at South Puget Sound Community College in Thurston County, Bates Technical College in Pierce County, and Spokane Community College.

Problems in standard training include:

- ∅ Need for additional training programs and broader geographical distribution. Need for clearinghouse to share information about program availability and lack of consensus on standards for curriculum development and evaluation.
- ∅ Special needs of small departments and volunteers.
- ∅ Training for command personnel and emerging management requirements.
- ∅ In-service training at every level.

Problems at the Fire Training Center at North Bend include:

- ∅ Imposition of fees tends to shut out small departments and almost all volunteers. Trainers available from large departments have difficulty giving valuable time when they must pay their own way, too.
- ∅ Marketing skills and capacity are reported to be inadequate.
- ∅ Maintenance funding is inadequate. The current structural condition is rated as deteriorating. Housing and other facilities need improvement. The Department of Ecology and the Environmental Protection Agency are raising serious concerns about environmental cleanup.

Fire Service Inspections: State life safety and code inspections concentrate on structures that are of high risk to life. They fall into two broad categories: those that are mandated by the federal government for which the Fire Protection Services Division of the Department of Community Development acts as a contractor with the Departments of Social and Health Services (DSHS) and Health (DOH) (because of Medicare and Medicaid requirements), and those mandated by statute because of the vulnerability of occupants. The first type includes hospitals, nursing homes and a limited number of boarding homes licensed for Medicare. The second covers the remaining boarding homes, day care centers, miscellaneous health facilities and hotels/motels. The division also has a goal of inspecting schools and places for large assemblies, but these activities have never been funded.

The Fire Protection Services Division, either in concert with DSHS and DOH or alone, works closely with the facilities; its goal is to help the operators keep them open. In the case of a federally-regulated facility, where an operator cannot bring it up to certification standards, both FPS and DSHS (or DOH) give notice that the certificate will be revoked or not renewed. In all other cases (i.e., non-federally regulated), FPS acts on the license where a facility cannot meet the required codes (FPS has adopted the uniform fire and energy codes). Funding for inspections was cut in the 1993-95 budget.

Problems with inspections include:

- ∅ Reporting on the conduct and quality of state-mandated inspections is inconsistent -- data are incomplete, and it appears some local jurisdictions are unable to conduct the inspections at all.
- ∅ Trained local inspectors command high salaries and benefits, which many small jurisdictions cannot afford; in many instances, the local building inspector is simply designated as the fire inspector.
- ∅ No one is in place at the state level to train inspectors to the state's fire or energy codes. The more technical and complex new editions of the codes become, the more additional training is required to qualify local officials to conduct adequate inspections.
- ∅ Funding does not meet local demands; delegating state-mandated inspections to the local level can result in noncompliance.
- ∅ What constitutes an adequate inspection is an open question; consistent standards for the process may need to be more fully developed and better communicated.

Fire Investigation Issues: In any fire, there must be some investigation to determine cause and origin. The majority of fires are accidental; the more difficult investigations come with suspicious fires. The first step is to rule out a suspicious cause or incendiary/arson possibility. In order to have a successful fire investigation program, four key elements must be in place: (1) clear lines of authority; (2) very specific task-related responsibility; (3) a timely and "seamless" continuity of the investigative process; and (4) expertise. Unfortunately, at the local level, current statutes are confusing and/or leave much to chance thus making fire investigations in many instances a haphazard endeavor. Also, what services, if any, the state should provide is problematic. It should also be noted that the 1993-95 state budget eliminated the fire investigations unit of the Fire Protection Services Division. The implications on local fire investigatory capability is still being studied.

Problems with fire investigations include:

- ∅ Required technical skills are extremely complex and even more sophistication is needed as new materials are developed. Technical skills which had been present at the state level are deteriorating.
- ∅ Any arson investigation is highly time consuming; many persons must be interviewed, material samples must be taken, site maps and plans must be documented, lab analyses must be made, lengthy reports prepared, and conclusions are often difficult to validate. Except in the most obvious cases, it is difficult to obtain strong enough evidence for trial, much less conviction.
- ∅ The most common reasons for not discovering arson are lack of training, inadequate evidence, accidental destruction of evidence, or a situation easily masked as accidental.
- ∅ Human injuries and property damage attributable to arson or "suspicious" fires continue to increase.

Governance: In 1986, the functions of the state Fire Marshal in the Insurance Commissioner's office, the fire service training program under the former Commission on Vocational and Technical Education, and the state Fire Protection Policy Board were merged as a new division in the Department of Community Development. The Governor was required to appoint the state Fire Protection Policy Board. The director of the Department of Community Development was required to appoint an assistant director to be known as the director of Fire Protection, who is selected from a list of three names submitted by the state Fire Protection Policy Board.

The state Fire Protection Policy Board is authorized to set policy on all fire protection matters except the statutory duties assigned to the director of Community Development through the director of Fire Protection. These duties include the following: assuring the administration of fire service training; adopting standards for fire service training; developing and adopting a master plan for the construction, equipping, maintaining, operation and acquisition of real estate for fire service training and education facilities; adopting a state fire protection master plan; and representing local fire protection services to the Governor. The state Fire Protection Policy Board serves in an advisory capacity regarding the statutory duties of the director of Community Development which are carried out through the director of Fire Protection (formerly the duties of the state Fire Marshal), as well as for the purpose of developing a budget.

The director of the Department of Community Development, through the director of Fire Protection is required to: carry out all duties of the state Fire Protection Policy Board which were formerly held by the state Fire Marshal; prepare a biennial budget after consulting with the state Fire Protection Policy Board; and administer the policies of the board.

The state fire service community feels that the merger that took place in 1986 has worked to the detriment of the provision of state fire services. First, some members of the state Fire Protection Policy Board feel that the board has always been treated as an "outsider" in the Department of Community Development. Second, many feel that the director of Fire Protection is presently in an untenable position: serving to administer the board and prepare a budget for the board while at the same time being answerable to the policy dictates of the director of the Department of Community Development. Third, the fire service community feels that these statutorily split loyalties have hurt the board when setting priorities in the board's budget. Fourth, the Fire Study Work Group expressed concern that the DCD/DTED merger plan placed little emphasis, if any, on merger implications for the Fire Protection Policy Board and the director of Fire Protection (the state Fire Marshal).

SUMMARY:

Intent: Since the powers of local fire units and the state Fire Protection Policy Board are already so broad, some of the revisions represent primarily a change of emphasis or priority. In other cases, the Fire Study Work Group's effort was to make the statutes clearer and more specific.

The new intent language gives added visibility and emphasis to fire service training among the functions in which the state has a major stake. The new language also suggests that the fire protection services program be implemented incrementally to assure a smooth transition, to build local, regional, and state capacity, and to avoid undue burdens on jurisdictions with limited resources.

Governance: In order to promote efficiency and effectiveness, the ten-member state Fire Protection Policy Board is reduced to seven members by eliminating multiple representation on the board. Two representatives of fire chiefs and one full-time, paid career fire fighter are eliminated upon expiration of their terms.

The Governor, rather than the director of the Department of Community, Trade, and Economic Development appoints the assistant director, who is known as the director of Fire Protection. The director of Fire Protection, rather than the director of the Department through the director of Fire Protection, continues to: carry out all the duties of the state Fire Protection Policy Board; prepare a biennial budget after consulting with the board; administer the policies of the board, and continues to carry out all the duties of the former state Fire Marshal.

The Association of Fire Commissioners and the Association of Washington Cities must submit a report on achieving greater efficiencies in the delivery of fire protection services to the Government Operations Committee of the Senate and the Local Government Committee of the House of Representatives on or before December 31, 1994.

Regionalism: The Fire Protection Policy Board must give particular attention to the appropriate roles for both state agencies and local governments with fire protection responsibilities.

To the extent possible, the board must encourage development of suitable regional organizations, taking such variables as geography, population, economic characteristics, and relative fire risk. The regions may reenforce coordination among state and local efforts, identify areas of special need in jurisdictions with limited resources, assist the state in its monitoring functions, identify funding needs and options, and provide models for building local capacity.

Fire Training: The new state priority on training is emphasized by reordering the prior sections on training in the Fire Protection Policy Board's duties, and bringing them closer together. The board is specifically authorized to include within the master education and training plan agreements with community and technical colleges and other higher education institutions to provide programs directly. Training standards adopted by the board are minimum requirements, which would allow local fire agencies to make them more rigorous. The board is to assure a continuing assessment of skill and encourage cross training in law enforcement skills for fire investigations.

In performing the necessary administrative duties, the director of Fire Protection is authorized to negotiate agreements with the State Board for Community and Technical Colleges, the Higher Education Coordinating Board, and the state colleges and universities. Programs covered by such agreements shall include, but not be limited to, planning curricula, developing and delivering instructional programs and materials, and utilizing existing instructional personnel and facilities. (This authority complements the provision that the state Fire Protection Policy Board's master training plan to allow for contracting with the higher education agencies.)

The Fire Study Work Group emphasized the need to continue supporting the Fire Service Training Center at North Bend and also considered the need for other centers in the future. Toward that end, the power to lease facilities as well as construct them was added to the statute authorizing expenditures from the fire service trust fund.

Gathering and Reporting Fire Statistics: In addition to the data gathering and reporting functions already required of the director of Fire Protection (now appointed by the Governor), specific authority is added to allow the Fire Protection Policy Board to contract with a qualified individual or organization to perform the duties. Such a contract may be let under the sole source provisions of the personal services contracting statute. The information provided must meet the diverse needs of state and local fire reporting agencies.

The date by which the director of Fire Protection must distribute an annual copy of fire statistics to each chief fire official in the state is moved from January 31 to June 30.

An obsolete statute which required that all forms, instruction, and similar documents for fire statistics reporting be furnished at state expense is repealed.

A separate state arson investigation information system is established in the office of the Attorney General. (The Fire Study Work Group concluded that this system could readily be coordinated with the Homicide Investigation Training System (HITS)). The state arson investigation information system is to be developed in consultation with state and local fire investigators. All insurers required to file insurance claims must cooperate fully with any requests from the Attorney General in developing and maintaining this system. Confidentiality requirements are protected.

Fire Inspection: Language is added to the monitoring responsibilities of the Fire Protection Policy Board specifying the following objectives and priorities: (1) the comprehensiveness of state and local fire and life safety inspections; (2) the level of skills and training of inspectors; and (3) the efforts of local, regional, and state inspection agencies to improve coordination and reduce duplication.

Fire Investigation: To more clearly reflect actual practice, local officials responsible for investigating the cause and origin of fires shall document the extent of damage, rather than loss, of all fires.

The contracting out provisions for fire protection districts are amended to include authority to contract for investigation services as well as for fire prevention, fire suppression, and emergency medical services.

The state Fire Protection Policy Board shall conduct a study on the overlapping and confusing jurisdiction and responsibilities of local governments concerning fire investigation. The board shall make recommendations to the Government Operations Committee of the Senate and the Local Government Committee of the House of Representatives on or before December 31, 1994.

Financial Recovery/Criminal and Civil: If a person or persons are convicted of a fire-related crime, the appropriate authority in the jurisdiction in which the incident occurred is authorized to seek recovery and restitution of damages and costs of investigation and suppression.

Any person, firm, or corporation whose negligence is responsible for the starting or existence of a fire shall be held liable for any expenses incurred by the state or a municipality in fighting the fire, together with costs of

investigation and litigation including reasonable attorneys' fees and taxable court costs.

Nonapplicability: This act does not apply to forest fire service personnel and programs.

Effective Date: Because the Fire Protection Policy Board has been scheduled for sunset review under the provisions of Chapter 43.131 RCW, and because several other affected code sections are controlled by special effective dates, the effective date of the act is (and should be no earlier than) July 1, 1994.

EFFECT OF PROPOSED SUBSTITUTE:

A representative of the fire control programs of the Department of Natural Resources is added to the State Fire Protection Policy Board.

The Washington State Association of Counties shall also participate in the fire protection efficiency study.

The Fire Commissioners Association and the Department of Natural Resources shall submit reports on the feasibility of providing fire protection for lands not currently protected.

New language containing civil and criminal financial recovery is eliminated.

Appropriation: none

Revenue: none

Fiscal Note: requested January 10, 1994

Effective Date: July 1, 1994

TESTIMONY FOR (Government Operations):

These changes are badly needed. State fire protection services are continuing to deteriorate. Loss of life and property from arson is continuing to grow. More and better training, especially for volunteers, is crucial for our programs.

TESTIMONY AGAINST (Government Operations): None

TESTIFIED (Government Operations): PRO: Robert Keppel, Attorney Generals Office; Debra Kieffer, Snohomish County Fire Marshal; Bruce Holloway, Spokane County FD3; Don Krupp, Dick Small, WA State Dept. of Community Development; Wayne Wienholz, Pierce County Fire Marshal; Monroe Shropshire, King County Fire Chiefs

TESTIMONY FOR (Ways & Means):

This measure represents the culmination of a full year's worth of work between all parties and is severely needed to address the training, coordination and financial issues facing the state and local fire protection services providers.

TESTIMONY AGAINST (Ways & Means): None

TESTIFIED (Ways & Means): PRO: Senator Haugen, prime sponsor; Senator Winsley, sponsor; Gordon Walgren; Pete Spiller, WA State Council of Firefighters; Ron Hayworth, Fire Protection Policy Board; Bruce Holloway, Spokane County Fire District 3; Claude Harris, City of Seattle Fire Department; T.J. Nedrow, WA State Firefighters Association; Mel Sorensen, National Association of Independent Insurers