

HOUSE BILL REPORT

HB 2606

As Passed Legislature

Title: An act relating to allowing volunteer fire personnel to hold elective or appointed office.

Brief Description: Allowing volunteer fire fighter personnel to hold elective or appointed office.

Sponsors: By Representatives Curtis, Takko, Orcutt, McDonald, Grant, Hinkle, Clements, Moeller, Chandler, Wallace, Tom, Kretz, Nixon, Blake, Kessler, Rodne, Haigh, B. Sullivan and Morrell.

Brief History:

Committee Activity:

Local Government: 1/18/06, 1/30/06 [DP].

Floor Activity:

Passed House: 2/14/06, 96-0.

Senate Amended.

Passed Senate: 3/2/06, 45-0.

House Concurred.

Passed House: 3/4/06, 97-0.

Passed Legislature.

Brief Summary of Bill

- Authorizes a volunteer fire fighter working for a city, town, or fire protection district to serve as an elected public official or hold an appointed public office, provided there is no legal prohibition preventing him or her from taking office.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass. Signed by 7 members: Representatives Simpson, Chair; Clibborn, Vice Chair; Schindler, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; B. Sullivan, Takko and Woods.

Staff: Thamas Osborn (786-7129).

Background:

The Common Law Doctrine of "Incompatible Offices"

The Washington courts have recognized a common law doctrine known as the "doctrine of incompatible public offices." In its 1957 decision in the case of *Kennett v. Levine*, the Washington State Supreme Court applied the doctrine, noting: "Offices are incompatible

when the nature and duties of the offices are such as to render it improper, from consideration of public policy, for one person to retain both." Typically, the courts have found public offices to be incompatible when one office is either subordinate to, or subject to the statutory authority of, the other. However, under Washington law, common law doctrines such as the doctrine of incompatible offices may be superseded by statute.

The courts have determined that a firefighter employed by a fire department does in fact hold a "public office" for the purposes of the doctrine of incompatible offices. Although the courts have not considered the issue of whether a *volunteer* firefighter is a "public officer," the Office of the Attorney General issued an opinion in 1973 finding that volunteer firefighters are public officers and therefore subject to the doctrine of incompatible offices.

Statutes Superceding the Doctrine of Incompatible Offices

Pursuant to a statute that supercedes the common law doctrine of incompatible offices, any city or town may adopt a resolution by a two-thirds vote of its full legislative body authorizing any of the members of that body to serve as volunteer fire fighters, volunteer ambulance personnel, or reserve law enforcement officers. A similar statute allows a member of the board of a fire protection district to serve as volunteer firefighter within the district.

Summary of Bill:

Authorizes a volunteer fire fighter working for a city, town, or fire protection district to serve as an elected public official or hold an appointed public office, provided there is no legal prohibition preventing him or her from taking office. This authorization does not apply to a fire chief.

"Volunteer" is defined to mean any member of a fire department who undertakes firefighting duties without receiving compensation or consideration for such duties. "Compensation" and "consideration" do not include any benefits the volunteer may accrue under current law regarding pension rights and other relief available to volunteer fire fighters.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: There is an opinion issued by the Office of the Attorney General that has caused concern about the legality of a volunteer fire fighter serving in public office. Furthermore, a volunteer fire fighter in a Washington community was recently prevented from running for elective office. It is important to allow those who volunteer in our communities to also be allowed to participate in community affairs as elected officials. This bill would remedy the problem by authorizing volunteer firefighters to be candidates for elective office.

Testimony Against: None.

Persons Testifying: Representative Curtis, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.