

By: Nichols, Hegar

S.B. No. 646

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the Texas Forest Service.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subdivision (2), Section 88.1015, Education Code, is amended to read as follows:

(2) "Wildfire" means any fire occurring on wildland or in a place where urban areas and rural areas meet. The term does not include [except] a fire that constitutes controlled burning within the meaning of Section 28.01, Penal Code.

SECTION 2. Section 88.1016, Education Code, is amended to read as follows:

Sec. 88.1016. SUNSET PROVISION. The Texas Forest Service is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the Texas Forest Service is abolished September 1, 2023 [~~2011~~].

SECTION 3. Section 88.102, Education Code, is amended to read as follows:

Sec. 88.102. GENERAL DUTIES. Under the general supervision of the board, the director shall:

(1) assume direction of all forest interests and all matters pertaining to forestry within the jurisdiction of this state;

(2) subject to the approval and confirmation of the

1 board, appoint the assistants and employees necessary in executing  
2 the director's duties [~~of his office~~] and the purposes of the board,  
3 their compensation to be fixed by the board;

4 (3) take any action deemed necessary by the board to  
5 prevent and extinguish wildfires [~~forest fires~~];

6 (4) enforce all laws pertaining to the protection of  
7 forests and woodlands and prosecute violations of those laws;

8 (5) collect data relating to forest conditions; and

9 (6) prepare for the board an annual report stating the  
10 progress and condition of state forestry work and recommending  
11 plans for improving the state system of forest protection,  
12 management, and replacement.

13 SECTION 4. Subsections (b) and (c), Section 88.118,  
14 Education Code, are amended to read as follows:

15 (b) The center may [~~shall~~] provide continuous dispatching  
16 services for wildfire [~~wildland fire~~] control [~~in the six Texas~~  
17 ~~Forest Service dispatch areas in eastern Texas~~].

18 (c) The center shall provide a central location for  
19 statewide:

20 (1) wildfire monitoring;

21 (2) coordination of the response to each major or  
22 potentially major wildfire [~~wildland fire~~] in the state, [~~including~~  
23 ~~fires in places where urban areas and rural areas meet,~~] with the  
24 coordination function including a direct liaison with the state  
25 emergency operating center; and

26 (3) assistance to fire-fighting forces in obtaining  
27 the transfer of needed and available resources.

1 SECTION 5. Subsections (a), (c), and (d), Section 88.119,  
2 Education Code, are amended to read as follows:

3 (a) The director shall divide the state into six wildfire  
4 control regions to coordinate wildfire [~~fire~~] control [~~in rural~~  
5 ~~areas and in places where rural areas and urban areas meet~~]. The  
6 boundaries of the regions must be the same as existing Department of  
7 Public Safety regions that include state disaster district  
8 boundaries to the extent that the director determines that the same  
9 boundaries are practical.

10 (c) Each regional wildfire coordinator shall, with respect  
11 to the coordinator's region:

12 (1) train, prepare, and coordinate fire fighters to  
13 respond to wildfire incidents locally, regionally, and statewide;

14 (2) inform the statewide coordination center of  
15 regional wildfire loads and of additional resources that may be  
16 required to handle a fire load;

17 (3) communicate as necessary with appropriate federal  
18 officials;

19 (4) assist and promote the development of mutual aid  
20 agreements among fire-fighting forces;

21 (5) develop wildfire strike teams and overhead strike  
22 teams;

23 (6) coordinate and assess the need for wildfire  
24 [~~wildland fire~~] training;

25 (7) coordinate the rural community fire protection  
26 program;

27 (8) coordinate response activities through the

1 appropriate state disaster district; and

2 (9) evaluate and acquire excess federal equipment and  
3 other property for use in the region.

4 (d) The director shall acquire and assign to each wildfire  
5 control region a regional command post that has the capability to  
6 assist in the management of wildfires [~~wildland fires~~] and other  
7 disasters, including disasters not related to fire. The director  
8 and the director's designees shall determine when the regional  
9 command post may be used by personnel under the control of the  
10 director and when the regional command post may be used by local  
11 fire-fighting forces or other emergency response personnel. Each  
12 regional command post shall include mobile communications  
13 equipment, including a radio repeater and a supply of other  
14 necessary radio equipment.

15 SECTION 6. Section 88.120, Education Code, is amended to  
16 read as follows:

17 Sec. 88.120. WILDFIRE TRAINING. The Texas Forest Service  
18 is the lead agency of the state for providing and coordinating  
19 training in fighting wildfires [~~wildland and forest fires~~].

20 SECTION 7. Subchapter B, Chapter 88, Education Code, is  
21 amended by adding Sections 88.122, 88.123, 88.124, and 88.125 to  
22 read as follows:

23 Sec. 88.122. INCIDENT MANAGEMENT TEAMS. (a) The Texas  
24 Forest Service may support the state's all-hazard response  
25 operations by:

26 (1) providing incident management training to Texas  
27 Forest Service personnel and other state, local, and volunteer

1 responders to develop and enhance the all-hazard response  
2 capability of this state; and

3 (2) maintaining incident management teams to respond  
4 to all-hazard events, including natural, man-made, and planned  
5 events.

6 (b) An incident management team maintained under this  
7 section may consist of Texas Forest Service employees and other  
8 state, local, and volunteer responders.

9 (c) The Texas Forest Service may mobilize an incident  
10 management team for a wildfire response operation.

11 (d) Under the direction of the Texas Division of Emergency  
12 Management, the Texas Forest Service may mobilize an incident  
13 management team to provide incident support for state, disaster  
14 district, or local jurisdiction operations.

15 Sec. 88.123. VOLUNTEER FIRE DEPARTMENT ASSISTANCE. (a) In  
16 this section:

17 (1) "Partially paid fire department" means a fire  
18 department operated by its members, some of whom are volunteers and  
19 some of whom are paid.

20 (2) "Volunteer fire department" means a fire  
21 department operated by its members, including a partially paid fire  
22 department, that is operated on a not-for-profit basis.

23 (3) "Volunteer firefighter" means a member of a  
24 volunteer fire department.

25 (b) The director may establish guidelines within which  
26 local volunteer fire departments may assist the Texas Forest  
27 Service in responding to a wildfire after other local firefighting

1 resources have been exhausted.

2 (c) To the extent that resources are available, the Texas  
3 Forest Service may:

4 (1) compensate a volunteer firefighter or a volunteer  
5 fire department for labor and expenses related to the assistance  
6 provided by the firefighter or department under Subsection (b); and

7 (2) reimburse a volunteer fire department for  
8 equipment provided by the department under Subsection (b).

9 (d) The director shall determine:

10 (1) the rate at which a volunteer firefighter or a  
11 volunteer fire department may be compensated or reimbursed under  
12 this section;

13 (2) the types of labor and expenses for which a  
14 volunteer firefighter or a volunteer fire department may be  
15 compensated under this section;

16 (3) the types of equipment for which a volunteer fire  
17 department may be reimbursed under this section; and

18 (4) the minimum qualifications a volunteer  
19 firefighter must meet in order to be compensated under this  
20 section, which may include certification under a program  
21 administered by:

22 (A) the State Firemen's and Fire Marshals'  
23 Association of Texas; or

24 (B) the Texas Forest Service according to  
25 standards determined by the National Wildfire Coordinating Group.

26 (e) A volunteer firefighter who receives compensation under  
27 this section is not subject to the certification requirements of

1 Subchapter B, Chapter 419, Government Code.

2 (f) The Texas Forest Service may request reimbursement from  
3 the legislature for a payment made to a volunteer firefighter or a  
4 volunteer fire department under this section.

5 (g) The Texas Forest Service may issue National Wildfire  
6 Coordinating Group certification to a volunteer firefighter under  
7 terms determined by the director.

8 Sec. 88.124. WILDFIRE PROTECTION PLAN. (a) The Texas  
9 Forest Service shall hold public meetings to develop and regularly  
10 update a wildfire protection plan. At a minimum, the plan must:

11 (1) define the Texas Forest Service's role in managing  
12 wildfires and supporting local fire department responses, and the  
13 manner in which a community may engage the Texas Forest Service on  
14 issues related to wildfires;

15 (2) describe in detail the role of volunteer fire  
16 departments in wildfire response, including any role relating to  
17 guidelines established by the director under Section 88.123;

18 (3) describe the expected revenue, expenditures,  
19 staffing, and future funding necessary to implement and sustain the  
20 plan;

21 (4) estimate the expected savings resulting from the  
22 plan's implementation;

23 (5) provide performance measures by which the plan's  
24 success may be evaluated;

25 (6) describe the Texas Forest Service's role in  
26 conducting prescribed burns and assess statewide efforts to conduct  
27 those burns;

1           (7) identify, analyze, and make recommendations  
2 regarding wildfire trends and issues; and

3           (8) address any other matter determined to be relevant  
4 by the director.

5           (b) The Texas Forest Service shall submit its most recent  
6 wildfire protection plan together with the service's legislative  
7 appropriations request to:

8                   (1) the lieutenant governor;

9                   (2) the speaker of the house of representatives; and

10                   (3) the appropriate standing legislative committees  
11 having jurisdiction over wildfire issues.

12           Sec. 88.125. COST-EFFECTIVE USE OF RESOURCES. In  
13 determining the appropriate wildfire response, the Texas Forest  
14 Service shall use the most cost-effective combination of volunteer  
15 firefighters, temporary employees of the Texas Forest Service, and  
16 out-of-state personnel and equipment available.

17           SECTION 8. Section 614.102, Government Code, is amended by  
18 amending Subsection (c) and adding Subsections (c-1) and (c-2) to  
19 read as follows:

20           (c) The director shall:

21                   (1) determine reasonable criteria and qualifications  
22 for the distribution of money from the volunteer fire department  
23 assistance fund, including:

24                           (A) the frequency, size, and severity of past  
25 wildfires in a volunteer fire department's jurisdiction; and

26                           (B) the potential for loss or damage to property  
27 resulting from future wildfires in the department's jurisdiction;



1 and

2 (2) establish a procedure for reporting and processing  
3 requests for money from the fund.

4 (c-1) In determining criteria and qualifications for the  
5 distribution of money under Subsection (c), the director shall  
6 consider the state's most recent Southern Wildfire Risk Assessment  
7 issued by the Southern Group of State Foresters and other  
8 applicable information.

9 (c-2) The service may designate a portion of the fund to be  
10 used to assist volunteer fire departments in meeting cost share  
11 requirements for federal grants for which the departments qualify.  
12 The director shall determine a set of needs-based criteria for  
13 determining a department's eligibility to apply for a grant under  
14 this subsection. The criteria must include:

15 (1) the size of the department;

16 (2) the department's annual budget and source of  
17 revenue; and

18 (3) the amount by which the department would benefit  
19 from the grant.

20 SECTION 9. Subchapter G, Chapter 614, Government Code, is  
21 amended by adding Section 614.106 to read as follows:

22 Sec. 614.106. RULES; APPLICABILITY OF ADMINISTRATIVE  
23 PROCEDURE ACT. The director shall adopt rules for the  
24 administration of the program authorized by this chapter in  
25 accordance with Chapter 2001. The rules must ensure public  
26 participation, transparency, and accountability in administration  
27 of the program.

1           SECTION 10. As soon as practicable after the effective date  
2 of this Act, the director of the Texas Forest Service shall adopt  
3 rules as necessary to implement this Act.

4           SECTION 11. This Act takes effect September 1, 2011.