

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. Section 88.1015(2), 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. Sections 88.118(b) and (c), Education Code, are
14 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. Sections 88.119(a), (c), and (d), Education
2 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 compensate a volunteer firefighter for labor,
4 equipment, and expenses related to the firefighter's assistance
5 provided under Subsection (b). The director shall determine:

6 (1) the rate at which a volunteer firefighter may be
7 compensated under this section;

8 (2) the types of labor, equipment, and expenses for
9 which a volunteer firefighter may be compensated under this
10 section; and

11 (3) the minimum qualifications a volunteer
12 firefighter must meet in order to be compensated under this
13 section, which may include certification under a program
14 administered by:

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

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

19 (d) A volunteer firefighter who receives compensation under
20 this section is not subject to the certification requirements of
21 Subchapter B, Chapter 419, Government Code.

22 (e) The Texas Forest Service may request reimbursement from
23 the legislature for compensation paid to a volunteer firefighter
24 under this section.

25 (f) The Texas Forest Service may issue National Wildfire
26 Coordinating Group certification to a volunteer firefighter under
27 terms determined by the director.

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

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

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

11 (3) describe the expected revenue, expenditures,
12 staffing, and future funding necessary to implement and sustain the
13 plan;

14 (4) estimate the expected savings resulting from the
15 plan's implementation;

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

18 (6) describe the Texas Forest Service's role in
19 conducting prescribed burns and assess statewide efforts to conduct
20 those burns;

21 (7) identify, analyze, and make recommendations
22 regarding wildfire trends and issues; and

23 (8) address any other matter determined to be relevant
24 by the director.

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

- 1 (1) the lieutenant governor;
2 (2) the speaker of the house of representatives; and
3 (3) the appropriate standing legislative committees
4 having jurisdiction over wildfire issues.

5 Sec. 88.125. COST-EFFECTIVE USE OF RESOURCES. In
6 determining the appropriate wildfire response, the Texas Forest
7 Service shall use the most cost-effective combination of volunteer
8 firefighters, temporary employees of the Texas Forest Service, and
9 out-of-state personnel and equipment available.

10 SECTION 8. Section 614.102, Government Code, is amended by
11 amending Subsection (c) and adding Subsections (c-1), (c-2), and
12 (c-3) to read as follows:

13 (c) The director shall:

14 (1) determine reasonable criteria and qualifications
15 for the distribution of money from the volunteer fire department
16 assistance fund, including:

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

19 (B) the potential for loss or damage to property
20 resulting from future wildfires in the department's jurisdiction;
21 and

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

24 (c-1) In determining criteria and qualifications for the
25 distribution of money under Subsection (c), the director shall
26 consider the state's most recent Southern Wildfire Risk Assessment
27 issued by the Southern Group of State Foresters and other

1 applicable information.

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

8 (1) the size of the department;

9 (2) the department's annual budget and source of
10 revenue; and

11 (3) the amount by which the department would benefit
12 from the grant.

13 (c-3) The service is not required to take public testimony
14 at a meeting in which the service makes a decision regarding the
15 award of individual grants under this subchapter.

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

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

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

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