

1-1 By: Nichols, Hegar S.B. No. 646
1-2 (In the Senate - Filed February 16, 2011; February 28, 2011,
1-3 read first time and referred to Committee on Government
1-4 Organization; March 28, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 March 28, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 646 By: Hegar

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the continuation and functions of the Texas Forest
1-11 Service.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subdivision (2), Section 88.1015, Education
1-14 Code, is amended to read as follows:

1-15 (2) "Wildfire" means any fire occurring on wildland or
1-16 in a place where urban areas and rural areas meet. The term does not
1-17 include ~~[except]~~ a fire that constitutes controlled burning within
1-18 the meaning of Section 28.01, Penal Code.

1-19 SECTION 2. Section 88.1016, Education Code, is amended to
1-20 read as follows:

1-21 Sec. 88.1016. SUNSET PROVISION. The Texas Forest Service
1-22 is subject to Chapter 325, Government Code (Texas Sunset Act).
1-23 Unless continued in existence as provided by that chapter, the
1-24 Texas Forest Service is abolished September 1, 2023 ~~[2011]~~.

1-25 SECTION 3. Section 88.102, Education Code, is amended to
1-26 read as follows:

1-27 Sec. 88.102. GENERAL DUTIES. Under the general supervision
1-28 of the board, the director shall:

1-29 (1) assume direction of all forest interests and all
1-30 matters pertaining to forestry within the jurisdiction of this
1-31 state;

1-32 (2) subject to the approval and confirmation of the
1-33 board, appoint the assistants and employees necessary in executing
1-34 the director's duties ~~[of his office]~~ and the purposes of the board,
1-35 their compensation to be fixed by the board;

1-36 (3) take any action deemed necessary by the board to
1-37 prevent and extinguish wildfires ~~[forest fires]~~;

1-38 (4) enforce all laws pertaining to the protection of
1-39 forests and woodlands and prosecute violations of those laws;

1-40 (5) collect data relating to forest conditions; and

1-41 (6) prepare for the board an annual report stating the
1-42 progress and condition of state forestry work and recommending
1-43 plans for improving the state system of forest protection,
1-44 management, and replacement.

1-45 SECTION 4. Subsections (b) and (c), Section 88.118,
1-46 Education Code, are amended to read as follows:

1-47 (b) The center may ~~[shall]~~ provide continuous dispatching
1-48 services for wildfire ~~[wildland fire]~~ control ~~[in the six Texas~~
1-49 ~~Forest Service dispatch areas in eastern Texas]~~.

1-50 (c) The center shall provide a central location for
1-51 statewide:

1-52 (1) wildfire monitoring;

1-53 (2) coordination of the response to each major or
1-54 potentially major wildfire ~~[wildland fire]~~ in the state, ~~[including~~
1-55 ~~fires in places where urban areas and rural areas meet,]~~ with the
1-56 coordination function including a direct liaison with the state
1-57 emergency operating center; and

1-58 (3) assistance to fire-fighting forces in obtaining
1-59 the transfer of needed and available resources.

1-60 SECTION 5. Subsections (a), (c), and (d), Section 88.119,
1-61 Education Code, are amended to read as follows:

1-62 (a) The director shall divide the state into six wildfire
1-63 control regions to coordinate wildfire ~~[fire]~~ control ~~[in rural~~

2-1 ~~areas and in places where rural areas and urban areas meet].~~ The
 2-2 boundaries of the regions must be the same as existing Department of
 2-3 Public Safety regions that include state disaster district
 2-4 boundaries to the extent that the director determines that the same
 2-5 boundaries are practical.

2-6 (c) Each regional wildfire coordinator shall, with respect
 2-7 to the coordinator's region:

2-8 (1) train, prepare, and coordinate fire fighters to
 2-9 respond to wildfire incidents locally, regionally, and statewide;

2-10 (2) inform the statewide coordination center of
 2-11 regional wildfire loads and of additional resources that may be
 2-12 required to handle a fire load;

2-13 (3) communicate as necessary with appropriate federal
 2-14 officials;

2-15 (4) assist and promote the development of mutual aid
 2-16 agreements among fire-fighting forces;

2-17 (5) develop wildfire strike teams and overhead strike
 2-18 teams;

2-19 (6) coordinate and assess the need for wildfire
 2-20 [~~wildland fire~~] training;

2-21 (7) coordinate the rural community fire protection
 2-22 program;

2-23 (8) coordinate response activities through the
 2-24 appropriate state disaster district; and

2-25 (9) evaluate and acquire excess federal equipment and
 2-26 other property for use in the region.

2-27 (d) The director shall acquire and assign to each wildfire
 2-28 control region a regional command post that has the capability to
 2-29 assist in the management of wildfires [~~wildland fires~~] and other
 2-30 disasters, including disasters not related to fire. The director
 2-31 and the director's designees shall determine when the regional
 2-32 command post may be used by personnel under the control of the
 2-33 director and when the regional command post may be used by local
 2-34 fire-fighting forces or other emergency response personnel. Each
 2-35 regional command post shall include mobile communications
 2-36 equipment, including a radio repeater and a supply of other
 2-37 necessary radio equipment.

2-38 SECTION 6. Section 88.120, Education Code, is amended to
 2-39 read as follows:

2-40 Sec. 88.120. WILDFIRE TRAINING. The Texas Forest Service
 2-41 is the lead agency of the state for providing and coordinating
 2-42 training in fighting wildfires [~~wildland and forest fires~~].

2-43 SECTION 7. Subchapter B, Chapter 88, Education Code, is
 2-44 amended by adding Sections 88.122, 88.123, 88.124, and 88.125 to
 2-45 read as follows:

2-46 Sec. 88.122. INCIDENT MANAGEMENT TEAMS. (a) The Texas
 2-47 Forest Service may support the state's all-hazard response
 2-48 operations by:

2-49 (1) providing incident management training to Texas
 2-50 Forest Service personnel and other state, local, and volunteer
 2-51 responders to develop and enhance the all-hazard response
 2-52 capability of this state; and

2-53 (2) maintaining incident management teams to respond
 2-54 to all-hazard events, including natural, man-made, and planned
 2-55 events.

2-56 (b) An incident management team maintained under this
 2-57 section may consist of Texas Forest Service employees and other
 2-58 state, local, and volunteer responders.

2-59 (c) The Texas Forest Service may mobilize an incident
 2-60 management team for a wildfire response operation.

2-61 (d) Under the direction of the Texas Division of Emergency
 2-62 Management, the Texas Forest Service may mobilize an incident
 2-63 management team to provide incident support for state, disaster
 2-64 district, or local jurisdiction operations.

2-65 Sec. 88.123. VOLUNTEER FIRE DEPARTMENT ASSISTANCE. (a) In
 2-66 this section:

2-67 (1) "Partially paid fire department" means a fire
 2-68 department operated by its members, some of whom are volunteers and
 2-69 some of whom are paid.

3-1 (2) "Volunteer fire department" means a fire
3-2 department operated by its members, including a partially paid fire
3-3 department, that is operated on a not-for-profit basis.
3-4 (3) "Volunteer firefighter" means a member of a
3-5 volunteer fire department.
3-6 (b) The director may establish guidelines within which
3-7 local volunteer fire departments may assist the Texas Forest
3-8 Service in responding to a wildfire after other local firefighting
3-9 resources have been exhausted.
3-10 (c) To the extent that resources are available, the Texas
3-11 Forest Service may:
3-12 (1) compensate a volunteer firefighter or a volunteer
3-13 fire department for labor and expenses related to the assistance
3-14 provided by the firefighter or department under Subsection (b); and
3-15 (2) reimburse a volunteer fire department for
3-16 equipment provided by the department under Subsection (b).
3-17 (d) The director shall determine:
3-18 (1) the rate at which a volunteer firefighter or a
3-19 volunteer fire department may be compensated or reimbursed under
3-20 this section;
3-21 (2) the types of labor and expenses for which a
3-22 volunteer firefighter or a volunteer fire department may be
3-23 compensated under this section;
3-24 (3) the types of equipment for which a volunteer fire
3-25 department may be reimbursed under this section; and
3-26 (4) the minimum qualifications a volunteer
3-27 firefighter must meet in order to be compensated under this
3-28 section, which may include certification under a program
3-29 administered by:
3-30 (A) the State Firemen's and Fire Marshals'
3-31 Association of Texas; or
3-32 (B) the Texas Forest Service according to
3-33 standards determined by the National Wildfire Coordinating Group.
3-34 (e) A volunteer firefighter who receives compensation under
3-35 this section is not subject to the certification requirements of
3-36 Subchapter B, Chapter 419, Government Code.
3-37 (f) The Texas Forest Service may request reimbursement from
3-38 the legislature for a payment made to a volunteer firefighter or a
3-39 volunteer fire department under this section.
3-40 (g) The Texas Forest Service may issue National Wildfire
3-41 Coordinating Group certification to a volunteer firefighter under
3-42 terms determined by the director.
3-43 Sec. 88.124. WILDFIRE PROTECTION PLAN. (a) The Texas
3-44 Forest Service shall hold public meetings to develop and regularly
3-45 update a wildfire protection plan. At a minimum, the plan must:
3-46 (1) define the Texas Forest Service's role in managing
3-47 wildfires and supporting local fire department responses, and the
3-48 manner in which a community may engage the Texas Forest Service on
3-49 issues related to wildfires;
3-50 (2) describe in detail the role of volunteer fire
3-51 departments in wildfire response, including any role relating to
3-52 guidelines established by the director under Section 88.123;
3-53 (3) describe the expected revenue, expenditures,
3-54 staffing, and future funding necessary to implement and sustain the
3-55 plan;
3-56 (4) estimate the expected savings resulting from the
3-57 plan's implementation;
3-58 (5) provide performance measures by which the plan's
3-59 success may be evaluated;
3-60 (6) describe the Texas Forest Service's role in
3-61 conducting prescribed burns and assess statewide efforts to conduct
3-62 those burns;
3-63 (7) identify, analyze, and make recommendations
3-64 regarding wildfire trends and issues; and
3-65 (8) address any other matter determined to be relevant
3-66 by the director.
3-67 (b) The Texas Forest Service shall submit its most recent
3-68 wildfire protection plan together with the service's legislative
3-69 appropriations request to:

- 4-1 (1) the lieutenant governor;
- 4-2 (2) the speaker of the house of representatives; and
- 4-3 (3) the appropriate standing legislative committees

4-4 having jurisdiction over wildfire issues.

4-5 Sec. 88.125. COST-EFFECTIVE USE OF RESOURCES. In
 4-6 determining the appropriate wildfire response, the Texas Forest
 4-7 Service shall use the most cost-effective combination of volunteer
 4-8 firefighters, temporary employees of the Texas Forest Service, and
 4-9 out-of-state personnel and equipment available.

4-10 SECTION 8. Section 614.102, Government Code, is amended by
 4-11 amending Subsection (c) and adding Subsections (c-1) and (c-2) to
 4-12 read as follows:

4-13 (c) The director shall:

4-14 (1) determine reasonable criteria and qualifications
 4-15 for the distribution of money from the volunteer fire department
 4-16 assistance fund, including:

4-17 (A) the frequency, size, and severity of past
 4-18 wildfires in a volunteer fire department's jurisdiction; and

4-19 (B) the potential for loss or damage to property
 4-20 resulting from future wildfires in the department's jurisdiction;
 4-21 and

4-22 (2) establish a procedure for reporting and processing
 4-23 requests for money from the fund.

4-24 (c-1) In determining criteria and qualifications for the
 4-25 distribution of money under Subsection (c), the director shall
 4-26 consider the state's most recent Southern Wildfire Risk Assessment
 4-27 issued by the Southern Group of State Foresters and other
 4-28 applicable information.

4-29 (c-2) The service may designate a portion of the fund to be
 4-30 used to assist volunteer fire departments in meeting cost share
 4-31 requirements for federal grants for which the departments qualify.
 4-32 The director shall determine a set of needs-based criteria for
 4-33 determining a department's eligibility to apply for a grant under
 4-34 this subsection. The criteria must include:

4-35 (1) the size of the department;

4-36 (2) the department's annual budget and source of
 4-37 revenue; and

4-38 (3) the amount by which the department would benefit
 4-39 from the grant.

4-40 SECTION 9. Subchapter G, Chapter 614, Government Code, is
 4-41 amended by adding Section 614.106 to read as follows:

4-42 Sec. 614.106. RULES; APPLICABILITY OF ADMINISTRATIVE
 4-43 PROCEDURE ACT. The director shall adopt rules for the
 4-44 administration of the program authorized by this chapter in
 4-45 accordance with Chapter 2001. The rules must ensure public
 4-46 participation, transparency, and accountability in administration
 4-47 of the program.

4-48 SECTION 10. As soon as practicable after the effective date
 4-49 of this Act, the director of the Texas Forest Service shall adopt
 4-50 rules as necessary to implement this Act.

4-51 SECTION 11. This Act takes effect September 1, 2011.

4-52 * * * * *