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Bill Analysis

Legislative Service Commission

H.B. 196

123rd General Assembly
(As Introduced)

Reps. Maier, Willamowski, Hartnett, Boggs, Metelsky, Ford, Logan, Lucas, Opfer, Schuring, Terwilleger, Van Vyven, Vesper, Allen, Olman, Sulzer, Hood, Schuler, Hollister, Pringle, Krupinski, Britton, Padgett

BILL SUMMARY

- Allows private fire companies to participate in the cooperative purchasing and salvage supply programs operated by the Department of Administrative Services.
- Grants private fire companies and their members the immunities from tort liability granted respectively to political subdivisions and their employees under the Political Subdivision Sovereign Immunity Law.

CONTENT AND OPERATION

Participation in cooperative purchasing and salvage supply programs

Current law

Current law allows the Department of Administrative Services to permit a political subdivision (see **COMMENT**) to participate in contracts into which the Department has entered for the purchase of supplies and services. A political subdivision desiring to participate in the Department's purchase contracts must file with the Department a certified copy of an ordinance or resolution of its legislative authority or governing board requesting participation and agreeing to (1) be bound by the terms and conditions the Department prescribes and (2) pay vendors directly under each purchase contract. Purchases that a political subdivision makes through participating in the Department's purchase contracts are exempt from any competitive selection procedures otherwise required by law. A political subdivision may not make a purchase through a Department purchase contract when it has received bids for the purchase, unless the purchase can be made upon the same terms, conditions, and specifications at a lower price under the Department's purchase contract. (Sec. 125.04(B).)

Current law also authorizes the Director of Administrative Services to dispose of declared surplus or excess supplies that the Department of Administrative Services has received from state agencies, by sale, lease, or transfer. The Director must dispose of those supplies in the following order of priority: (1) to state agencies, (2) to state-supported or state-assisted institutions of higher education, and (3) to tax-supported agencies, municipal corporations, or other political subdivisions of the state. (Sec. 125.13(A) to (C).)

Changes proposed by the bill

The bill allows private fire companies to participate in the cooperative purchasing and salvage supply programs operated by the Department of Administrative Services under the same conditions that govern political subdivision and public agency participation. The bill defines "private fire company" to mean any nonprofit group or organization owning and operating firefighting equipment not controlled by any municipal corporation, township, township fire district, joint ambulance district, joint emergency medical services district, or joint fire district (secs. 9.60(A)(1) and (2), 125.04(B)(1)(b), and 125.13(C)(1)(c)).

Any private fire company desiring to participate in the Department's purchase contracts must file with the Department a written request for inclusion in the program signed by the company's chief officer. The request must include an agreement to be bound by whatever terms and conditions the Department prescribes and to directly pay the vendor under each purchase contract (sec. 125.04(B)(2)).

The bill permits a private fire company to obtain surplus or excess supplies in the Department's Salvage Supply program with the same priority as municipal corporations and other political subdivisions (sec. 125.13(C)(1)(c)).

Immunity from tort liability

The bill specifies that a private fire company that is providing fire protection to a political subdivision of the state under a contract is liable in damages in a civil action for injury, death, or loss to person or property caused by the negligent operation of a motor vehicle by its members upon the public roads, highways, or streets when they are engaged within the scope of their responsibilities, but this liability is *subject to the full defenses provided in the Political Subdivision Sovereign Immunity (PSSI) Law* against liability for injury, death, or loss to person or property caused by the negligent (*but not willful or wanton*) operation of a motor vehicle *while engaged in duty at a fire, proceeding toward a place where a fire is in progress or believed to be in progress or*

answering any other emergency alarm, as if the private fire company were a political subdivision under the PSSI Law. The members of a private fire company that is providing fire protection to a political subdivision have the *personal defense* against tort liability provided in the PSSI Law, as if they were employees of a political subdivision under the PSSI Law; generally, those employees have an immunity from personal tort liability for actions or omissions unless they acted in bad faith, with malicious purpose, manifestly beyond the scope of their employment or official responsibilities, or in a wanton or reckless manner. (Sec. 9.60(F); secs. 2744.02(B)(1) and 2744.03(A)(6)--not in bill.)

COMMENT

Current law defines "political subdivision," in the statute that deals with participation in purchase contracts of the Department of Administrative Services, to mean any county, township, municipal corporation, school district, conservancy district, township park district, metropolitan park district, regional transit authority, regional airport authority, regional water and sewer district, port authority, or other political subdivision described in the Revised Code that has been approved by the Department to participate in the Department's purchase contracts (sec. 125.04(B)(1)(a)).

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-17-99	p. 215

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