



**Sub. H.B. 401**

126th General Assembly

(As Reported by S. State and Local Government and Veterans Affairs)

**Reps. Law, Flowers, Coley, Uecker, S. Patton, Bubp, D. Evans, Key, Perry, Sayre, Blessing, Book, Brown, DeBose, Distel, Dolan, Domenick, Driehaus, Fende, Hagan, Harwood, Hughes, Koziura, Martin, J. McGregor, Otterman, T. Patton, Reed, Reidelbach, Schaffer, Setzer, G. Smith, D. Stewart, Wagoner, Widener, Williams, Yuko**

**Sens. Cates, Grendell, Armbruster, Niehaus, Mumper, D. Miller, Fedor, Kearney**

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**BILL SUMMARY**

- Provides for the certification of individuals to teach fire service (firefighter and fire safety inspector) training programs and continuing education classes, and for the issuing of fire training certificates to individuals to practice as a firefighter, as a fire safety inspector, or in another position of any fire training certification level approved by the Executive Director of the State Board of Emergency Medical Services (EMS Board), in accordance with rules the Executive Director adopts as described below.
- Requires the Executive Director of the EMS Board, with the advice and counsel of the EMS Board's Firefighter and Fire Safety Inspector Training Committee, to adopt rules in accordance with the Administrative Procedure Act to provide for chartering the fire service training programs, issuing instructor certificates to teach in those programs, issuing fire training certificates to practice as a firefighter, as a fire safety inspector, or in another position of any fire training certification level the Executive Director approves, and taking disciplinary action on specified grounds against certificate holders and chartered entities, including, but not limited to, the potential imposition of fines of up to \$1,000 and certificate or charter suspensions or revocations.

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## CONTENT AND OPERATION

### *Fire service training programs: standards and rules*

#### *Current law*

Under current law, the Executive Director of the State Board of Emergency Medical Services (EMS Board), with the advice and counsel of the EMS Board's Firefighter and Fire Safety Inspector Training Committee (Committee), must assist any state agency, county, township, city, village, school district (other than a cooperative education school district), or educational service center in establishing and maintaining a *fire service training program* for all paid and volunteer firefighters and fire safety inspectors in the state. The Executive Director, with the Committee's advice and counsel, also must adopt *standards* to regulate those firefighter and fire safety inspector training programs, must provide for their *classification* and *chartering*, and may *revoke* any training program's charter for failure to meet the standards. The standards may include, but are not limited to, minimum courses of study, minimum hours of instruction, attendance requirements, required equipment and facilities, qualifications of instructors, basic physical and methods training (apparently for firefighters and fire safety inspectors), and training schedules. Those adopted to regulate training programs for volunteer firefighters may not require more than 36 hours of training. (R.C. 4765.55(B).)

Current law requires the Executive Director to issue a certificate to each person who satisfactorily *completes* a chartered training program (R.C. 4765.55(C)).

#### *Changes proposed by the bill*

The bill expands the Executive Director's current authority described above and requires the Executive Director to adopt *rules*, instead of standards, with the Committee's advice and counsel to regulate firefighter and fire safety inspector training programs as well as other training programs approved by the Executive Director. The rules may include, but need not be limited to, training curriculum and certification examinations, which replace "provisions for minimum courses of study"; training schedules; minimum hours of instruction; attendance requirements; required equipment and facilities; and basic physical *requirements* and methods *of* training for all persons in positions of any fire training certification level approved by the Executive Director, including full-time paid firefighters, part-time paid firefighters, volunteer firefighters, and fire safety inspectors (see **COMMENT** for definitions). The rules, similar to current law's standards, cannot

require more than 36 hours of training for volunteer firefighters. (R.C. 4765.55(A).)

### **Chartering and certification rules**

Similar to current law, the bill requires the Executive Director, with the Committee's advice and counsel, to provide for the classification and chartering of *fire service* (replacing essentially "firefighter and fire safety inspector") *training programs* and apparently other training programs the Executive Director approves. But, under the bill, the Executive Director must do so in accordance with rules the Executive Director is required to adopt, with the Committee's advice and counsel, under the Administrative Procedure Act to establish all of the following (R.C. 4765.55(A) and (B)):

- (1) Requirements for, and procedures for chartering, the training programs;
- (2) Requirements for, and requirements and procedures for obtaining and renewing, an *instructor certificate to teach* the training programs and continuing education classes (see below);
- (3) Requirements for, and requirements and procedures for obtaining and renewing, any *fire training certificates* covered by the bill;
- (4) Grounds and procedures for suspending, revoking, restricting, or refusing to issue or renew any of the certificates or charters regulated by the bill, which grounds would be limited to one of the following:
  - (a) Failure to satisfy the bill's education or training requirements;
  - (b) Conviction of a felony offense;
  - (c) Conviction of a misdemeanor involving moral turpitude;
  - (d) Conviction of a misdemeanor committed in the course of practice;
  - (e) In the case of a chartered training program or applicant, failure to meet standards set by the rules the Director adopts.
- (5) Grounds and procedures for imposing and collecting fines, not to exceed \$1,000, on certificate and charter holders in relation to actions taken under item (4) above.<sup>1</sup> These fines, when collected, must be deposited into the Trauma and Emergency Medical Services Fund (R.C. 4513.263--not in the bill).

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<sup>1</sup> *The bill specifically authorizes the Executive Director, with the Committee's advice and counsel, to take action against any chartered training program or "applicant" for failure*

(6) Continuing education requirements for certificate holders including a requirement that credit must be granted for in-service training programs conducted by local entities;

(7) Procedures for considering the granting of an extension or exemption of fire service continuing education requirements;

(8) Certification cycles for which certificates and charters will be valid.

**Certifications and charters: issuance and renewal**

The bill provides for instructor certificates to teach fire service training programs and apparently other training programs the Executive Director approves, and for fire training certificates for a firefighter, a fire safety inspector, or another position of any fire training certification level approved by the Executive Director.

Specifically, the Executive Director, with the Committee's advice and counsel, must issue or renew an instructor *certificate to teach* the training programs and continuing education classes regulated by the bill to any applicant that the Executive Director determines meets the qualifications established in the rules described in the immediately preceding portion of this analysis, and may take disciplinary action against a certificate holder or applicant in accordance with those rules. And, the Executive Director, with the Committee's advice and counsel, must charter or renew the *charter* of any training program that the Executive Director determines meets the qualifications established in those rules, and may take disciplinary action against the holder of a charter in accordance with those rules. (R.C. 4765.55(C).)

The bill also requires the Executive Director to issue or renew a *fire training certificate* for a firefighter, a fire safety inspector, or another position of any fire training certification level approved by the Executive Director to any applicant the Executive Director determines meets the qualifications established in those rules. The Executive Director also may take disciplinary actions against such a certificate holder or applicant in accordance with those rules. (R.C. 4765.55(D).)<sup>2</sup>

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*to meet standards set forth in the adopted rules--the action to be taken as described in item (4) and (5) above (R.C. 4765.55(A)).*

<sup>2</sup> *These provisions replace current law's requirement that the Executive Director issue a certificate to each person satisfactorily completing a chartered training program (R.C. 4765.55(E)).*

### **Date for rules adoption and phase-in for certificate renewal**

The bill requires the Executive Director to adopt the rules required by the bill within 12 months after its effective date. The Executive Director also must phase-in the renewal of current certificates over a 12-month period following the rules' effective date in accordance with a schedule the Executive Director determines. (Section 3.)

### **Evaluations of standards of other states and the U.S. military**

Under current law, the Executive Director, with the Committee's advice and counsel, must establish criteria for evaluating the standards maintained by other states and the U.S. military for *firefighter* training programs to determine if they are equivalent to the standards the Executive Director establishes under current Ohio law. The bill maintains this requirement but mandates the establishment of criteria for evaluations of the standards of other state and U.S. military (1) fire safety inspector and fire instructor training programs as well as (2) other training programs recognized by the Executive Director, in addition to firefighter training programs. (R.C. 4765.55(F)(1).)

### **Other laws relating to the Ohio Fire Academy**

Under current law, the statutes relating to the Ohio Fire Academy are not invalidated by the previously discussed law conferring "standards," "chartering," and "certificate" authority on the Executive Director. The bill retains this statement, which expands in meaning to include the Executive Director's rule adoption authority and other powers under the bill, and adds that the section of law pertaining to the general *rule-making* authority of the *EMS Board* (R.C. 4765.11--not in the bill) does not affect any powers and duties granted to the Executive Director under the bill.<sup>3</sup> (R.C. 4765.55(G).)

### **Investigatory authority for the Committee**

The bill authorizes the EMS Board's Firefighter and Fire Safety Inspector Training Committee to conduct investigations in the course of discharging its duties under the Emergency Medical Services Law. The bill provides the Committee with authority to issue subpoenas in the course of an investigation, and, if a person fails to comply with a subpoena, the Committee may authorize its

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<sup>3</sup> Pursuant to R.C. 3737.33, the State Fire Marshal must conduct "a training school for firemen, including volunteer firemen, of any political subdivision of the state, and for other persons interested in the vocation of firefighting and desiring to attend." R.C. 3737.33 also requires the Fire Marshal to establish the training program and all rules governing qualifications for admission to the Ohio Fire Academy.

chairperson to apply to the court of common pleas in the county where the person resides for an order compelling compliance in the same manner as that court otherwise would compel compliance with one of its subpoenas. (R.C. 4765.04(A).)

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## COMMENT

1. The bill defines the following relevant terms (R.C. 4765.01(Y), (Z), and (AA)):

(a) "Firefighter"--as under the Ohio Police and Fire Pension Fund Law, any member of a fire department of the state, an instrumentality of the state, a municipal corporation, a township, a joint fire district, or another political subdivision.

(b) "Volunteer firefighter"--the same meaning as in the Volunteer Fire Fighters' Dependents Fund Law (see R.C. 146.01(B)--not in the bill).

(c) "Part-time paid firefighter"--a person who provides firefighting services on less than a full-time basis, who is routinely scheduled to be present on site at a fire station or other designated location for the purpose of responding to a fire or other emergency, and who receives more than nominal compensation for providing firefighting services.

2. In conjunction with its fire service training program law changes in R.C. 4765.55, the bill makes conforming changes in the following sections: R.C. 505.38(A)(1), 737.08(B)(1) and (2) and (C)(1) and (2), 737.22(B)(1)(a) and (b), and 4765.49(G).

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## HISTORY

ACTION	DATE
Introduced	10-26-05
Reported, H. Transportation, Public Safety, & Homeland Security	05-18-06
Passed House (91-2)	05-24-06
Reported, S. State & Local Gov't & Veterans Affairs	11-16-06

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