



Stacy V. Pollock

Final Analysis
Legislative Service Commission

Sub. H.B. 401

126th General Assembly
(As Passed by the General Assembly)

- 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, Austria, Roberts, Stivers

Effective date: *

ACT 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

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

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.

CONTENT AND OPERATION

Fire service training programs: standards and rules

Former law

Under former 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), was required to 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 was required to adopt *standards* to regulate those firefighter and fire safety inspector training programs, was required to provide for their *classification* and *chartering*, and could *revoke* any training program's charter for failure to meet the standards. The standards could include, but were 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 could not require more than 36 hours of training. (R.C. 4765.55(B).)

Former law further required the Executive Director to issue a certificate to each person who satisfactorily completed a chartered training program (R.C. 4765.55(C)).

Changes made by the act

The act expands the Executive Director's 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 former law's "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 former law's standards, cannot require more than 36 hours of training for volunteer firefighters. (R.C. 4765.55(A).)

Chartering and certification rules

Somewhat similar to former law, the act 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 act, 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 act;
- (4) Grounds and procedures for suspending, revoking, restricting, or refusing to issue or renew any of the certificates or charters regulated by the act, which grounds would be limited to one of the following:
 - (a) Failure to satisfy the act'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.¹ These fines, when collected, must be deposited into the Trauma and Emergency Medical Services Fund (R.C. 4513.263--not in the act).

(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 act 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 act to any applicant that the Executive Director determines meets the qualifications established in the rules described in the immediately preceding portion of this final 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 act 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

¹ *The act specifically authorizes the Executive Director, with the Committee's advice and counsel, to take action against any chartered training program or "applicant" for failure 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)).*

such a certificate holder or applicant in accordance with those rules. (R.C. 4765.55(D).)²

Date for rules adoption and phase-in for certificate renewal

The act requires the Executive Director to adopt the rules the act mandates 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 of the act.)

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

Under continuing 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 Ohio law. The act, while maintaining this requirement, further mandates the establishment of criteria for similar 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. (R.C. 4765.55(F)(1).)

Other laws relating to the Ohio Fire Academy

Under former law, the statutes relating to the Ohio Fire Academy were not invalidated by the previously discussed law conferring "standards," "chartering," and "certificate" authority on the Executive Director. The act retains this statement, which expands in meaning to include the Executive Director's rule adoption authority and other powers under the act, 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 act) does not affect any powers and duties granted to the Executive Director under the act.³ (R.C. 4765.55(G).)

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

³ *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.*

Investigatory authority for the Committee

The act 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 act 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 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).)

COMMENT

1. The act 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 act).

(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 act 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).

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
Passed Senate (30-1)	11-28-06

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