

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. Subdivision (2), Section 88.1015, 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

board, appoint the assistants and employees necessary in executing the director's duties [~~of his office~~] and the purposes of the board, their compensation to be fixed by the board;

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

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

(5) collect data relating to forest conditions; and

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

SECTION 4. Section 88.103, Education Code, is amended to read as follows:

Sec. 88.103. ENFORCEMENT; APPOINTMENT OF PEACE OFFICERS. The director may appoint not to exceed 25 employees of the Texas Forest Service who are certified by the Commission on Law Enforcement Officer Standards and Education as qualified to be peace officers to serve as peace officers under the [~~his~~] direction of the director in executing the enforcement duties of that agency. The appointments must be approved by the board which shall commission the appointees as peace officers. Any officer commissioned under this section is vested with all the powers, privileges, and immunities of peace officers in the performance of the officer's [~~his~~] duties. The officer shall take the oath required of peace officers.

SECTION 5. Section 88.105, Education Code, is amended to

read as follows:

Sec. 88.105. COOPERATION WITH PERSONS AND AGENCIES. On request, under the sanction of the board, and whenever the director [~~he~~] deems it essential to the best interests of the people of the state, the director shall cooperate with counties, towns, corporations, or individuals in preparing plans for the protection, management, and replacement of trees, woodlots, and timber tracts, under an agreement that the parties obtaining the assistance pay at least the field expenses of the persons [~~men~~] employed in preparing the plans. The board may cooperate with the National Forest Service under terms it deems desirable.

SECTION 6. Subsection (a), Section 88.106, Education Code, is amended to read as follows:

(a) The director, under the supervision of the board, may cooperate on forestry projects with the National Forest Service and other federal agencies. Subject [~~and, subject~~] to the authorization of the board, the director [~~he~~] may execute agreements relating to forest protection projects in cooperation with federal agencies and timberland owners and may also execute agreements with timberland owners involving supervision of forest protection and forest development projects when the projects are developed with the aid of loans from a federal agency and when the supervision by the state is required by federal statute or is deemed necessary by the federal agency.

SECTION 7. Subsections (b) and (c), Section 88.118, Education Code, are amended to read as follows:

(b) The center may [~~shall~~] provide continuous dispatching

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services for wildfire [~~wildland fire~~] control [~~in the six Texas Forest Service dispatch areas in eastern Texas~~].

(c) The center shall provide a central location for statewide:

(1) wildfire monitoring;

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

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

SECTION 8. Subsections (a), (c), and (d), Section 88.119, Education Code, are amended to read as follows:

(a) The director shall divide the state into six wildfire control regions to coordinate wildfire [~~fire~~] control [~~in rural areas and in places where rural areas and urban areas meet~~]. The boundaries of the regions must be the same as existing Department of Public Safety regions that include state disaster district boundaries to the extent that the director determines that the same boundaries are practical.

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

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

(2) inform the statewide coordination center of regional wildfire loads and of additional resources that may be

required to handle a fire load;

(3) communicate as necessary with appropriate federal officials;

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

(5) develop wildfire strike teams and overhead strike teams;

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

(7) coordinate the rural community fire protection program;

(8) coordinate response activities through the appropriate state disaster district; and

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

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

SECTION 9. Section 88.120, Education Code, is amended to

read as follows:

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

SECTION 10. Subchapter B, Chapter 88, Education Code, is amended by adding Sections 88.122, 88.123, 88.124, and 88.125 to read as follows:

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

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

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

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

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

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

Sec. 88.123. VOLUNTEER FIRE DEPARTMENT ASSISTANCE. (a) In

this section:

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

(2) "Volunteer fire department" means a fire department operated by its members, including a partially paid fire department, that is operated on a not-for-profit basis.

(3) "Volunteer firefighter" means a member of a volunteer fire department.

(b) The director may establish guidelines within which local volunteer fire departments may assist the Texas Forest Service in responding to a wildfire after other local firefighting resources have been exhausted.

(c) To the extent that resources are available, the Texas Forest Service may:

(1) compensate a volunteer firefighter or a volunteer fire department for labor and expenses related to the assistance provided by the firefighter or department under Subsection (b); and

(2) reimburse a volunteer fire department for equipment provided by the department under Subsection (b).

(d) The director shall determine:

(1) the rate at which a volunteer firefighter or a volunteer fire department may be compensated or reimbursed under this section;

(2) the types of labor and expenses for which a volunteer firefighter or a volunteer fire department may be compensated under this section;

(3) the types of equipment for which a volunteer fire department may be reimbursed under this section; and

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

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

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

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

(f) The Texas Forest Service may request reimbursement from the legislature for a payment made to a volunteer firefighter or a volunteer fire department under this section.

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

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

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

(2) describe in detail the role of volunteer fire



departments in wildfire response, including any role relating to guidelines established by the director under Section 88.123;

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

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

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

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

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

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

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

(1) the lieutenant governor;

(2) the speaker of the house of representatives; and

(3) the appropriate standing legislative committees having jurisdiction over wildfire issues.

Sec. 88.125. COST-EFFECTIVE USE OF RESOURCES. In determining the appropriate wildfire response, the Texas Forest Service shall use the most cost-effective combination of volunteer firefighters, temporary employees of the Texas Forest Service, and

out-of-state personnel and equipment available.

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

(c) The director shall:

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

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

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

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

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

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

(1) the size of the department;

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

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

SECTION 12. Subchapter G, Chapter 614, Government Code, is amended by adding Section 614.106 to read as follows:

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

SECTION 13. As soon as practicable after the effective date of this Act, the director of the Texas Forest Service shall adopt rules as necessary to implement this Act.

SECTION 14. This Act takes effect September 1, 2011.

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David Newhurst

President of the Senate

Joe Straus

Speaker of the House

I hereby certify that S.B. No. 646 passed the Senate on March 30, 2011, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 2, 2011, by the following vote: Yeas 31, Nays 0.

Daisy Spaw  
Secretary of the Senate

I hereby certify that S.B. No. 646 passed the House, with amendment, on April 27, 2011, by the following vote: Yeas 140, Nays 0, one present not voting.

Robert Hanes  
Chief Clerk of the House

Approved:

12 MAY '11

Date

RICK PERRY

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE

6:00 pm O'CLOCK

MAY 12 2011

Cheryl R. ...  
Secretary of State