

- 9. Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - A. Discussion and possible final adoption on proposed amendments, new sections, repeals, and rule reviews as follows:**
 - 1. Proposed amendments to 37 TAC, Chapter 401, Practice and Procedure, including, but not limited to §401.1(b) (3), Purpose and Scope.**

Chapter 401
PRACTICE AND PROCEDURE
Subchapter A
GENERAL PROVISIONS AND DEFINITIONS

§401.1. Purpose and Scope.

- (a) Purpose. The purpose of this chapter is to provide a system of procedures for practice before the Texas Commission on Fire Protection that will promote the just and efficient disposition of proceedings and public participation in the decision-making process. The provisions of this chapter shall be given a fair and impartial construction to attain these objectives.
- (b) Scope.
- (1) This chapter shall govern the initiation, conduct, and determination of proceedings required or permitted by law in matters regulated by the commission, whether instituted by order of the commission or by the filing of an application, complaint, petition, or any other pleading.
- (2) This chapter shall not be construed so as to enlarge, diminish, modify, or otherwise alter the jurisdiction, powers, or authority of the commission, its staff, or the substantive rights of any person.
- ~~(3) This chapter shall not apply to applications or proceedings concerning Fire Department Emergency Program funds which are governed by Chapter 461 of this title (relating to General Administration), Chapter 463 of this title (relating to Application Criteria), and Chapter 465 of this title (relating to Equipment, Facilities, and Training Standards).]~~
- (3)**(4) This chapter shall not apply to matters related solely to the internal personnel rules and practices of this agency.
- (4)**(5) To the extent that any provision of this chapter is in conflict with any statute or substantive rule of the commission, the statute or substantive rule shall control.
- (5)**(6) In matters referred to the State Office of Administrative Hearings (SOAH), hearings or other proceedings are governed by 1 TAC Chapter 155 (relating to Rules of Procedures) adopted by SOAH effective January 2, 1998. To the extent that any provision of this chapter is in conflict with SOAH Rules of Procedures, the SOAH rules shall control.

§401.3. Definitions.

The following terms, when used in this chapter, shall have the following meanings, unless the context or specific language of a section clearly indicates otherwise:

- (1) Advisory Committee--An advisory committee that is required to assist the commission in its rule-making function and whose members are appointed by the commission pursuant to Government Code, §419.008, or other law.
- (2) Agency--Includes the commission, the executive director, and all divisions, departments, and employees thereof.

- (3) APA--Government Code, Chapter 2001, The Administrative Procedure Act, as it may be amended from time to time.
- (4) Applicant--A person, including the commission staff, who seeks action from the commission by written application, petition, complaint, notice of intent, appeal, or other pleading that initiates a proceeding.
- (5) Application--A written request seeking a license from the commission, petition, complaint, notice of intent, appeal, or other pleading that initiates a proceeding.
- (6) Authorized Representative--A person who enters an appearance on behalf of a party, or on behalf of a person seeking to be a party or otherwise to participate in a commission proceeding.
- (7) Chairman--The commissioner who serves as presiding officer of the commission pursuant to Government Code, §419.007.
- (8) Commission--The Texas Commission on Fire Protection.
- (9) Commissioner--One of the appointed members of the decision-making body defined as the commission.
- (10) Complainant--Any person, including the commission's legal staff, who files a signed written complaint intended to initiate a proceeding with the commission regarding any act or omission by a person subject to the commission's jurisdiction.
- (11) Contested Case--A proceeding, including but not restricted to, the issuance of certificates, licenses, registrations, permits, etc., in which the legal rights, duties, or privileges of a party are to be determined by the agency after an opportunity for adjudicative hearing.
- (12) Days--Calendar days, not working days, unless otherwise specified in this chapter or in the commission's substantive rules.
- (13) Division--An administrative unit for regulation of specific activities within the commission's jurisdiction.
- (14) Executive Director--The executive director appointed by the commission pursuant to Government Code, §419.009.
- (15) Hearings Officer--An administrative law judge on the staff of the State Office of Administrative Hearings assigned to conduct a hearing and to issue a proposal for decision, including findings of fact and conclusions of law, in a contested case pursuant to Government Code, Chapter 2003.
- (16) License--Includes the whole or part of any agency permit, certificate, approval, registration, license, or similar form of permission required or permitted by law.
- (17) Licensee--A person who holds an agency permit, certificate, approval, registration, license, or similar form of permission required or permitted by law.
- (18) Licensing--Includes the agency process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.
- (19) Party--Each person or agency named or admitted as a party in a contested case.
- (20) Person--Any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than the commission.
- (21) Pleading--A written document submitted by a party, or a person seeking to participate in a proceeding, setting forth allegations of fact, claims, requests for relief, legal argument, and/or other matters relating to a commission proceeding.

- (22) Presiding Officer--The chairman, the acting chairman, the executive director, or a duly authorized hearings officer.
- (23) Proceeding--Any hearing, investigation, inquiry, or other fact-finding or decision-making procedure, including the denial of relief or the dismissal of a complaint.
- (24) Respondent--A person under the commission's jurisdiction against whom any complaint or appeal has been filed or who is under formal investigation by the commission.

§401.5. Delegation of Authority.

All decisions to suspend, revoke, or deny an application for any certificate or approval, to reprimand or place on probation the holder of such certificate or approval, or to impose an order for restitution, remedial action, or administrative penalties pursuant to Government Code, Chapter 419, shall be made by the executive director.

§401.7. Construction.

- (a) A provision of a rule referring to the commission, the executive director, or a provision referring to the presiding officer, is construed to apply to the commission or chairman if the matter is within the jurisdiction of the commission, to the executive director if the matter is within the jurisdiction of the executive director.
- (b) Unless otherwise provided by law, any duty imposed on the commission, the chairman, or the executive director may be delegated to a duly authorized representative. In such case, the provisions of any rule referring to the commission, the chairman, or the executive director, shall be construed to also apply to the duly authorized representative of the commission, the chairman, or the executive director.

§401.9. Records of Official Action.

All official acts of the commission or the executive director shall be evidenced by a recorded or written record. Official action of the commission or the executive director shall not be bound or prejudiced by any informal statement or opinion made by any member of the commission, the executive director, or the employees of the agency.

§401.11. Conduct of Commission and Advisory Meetings.

- (a) Statements concerning items which are part of the commission's posted agenda. Persons who desire to make presentations to the commission concerning matters on the agenda for a scheduled commission meeting or advisory committee meeting shall complete registration cards which shall be made available at the entry to the place where the commission's scheduled meeting is to be held. The registration cards shall include blanks in which all of the following information must be disclosed:
 - (1) name of the person making a presentation;
 - (2) a statement as to whether the person is being reimbursed for the presentation; and if so, the name of the person or entity on whose behalf the presentation is made;
 - (3) a statement as to whether the presenter has registered as a lobbyist in relationship to the matter in question;
 - (4) a reference to the agenda item which the person wishes to discuss before the commission;
 - (5) an indication as to whether the presenter wishes to speak for or against the proposed agenda item; and

- (6) a statement verifying that all factual information to be presented shall be true and correct to the best of the knowledge of the speaker.
- (b) Discretion of the presiding officer. The presiding officer of the commission or the advisory committee, as the case may be, shall have discretion to employ any generally recognized system of parliamentary procedures, including, but not limited to Robert's Rules of Order for the conduct of commission or committee meetings, to the extent that such parliamentary procedures are consistent with the Texas Open Meetings Act or other applicable law and these rules. The presiding officer shall also have discretion in setting reasonable limits on the time to be allocated for each matter on the agenda of a scheduled commission meeting or advisory committee meeting and for each presentation on a particular agenda item. If several persons wish to address the commission or advisory committee on the same agenda item, it shall be within the discretion of the chair to request that persons who wish to address the same side of the issue coordinate their comments, or limit their comments to an expression in favor of views previously articulated by persons speaking on the same side of an issue.
- (c) Requests that issues be placed on an agenda for discussion. Persons who wish to bring issues before the commission shall first address their request to the General Counsel and Executive Director, Texas Commission on Fire Protection, P.O. Box 2286, Austin, Texas 78768-2286. Such requests should be submitted at least 30 days in advance of commission meetings, but in no event less than 15 days. The decision whether to place a matter on an agenda for discussion before the full commission, or alternatively before a commission advisory committee, or with designated staff members, shall be within the discretion of the appropriate presiding officer.

§401.13. Computation of Time.

- (a) Computing Time. In computing any period of time prescribed or allowed by these rules, by order of the Agency, or by any applicable statute, the period shall begin on the day after the act, event, or default in controversy and conclude on the last day of such computed period, unless it be a Saturday, Sunday, or a legal holiday, in which event, the period runs until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday. A party or attorney of record notified by mail under §401.61 of this title (relating to Record) is deemed to have been notified on the date on which notice is mailed.
- (b) Extensions. Unless otherwise provided by statute, the time for filing any pleading, except a notice of protest, may be extended by order of the director, upon the following conditions:
 - (1) A written motion must be duly filed with the director prior to the expiration of the applicable period of time allowed for such filings.
 - (2) The written motion must show good cause for such extension and that the need is not caused by the neglect, indifference, or lack of diligence on the part of the movant.
 - (3) A copy of any such motion shall be served upon all other parties of record to the proceeding contemporaneously with the filing thereof.

§401.15. Agreements To Be in Writing.

- (a) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.
- (b) No stipulation or agreement between the parties, their attorneys or representatives, with regard to any matter involved in any proceeding before the Agency, shall be enforced unless it shall have been reduced to writing and signed by the parties or their authorized representatives, or unless it shall have been dictated into the record by them during the course of a hearing, or incorporated in an order bearing their written approval. This rule does not limit a party's ability to waive, modify, or stipulate any right or privilege afforded by these rules, unless precluded by law.

- 9. Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:**
 - A. Discussion and possible final adoption on proposed amendments, new sections, repeals, and rule reviews as follows:**
 - 2. Proposed amendments to 37 TAC, Chapter 423, Fire Suppression, including, but not limited to §423.3(a)(2)(B) Minimum Standards for Basic Structure Fire Protection Personnel Certification; §423.201(b) Minimum Standards for Aircraft Rescue Fire Fighting Personnel.**

CHAPTER 423
FIRE SUPPRESSION
SUBCHAPTER A

MINIMUM STANDARDS FOR STRUCTURE FIRE PROTECTION PERSONNEL CERTIFICATION

§423.1. MINIMUM STANDARDS FOR STRUCTURE FIRE PROTECTION PERSONNEL.

- (a) Fire protection personnel of any local government entity, who receive probationary or temporary appointment to structure fire protection duties, must be certified by the Commission within one year from the date of their appointment in a structural fire protection personnel position.
- (b) Prior to being appointed to fire suppression duties or certified as fire protection personnel, the Commission must review and approve the applicants fingerprint based criminal history record information obtained from the Department of Public Safety and the Federal Bureau of Investigation. The individual or fire department must follow the procedure established by the Department of Public Safety to initiate and complete the electronic fingerprint process. The results will be available to the Commission through the Department of Public Safety's data base. The Commission will follow the criteria established in Title 37 Chapter 403 of the Texas Administrative Code (TAC) for denying a person certification based on the results of the fingerprint based criminal history record check.
- (c) Prior to being appointed to fire suppression duties, personnel must complete a Commission-approved basic structure fire suppression program and successfully complete a Commission recognized emergency medical course. The individual must successfully pass the Commission examination pertaining to that curriculum as required by §423.3 of this title. The Commission recognizes the following emergency medical training:
 - (1) Department of State Health Services Emergency Medical Service Personnel certification training;
 - (2) an American Red Cross Emergency Response course, including the optional lessons and enrichment sections;
 - (3) an American Safety and Health Institute First Responder course;
 - (4) National Registry of Emergency Medical Technicians certification; or
 - (5) medical training deemed equivalent by the Commission.
- (d) Personnel holding any level of structure fire protection personnel certification must comply with the continuing education requirements specified in §441.7 of this title (relating to Continuing Education for Structure Fire Protection Personnel).

§423.3. Minimum Standards for Basic Structure Fire Protection Personnel Certification.

- (a) In order to become certified as basic structure fire protection personnel, an individual must:
 - (1) possess valid documentation of accreditation from the International Fire Service Accreditation Congress as a Fire Fighter I, Fire Fighter II, Hazardous Materials Awareness Level Personnel; and

- (A) Hazardous Materials Operations Level Responders including the Mission-Specific Competencies for Personal Protective Equipment and Product Control under the current edition; or
 - (B) NFPA 472 Hazardous Materials Operations prior to the 2008 edition; and
 - (C) must meet the medical requirements outlined in §423.1(b) of this title; or
- (2) complete a Commission-approved basic structure fire suppression program, meet the medical requirements outlined in §423.1(b), and successfully pass the Commission examination(s) as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved basic structure fire suppression program shall consist of one or any combination of the following:
- (A) completion of a Commission-approved Basic Fire Suppression Curriculum, as specified in Chapter 1 of the Commission's Certification Curriculum Manual; or
 - ~~[(B) completion of the five phase levels of the approved Basic Fire Suppression Curriculum, as specified in Chapter 1 of the Commission's Certification Curriculum Manual; or]~~
 - ~~(B)(C)~~ completion of an out-of-state, and/or military training program deemed equivalent to the Commission-approved Basic Fire Suppression Curriculum; or
 - ~~(C)(D)~~ documentation of the receipt of an advanced certificate or training records from the State Firemen's and Fire Marshals' Association of Texas, that is deemed equivalent to a Commission-approved Basic Fire Suppression Curriculum.
- (b) A basic fire suppression program may be submitted to the Commission for approval by another jurisdiction as required in Texas Government Code, §419.032(d), Appointment of Fire Protection Personnel. These programs include out-of-state and military programs, and shall be deemed equivalent by the Commission if the subjects taught, subject content, and total hours of training meet or exceed those contained in Chapter 1 of the Commission's Certification Curriculum Manual.

§423.5. Minimum Standards for Intermediate Structure Fire Protection Personnel Certification.

- (a) Applicants for Intermediate Structure Fire Protection Personnel Certification must complete the following requirements:
- (1) hold, as a prerequisite, a Basic Structure Fire Protection Personnel Certification as defined in §423.3 of this title (relating to Minimum Standards for Basic Structure Fire Protection Personnel Certification); and
 - (2) acquire a minimum of four years of fire protection experience and complete the training listed in one of the following options:
 - (A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the Commission that the courses comply with subsections (b) and (c) of this section; or
 - (B) Option 2--Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or

- (C) Option 3--Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1, with either one A-List course or four B-List courses (See the exception outlined in subsection (c) of this section).
- (b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the Commission's Certification Curriculum Manual or for experience in fire service, may not be counted toward this level of certification.
- (c) The training required in this section must be in addition to any training used to qualify for any lower level of Structure Fire Protection Personnel Certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§423.7. Minimum Standards for Advanced Structure Fire Protection Personnel Certification.

- (a) Applicants for Advanced Structure Fire Protection Personnel certification must complete the following requirements:
 - (1) hold as a prerequisite an Intermediate Structure Fire Protection Personnel Certification as defined in §423.5 of this title (relating to Minimum Standards for Intermediate Structure Fire Protection Personnel Certification); and
 - (2) acquire a minimum of eight years of fire protection experience and complete the training listed in one of the following options:
 - (A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or
 - (B) Option 2—Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or
 - (C) Option 3—Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses (See the exception outlined in subsection (c) of this section).
- (b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.
- (c) The training required in this section must be in addition to any training used to qualify for any lower level of Structure Fire Protection Personnel Certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§423.9. Minimum Standards for Master Structure Fire Protection Personnel Certification.

- (a) Applicants for Master Structure Fire Protection Personnel Certification must complete the following requirements:
 - (1) hold as a prerequisite an Advanced Structure Fire Protection Personnel Certification as defined in

§423.7 of this title (relating to Minimum Standards for Advanced Structure Fire Protection Personnel Certification); and

- (2) acquire a minimum of twelve years of fire protection experience, and 60 college semester hours or an associate degree, which includes at least 18 college semester hours in fire science subjects.
- (b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Master Structure Fire Protection Personnel Certification

§423.11. Higher Levels of Certification.

- (a) An individual may receive higher levels of certification in structural fire protection while being assigned to another discipline, provided that all requirements for the higher level or levels of certification are met.
- (b) Repetitive training cannot be used toward higher levels of certification.

§423.13. International Fire Service Accreditation Congress (IFSAC) Seal.

- (a) Individuals holding a current Commission Structure Fire Protection Personnel certification received prior to March 10, 2003, may be granted International Fire Service Accreditation Congress (IFSAC) seals for Hazardous Materials Awareness Level Personnel, Hazardous Materials Operations Level Responders, Fire Fighter I, and Fire Fighter II by making application to the Commission for the IFSAC seals and paying applicable fees.
- (b) Individuals completing a Commission-approved basic fire suppression program, meeting any other NFPA requirement, and passing the applicable examination(s) based on the basic fire suppression curriculum, may be granted IFSAC seal(s) for Hazardous Materials Awareness Level Personnel, Hazardous Materials Operations Level Responders (including the Mission-Specific Competencies for Personal Protective Equipment and Product Control), Fire Fighter I, and/or Fire Fighter II by making application to the Commission for the IFSAC seal(s) and paying applicable fees, provided they meet the following provisions:
 - (1) To receive the IFSAC Hazardous Materials Awareness Level Personnel seal, the individual must:
 - (A) complete the Hazardous Materials Awareness section of a Commission approved course; and
 - (B) pass the Hazardous Materials Awareness section of a Commission examination.
 - (2) To receive the IFSAC Hazardous Materials Operations Level Responders seal (including the Mission-Specific Competencies for Personal Protective Equipment and Product Control) the individual must:
 - (A) complete the Hazardous Materials Operation section of a Commission-approved course;
 - (B) document possession of an IFSAC Hazardous Materials Awareness Level Personnel seal; and

- (C) pass the Hazardous Materials Operations section of a Commission examination.
- (3) To receive the IFSAC Fire Fighter I seal, the individual must:
 - (A) complete a Commission-approved Fire Fighter I course;
 - (B) provide medical documentation as outlined in subsection (c) of this section;
 - (C) document possession of an IFSAC Hazardous Materials Awareness Level Personnel seal; and
 - (D) document possession of an IFSAC Hazardous Materials Operations Level Responders seal; and
 - (E) pass the Fire Fighter I section of a Commission examination.
 - (4) To receive the IFSAC Fire Fighter II seal, the individual must:
 - (A) complete a Commission-approved Fire Fighter II course;
 - (B) document possession of an IFSAC Fire Fighter I seal; and
 - (C) pass the Fire Fighter II section of a Commission examination.
- (c) In order to meet the medical requirements of NFPA 1001, the individual must document successful completion of an emergency medical training course or program. The Commission recognizes the following emergency medical training:
- (1) The Texas Department of State Health Services Emergency Medical Service Personnel certification training;
 - (2) American Red Cross Response course (including optional lessons and enrichment sections);
 - (3) American Safety and Health Institute First Responder course;
 - (4) National Registry of Emergency Medical Technicians certification; or
 - (5) medical training deemed equivalent by the Commission.

SUBCHAPTER B

MINIMUM STANDARDS FOR AIRCRAFT RESCUE FIRE FIGHTING PERSONNEL

§423.201. Minimum Standards for Aircraft Rescue Fire Fighting Personnel.

- (a) Aircraft rescue fire fighting personnel are employees of a local governmental entity who are appointed to aircraft rescue firefighting duties. These duties may include fighting aircraft fires at airports, standing by for potential crash landings, and performing aircraft rescue and fire fighting duties.
- (b) Personnel appointed as ~~for~~Aircraft Rescue Fire Fighting Personnel must be certified to at least the basic level by the Commission within one year from their employment in an ~~for~~ Aircraft Rescue Fire Fighting Personnel position.
- (c) Prior to being appointed to aircraft rescue fire suppression duties, all personnel must:
 - (1) successfully complete a Commission-approved basic fire suppression course and pass the Commission's examination pertaining to that curriculum; and
 - (2) successfully complete a Commission-approved basic aircraft rescue fire protection course and pass the Commission's examination pertaining to that curriculum.
- (d) "Stand by" means the act of responding to a designated position in the movement area on the airfield at which initial response fire and rescue units will await the arrival of an aircraft experiencing an announced emergency.
- (e) "Movement area" is comprised of all runways, taxiways, and other areas of the airport which are used for taxiing or hover taxiing, take-off, and landing of aircraft, exclusive of loading ramps and aircraft parking areas.
- (f) Personnel holding any level of aircraft rescue fire fighting personnel certification shall be required to comply with the continuing education specified in §441.9 of this title (relating to Continuing Education for Aircraft Rescue Fire Fighting Personnel).
- (g) Aircraft rescue fire fighting personnel that perform structure fire fighting duties must be certified, as a minimum, as basic structural fire protection personnel.

§423.203. Minimum Standards for Basic Aircraft Rescue Fire Fighting Personnel Certification.

In order to obtain a Basic Aircraft Rescue Fire Fighting Personnel Certification the individual must:

- (1) hold a Basic Structure Fire Protection Personnel Certification; and
- (2) possess valid documentation of accreditation from the International Fire Service Accreditation Congress as an Airport Fire Fighter; or
- (3) complete a Commission-approved aircraft rescue fire suppression training program and successfully pass the Commission examination as specified in Chapter 439 of this title (relating to Examinations for Certification). An approved aircraft rescue fire suppression training program shall consist of one of the following:

- (A) a Commission-approved Basic Aircraft Rescue Fire Suppression Curriculum as specified in Chapter 2 of the Commission's Certification Curriculum Manual.
- (B) an out-of-state, and/or military training program that has been submitted to the Commission for evaluation and found to be equivalent to or exceeds the Commission-approved Basic Aircraft Rescue Fire Suppression Curriculum.

§423.205. Minimum Standards for Intermediate Aircraft Rescue Fire Fighting Personnel Certification.

- (a) Applicants for Intermediate Aircraft Rescue Fire Fighting Personnel Certification must complete the following requirements:
 - (1) hold as a prerequisite a Basic Aircraft Rescue Fire Fighting Personnel Certification as defined in §423.203 of this title (relating to Minimum Standards for Basic Aircraft Rescue Fire Fighting Personnel Certification); and
 - (2) acquire a minimum of four years of fire protection experience and complete the training listed in one of the following options:
 - (A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or
 - (B) Option 2—Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or
 - (C) Option 3—Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses (See the exception outlined in subsection (c) of this section).
- (b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.
- (c) The training required in this section must be in addition to any training used to qualify for any lower level of Aircraft Rescue Fire Fighting Certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§423.207. Minimum Standards for Advanced Aircraft Rescue Fire Fighting Personnel Certification.

- (a) Applicants for Advanced Aircraft Rescue Fire Fighting Personnel certification must complete the following requirements:

- (1) hold as a prerequisite an Intermediate Aircraft Rescue Fire Fighting Personnel Certification as defined in §423.205 of this title (relating to Minimum Standards for Intermediate Aircraft Rescue Fire Fighting Personnel Certification); and
- (2) acquire a minimum of eight years of fire protection experience and complete the training listed in one of the following options:
 - (A) Option 1--Successfully complete six semester hours of fire science or fire technology from an approved Fire Protection Degree Program and submit documentation as required by the commission that the courses comply with subsections (b) and (c) of this section; or
 - (B) Option 2—Completion of coursework from either the A-List or the B-List courses. Acceptable combinations of courses are as follows: two A-List courses; or eight B-List courses; or one A-List course and four B-List courses. (See the exception outlined in subsection (c) of this section); or
 - (C) Option 3—Completion of coursework from either the A-List or the B-List courses in combination with college courses in fire science or fire protection. Acceptable combinations of courses are three semester hours meeting the requirements of Option 1 with either one A-List course or four B-List courses (See the exception outlined in subsection (c) of this section).
- (b) Non-traditional credit awarded at the college level, such as credit for experience or credit by examination obtained from attending any school in the commission's Certification Curriculum Manual or for experience in the fire service, may not be counted toward this level of certification.
- (c) The training required in this section must be in addition to any training used to qualify for any lower level of Aircraft Rescue Fire Fighting Personnel Certification. Repeating a course or a course of similar content cannot be used towards this level of certification.

§423.209. Minimum Standards for Master Aircraft Rescue Fire Fighting Personnel Certification.

- (a) Applicants for Master Aircraft Rescue Fire Fighting Personnel Certification must complete the following requirements:
 - (1) hold, as a prerequisite, an Advanced Aircraft Rescue Fire Fighting Personnel Certification as defined in §423.207 of this title (relating to Minimum Standards for Advanced Aircraft Rescue Fire Fighting Personnel Certification); and
 - (2) acquire a minimum of twelve years of fire protection experience, and 60 college semester hours or an associate's degree, which includes at least 18 college semester hours in fire science subjects.
- (b) College level courses from both the upper and lower division may be used to satisfy the education requirement for Master Aircraft Rescue Fire Fighting Personnel Certification.

§423.211. International Fire Service Accreditation Congress (IFSAC) Seal.

- (a) Individuals holding a current commission Aircraft Rescue Fire Fighting Personnel certification received prior to March 10, 2003, may be granted an International Fire Service Accreditation Congress (IFSAC) seal as an Airport Fire Fighter by making application to

the commission for the IFSAC seal and paying applicable fees.

- (b) Individuals completing a commission-approved basic aircraft rescue fire suppression program, documenting an IFSAC seal for Fire Fighter II, and passing the applicable state examination may be granted an IFSAC seal as an Airport Fire Fighter by making application to the commission for the IFSAC seal and paying applicable fees.

9. Matters referred from the Fire Fighter Advisory Committee (FFAC), including but not limited to:

A. Discussion and possible final adoption on proposed amendments, new sections, repeals, and rule reviews as follows:

3. Proposed amendments to 37 TAC, Chapter 437, Fees, including, but not limited to §437.5(a) (f) (j) (k) (n) Renewal Fees, and §437.13 (a) Processing Fees for Test Application.

Chapter 437 Fees

§437.3. Certification Fees.

- (a) A ~~\$85~~ [~~\$35.00~~] non-refundable application fee is required for each certificate issued by the Commission. If a certificate is issued within the time provided in §401.125 of this title (relating to Processing Periods), the fee will be applied to the certification. If the certificate is denied, the applicant must pay a new certification application fee to file a new application.
- (b) The regulated employing entity shall be responsible for all certification fees required as a condition of appointment.
- (c) Nothing in this section shall prohibit an individual from paying a certification fee for any certificate which he or she is qualified to hold, providing the certificate is not required as a condition of appointment (see subsection (b) of this section concerning certification fees).
- (d) Any person who holds a certificate, and is no longer employed by an entity that is regulated by the Commission may submit in writing, a request, together with the required fee to receive a one-time certificate stating the level of certification in each discipline held by the person on the date that person left employment pursuant to the Texas Government Code, §419.033(b).

Multiple certifications may be listed on the one-time certificate. The one-time fee for the one time certificate shall be the same as the current certification fee provided in subsection (a) of this section.

- (e) A facility that provides basic level training for any discipline for which the Commission has established a Basic Curriculum must be certified by the Commission. The training facility will be charged a separate certification fee for each discipline.

§437.5. Renewal Fees.

- (a) A ~~\$85~~ [~~\$35~~] non-refundable annual renewal fee shall be assessed for each certified individual and certified training facility. If an individual or certified training facility holds more than one certificate, the Commission may collect only one ~~\$85~~ [~~\$35~~] renewal fee, which will renew all certificates held by the individual or certified training facility.
- (b) A regulated employing entity shall pay the renewal fee for all certificates which a person must possess as a condition of employment.
- (c) If a person re-enters the fire service whose certificate(s) has been expired for less than one year, the regulated entity must pay all applicable renewal fee(s) and any applicable additional fee(s). Upon payment of the required fees, the certificates previously held by the individual, for which he or she continues to qualify, will be renewed.
- (d) If a person reapplies for a certificate(s) which has been expired less than one year and the individual is not employed by a regulated employing entity as defined in subsection (b) of this section, the individual must pay all applicable renewal fee(s) and any applicable additional fee(s). Upon payment of the required fee(s), the certificate(s) previously held by the individual, for whom he or she continues to qualify, will be renewed.

- (e) Nothing in this section shall prohibit an individual from paying a renewal fee for any certificate which he or she is qualified to hold providing the certificate is not required as a condition of employment.
- (f) Certification renewal **information** [~~statements~~] will be **sent** [~~mailed~~] to all regulated employing entities and individuals holding certification at least 60 days prior to October 31 of each calendar year. Certification renewal **information** [~~statements~~] will be **sent** [~~mailed~~] to certified training facilities at least 60 days prior to February 1 of each calendar year.
- (g) All certification renewal fees must be returned with the renewal statement to the Commission.
- (h) All certification renewal fees must be paid on or before the renewal date posted on the certification renewal statement to avoid additional fee(s).
- (i) The certification period shall be a period not to exceed one year. The certification period for employees of regulated employing entities, and individuals holding certification is November 1 to October 31. The certification period of certified training facilities is February 1 to January 31.
- (j) All certification renewal fees received from one to 30 days after the renewal date posted on the renewal notice will cause the individual or entity responsible for payment to be assessed a non-refundable **\$42.50** [~~\$17.50~~] late fee in addition to the renewal fee for each individual for which a renewal fee was due.
- (k) All certification renewal fees received more than 30 days after the renewal date posted on the renewal notice will cause the individual or entity responsible for payment to be assessed a non-refundable **\$85** [~~\$35.00~~] late fee in addition to the renewal fee for each individual for which a renewal fee was due.
- (l) In addition to any non-refundable late fee(s) assessed for certification renewal, the Commission may hold an informal conference to determine if any further action(s) is to be taken.
- (m) An individual or entity may petition the Commission for a waiver of the late fees required by this section if the person's certificate expired because of the individual or regulated employing entity's good faith clerical error, or expired as a result of termination of the person's employment where the person has been restored to employment through a disciplinary procedure or a court action. All required renewal fees including applicable late fees and all required continuing education must be submitted before the waiver request may be considered.
 - (1) Applicants claiming good faith clerical error must submit a sworn statement together with any supporting documentation that evidences the applicant's good faith efforts to comply with Commission renewal requirements and that failure to comply was due to circumstances beyond the control of the applicant.
 - (2) Applicants claiming restoration to employment as a result of a disciplinary or court action must submit a certified copy of the order restoring the applicant to employment.
- (n) An individual, upon returning from activation to military service, whose certification has expired, must notify the Commission in writing. The individual will have any normally associated late fees waived and will be required to pay a **\$85** [~~\$35.00~~] renewal fee.

§437.13. Processing Fees for Test Application.

- (a) A non-refundable application processing fee of ~~\$85~~ \$35.00 shall be charged for each examination.
- (b) Fees will be paid in advance with the application or the provider of training may be invoiced or billed if previous arrangements have been made with the Commission.



Lake Travis Fire Rescue

Travis County Emergency Services District No. 6

March 4, 2011

Chris Connealy
Fire Chief
Cedar Park Fire Department
715 Discovery, Suite 311
Cedar Park, Texas 78613

Dear Chief Connealy:

As a fellow member of the Texas Fire Chief's Association, I support your efforts on behalf of the Texas Commission on Fire Protection's budget issues.

I also strongly agree that the TCFP needs to continue to function at least at a basic level to ensure firefighter safety, enable regulatory oversight of fire departments so established rules are followed and continue in-house curriculum for firefighter certifications.

I am an advocate for potential solutions such as raising fees or making the TCFP self-supporting in order to retain the full-time employees and I deem the options feasible.

All budget and financial issues are extremely difficult in these gloomy economic conditions, but reducing the TCFP's staff and allowing the Texas Department of Insurance to handle the workload when they do not have additional positions is not the answer.

If I can be of any help, please let me know.

Sincerely,

James N. Linardos
Fire Chief
Travis County ESD No. 6/
Lake Travis Fire Rescue

From: Don Smith [<mailto:dsmith@esd4.org>]
Sent: Monday, March 07, 2011 11:41 AM
To: Gary Warren
Subject: Fees

Good morning Chief Warren, I just wanted to let you know that any fee increases will have a negative effect on small departments across Texas.

I am doing some work for ESD12 in eastern Travis County and their tax base when down 15% to 20% this last year. The appraisal office as told us that eastern Travis County will see another 2% decrease.

So I can not support added fees are increased fee amounts.

Thanks Chief Don Smith

ps: Class Eleven is looking very good. They graduate in April.



TEXAS MUNICIPAL LEAGUE

President **Robert Cluck**, Mayor, Arlington
Executive Director **Bennett Sandlin**

March 10, 2011

Texas Commission on Fire Protection
1701 N. Congress Avenue
Austin, TX 78701

Dear Commission Members:

I am writing to express the Texas Municipal League's concerns with your proposal to raise certification and other fees. Raising fees would impact hundreds of Texas cities by making it more expensive for them to provide fire fighting services to their citizens.

Texas cities are required, under Section 419.026 of the Government Code, to pay for each fire fighter's certification. The fees for certification, and those for examinations, are limited by Section 419.026 to the "amount designed to recover the commission's costs" in preparing certifications and the "cost of preparing, printing, administering, and grading" examinations. Based on those provisions, the commission is required to ensure that its fees do not reflect more than the cost of providing its services to cities and their fire fighters.

TML is aware that the state budget shortfall is making it difficult for state agencies to continue their functions, and that every state agency has been asked to look for cost-saving measures. Texas cities simply ask that the financial burden of state-created requirements not be placed on cities through higher fees. Like the state, cities are having to make hard choices regarding their budgets, and fee increases on an essential public function would make it even more difficult for a city to provide the services demanded by its citizens.

Cities receive little state funding for providing fire fighting services, and any increase in fees would mean a further expansion of the practice of cities financing state agencies. TML requests that the commission avoid placing additional burdens on cities that provide essential fire services.

Please contact me with questions or concerns.

Sincerely,

Laura Mueller
Assistant General Counsel

Deborah Cowan

From: Mark Roughton
Sent: Monday, March 14, 2011 2:14 PM
To: Gary Warren; Deborah Cowan
Cc: John (Jake) Soteriou
Subject: FW: Proposed Fee Change

From: Lewis King [<mailto:lking@round-rock.tx.us>]
Sent: Monday, March 14, 2011 1:57 PM
To: info
Subject: Proposed Fee Change

I feel it is vital to the fire service in Texas to keep the TCFP, even if that means this increase in fees. I understand Cities will object to the increase. I do not mind changing the rules requiring the individual to pay for their renewal. There are many professions where it is the responsibility of the individual to pay for the certifications that allow them to work.

Lewis M. King
Round Rock Fire Dept.
Battalion Chief - Training
Office (512) 218-6634
Nextel (512) 801-3691
Pager (512) 204-8634

Train Often / Be Safe

From: dgifford@lumbertonfirerescue.org [mailto:dgifford@lumbertonfirerescue.org]
Sent: Wednesday, March 16, 2011 5:03 PM
To: Chris Connealy
Subject: Re: Fwd: Legislative Update

Thank for the update Chief.

We were wondering about some of the background behind this decision and fully support the measure. We cannot allow the Commission to loose it's foot hold on safety and compliance regarding the well fare of our states FF's.

Have a great day,

Dennis

--

Dennis M. Gifford
Chief - Lumberton Fire & EMS
FD Cell (409) 284-2527
dgifford@lumbertonfirerescue.org
<http://www.lumbertonfirerescue.org>

> From: Chris Connealy [mailto:Chris.Connealy@cedarparktx.us]
> Sent: Tuesday, March 15, 2011 6:38 PM
> To: Andy Jones; Betty Wilkes; Dean Van Nest; JD Gardner; John Brown; Larry McRae; Lenny Perez; Mike Baker; Mike Donoho; Randy Cain; Robert Isbell; Shawn Snider; Shon Blake; Steve Ross; Vance Riley; Walt Daugherty; Chris Connealy; David Smith; John Ballard; Julie Acevedo; Randy Cain; Scott Kerwood
> Cc: Mike Higgins; Chris Barron; Steve Perdue; Bill Gardner; training@kylefire.com
> Subject: Legislative Update
>
>
> Regional Directors, please forward this message to your region.
>
>
> All,
>
> The Fire Commission had an emergency meeting this past Monday to discuss raising fees based on the contingency rider approved by the House Appropriations Committee. As you recall, the original Legislative Budget Board (LBB) budget was to remove 14 positions from the TCFP and the agency would go from 37 FTE's to 23. The positions represent the administrative staff of the Commission such as the admin assistant, finance, HR, IT, and the librarian. Basically, the Executive Director would have no support staff. These duties would be transferred to the Texas Department of Insurance (TDI) to support the Fire Commission. However, TDI is not getting any new positions. While the Commission staff of inspectors, testing and curriculum would still be there, but the administrative tasks would be handled by an agency that has no connection to the Commission. This is not in the best interest of the Commission or Texas Firefighters..

>

> I had Commission staff develop a minimal budget that would keep a minimum number of administrative staff to support the front-line employees and they proposed submitting a budget with eight positions above LBB's proposed budget and the agency would have 31 FTEs. This would still require six employees to be laid off. This is a difficult issue and two draft contingency riders were proposed to the Senate Finance and House Appropriations Committees. One was to raise fees from the current \$35 to \$50. The other proposal was to raise fees from \$35 to \$85 and make the agency self-funded and no longer tied to the general revenue fund of the state. There are pros and cons to both proposals. However in reality, both are not great choices when considering raising fees, but the demise of the Fire Commission is not in the best interest of the Texas fire service. After many meetings and hearings, the House Appropriations committee only approved the proposed rider to raise fees to \$85 and make the agency self-funded.

>

> In order for this rider to be approved, the Fire Commission had to meet this past Monday and discuss the issue. The Firefighter Advisory Committee met before the Fire Commission meeting, representing various stakeholders in the Texas fire service on March 10th and after various people spoke voted 8-1 to recommend to the Commission to raise fees to \$85. The Commission met Monday, March 14th and after testimony from a number of fire service members, voted unanimously to publish in the Texas Register for a 30-day public comment period to raise fees to \$85. The Commission will take a vote on this issue at its April 28th meeting at 10:00 AM. Based on the April 28th vote by the Commission, will let the House Appropriations Committee know if we approved the contingency rider so they can make their final budget decision before the legislative session ends.

>

> The Commission fully realizes that this will have an impact on cities. During discussions of looking at raising fees, it was proposed that firefighters possibly share in the cost of paying their certification fee to minimize the impact at the local level. Every fire stakeholder group in the state had concerns with that proposal. Again, there are no ideal solutions. However, the Fire Commission and Firefighter Advisory Committee feel that taking the agency down to 23 FTEs will cause the agency to be non-effective and lead to its demise. The various fire service stakeholder groups testified at the meeting yesterday that while they do not like having to raise fees, the majority felt that the demise of the Fire Commission was a much worse option.

>

> I also went to the Capitol today to get support for HB 1876 to have a hearing before the Urban Affairs Committee. It was scheduled for tomorrow and was pulled from the agenda. This bill allows local voters to have an election to determine if they want to have a residential sprinkler requirement in their fire code. Rep. Truitt from Southlake/Grapevine/Keller is the bill sponsor. We greatly appreciate her support! Presently, the State of Texas does not allow communities that already did not have a residential sprinkler ordinance in place on September 1, 2009 cannot adopt an ordinance. The TFCA feels that the state should not make this decision and let local voters make this determination. As stated, the bill was pulled and there are groups out there that do not want this bill to get a hearing.

>

> Julie Acevedo and I met with elected members and/or their staff that sit on the Urban Affairs Committee today urging that a hearing date be set for this bill.

Julie and I will meet with the Rep. Dutton (Houston) on Thursday since he was not available today. At that point, the TFCA would have met with all members of the Urban Affairs Committee. Chiefs that have representatives on the Urban Affairs Committee are encouraged to write a letter/e-mail/or call these representatives and let them know you support HB 1876 and desire a hearing date be set in the near future. This is critically important. Please refer to the Friday Report that listed Urban Affairs members.

>
> This is an extremely busy and very challenging session. We need your support of the Texas Commission on Fire Protection so we can make sure our firefighters have good PPE, SCBAs, PASS devices, a number of SOP's, and other regulatory issues in place by regulating the fire service. Commission staff typically find a number of violations during inspections and help chief officers to be ensured that another set of eyes is making sure firefighters are safe. Equally, professional development by having good curriculum and certifications issued is also very important for Texas firefighters. Many firefighters get incentive pay based on Commission certifications and we are also assured that new firefighters coming into the service meet minimum standards.

>
> Again, HB 1876 also needs your support by contacting your state elected officials to support this bill.

>
> Stay safe,
>
> Chris Connealy
> Fire Chief

> TFCA Legislative Committee Chairman
> No virus found in this incoming message.

> Checked by AVG - www.avg.com
> Version: 8.5.449 / Virus Database: 271.1.1/3507 - Release Date: 03/14/11
19:34:00



Duncanville Fire Department

"Protecting Lives and Property with Pride and Tradition"

MEMORANDUM

TO: Chris Connealy, Presiding Officer Texas Fire Commission

FROM: David Giordano, Fire Chief City of Duncanville

SUBJECT: House Appropriations Committee Information

DATE: March 18, 2011

Chris, I have a few questions regarding the proposed budget and the proposal for the Texas Fire Commission to become a self funded agency. Before I get to my questions let me clearly state the Texas Fire Commission must remain in tact and maintain its current oversight authority over Texas Fire Departments. The Commission is extremely important to the safety of Texas Firefighters.

With that being said I am interested in understanding the operational and funding aspects of the below items.

1. Two FTEs necessary to provide staff services support to agency personnel. What is the operational impact of reducing this to one FTE, and what impact will this change have on the service provided to your customers?
2. One FTE to prepare and disseminate information regarding agency functions to the public, media, legislature, regulated entities and other state agencies. Can these duties as outlined be combined into the administrative and IT functions? This would eliminate one FTE position.
3. What is the impact of reducing the IT staff by one FTE, while adding additional responsibilities of ensuring compliance with State of Texas Electronic Information Resources Accessibility Standards to the IT staff responsibilities?
4. Has there been any consideration given to deferring the library program until the next budget cycle? What would be the overall impact of deferring the program?
5. To assist with travel of personnel has there been any discussion of changing the inspection program from two to three years? What would be the impact of such

a plan? Has there been any consideration given to some type of department self reporting to the commission regarding PPE, SCBA and training for the years a dept does not have an on-sight inspection?

I fully understand the Texas Fire Commissions desire to save as many position as possible and continue the level of service the agency is providing. Unfortunately, reality is not allowing any of us to do business as usual. The City of Duncanville has recently reduced staffing from four to three on our engines, we have eliminated positions within the city, our personnel have experienced furlough days for two consecutive years, currently I have Firefighter positions that are frozen and the city has reduced operating hours of several city facilities.

Although the national housing market is up 2.94% the Dallas area is experiencing a decline of 3.76%, the City of Duncanville's' last two sales tax checks were down 8% and 4% bringing in revenue that is below our 2005 sales tax. Our situation is as critical as the funding situation for the Commission.

As stated earlier I fully support the responsibilities of the Commission but I do not support the increase of over 100% for certification fees. Working with the various state agencies I hope the commission will continue to assess every aspect of its proposed budget and find a middle ground that will allow for critical services to be delivered while eliminating or deferring less important services until the economy improves.

My questions above focus on consolidating some job functions while reducing your staff by 3 FTEs. My suggestions and or comments are intended to allow the Commission to provide critical services while also allowing the Commission to find a way to reduce certification fees to something less than the proposed rate.

I look forward to your response and if you require additional information please contact me.

Respectfully submitted.

From: Gary Warren [<mailto:gary.warren@tcfp.state.tx.us>]
Sent: Tuesday, March 22, 2011 2:54 PM
To: Chris Connealy
Cc: dgiordano@ci.duncanville.tx.us
Subject: RE: Texas Fire Commission budget 2011

Chief,

Following is my response to Chief David Giordano's e-mail to you dated March 18, 2011.

1. The Texas Commission on Fire Protection's support services staff in the current biennium (2010-2011), not including IT personnel, consists of seven FTEs. The current proposal to reduce this to two FTEs will make it extraordinarily difficult for the agency to manage its accounting, HR, strategic planning and other indirect administrative functions; further reducing this item to one FTE, as you propose, would have a direct impact on agency customers, including delays in processing incoming mail (including all revenue), delays in deposits to the treasury, lack of oversight in reconciling USAS and ABEST records, etc.
2. The agency has already combined its Public Information Officer and Information Resource Management functions under one FTE. This individual manages the public side of the agency's website, receives and routes all incoming e-mail, and manages all media inquiries; additionally, this individual is responsible for overseeing the purchase and maintenance of all the agency's computer equipment, for ensuring compliance with all DIR reporting requirements, and managing all of the agency's IR projects. Eliminating this position and further disseminating these responsibilities to other staff members would overburden the remaining staff.
3. The agency strives to ensure that its systems meet all state and federal EIR accessibility guidelines. Any additional reductions in IT staff would make it difficult to meet any additional requirements in this area. The biggest current danger the agency faces with its IT systems is a shortage of personnel, since there is no personnel redundancy, the agency's systems are critically dependent on the knowledge and skills of its current IT staff.
4. The agency could defer purchases of some new materials until the next biennium, but departments which rely on the library for current materials would, of course, be ill-served. Some materials, such as subscriptions to the NFPA codes and other periodicals, would quickly be out of date if allowed to lapse. And without a research librarian (who also serves as the agency's records manager), customers who have come to rely on the agency for answers on difficult subjects would have to go elsewhere to find research assistance.
5. The agency is required by law (Texas Government Code, Chapter 419.027) to conduct biennial inspections. Switching to a three-year cycle would require a change in the statute, which can only be done by the legislature. During the last biennium, the agency was forced to reduce the number and frequency of inspection trips (i.e., sending fewer inspectors to each department, etc.) in order to meet its mandatory budget reductions. Self-reporting would require further development of the agency's IT systems, which are already under a heavy burden to meet existing demands.

While the agency appreciates your statement that you "fully understand the Texas Fire Commissions desire(s) to save as many positions as possible and continue the level of service the agency is providing," we feel that it mischaracterizes the commission's goals throughout this budget struggle. The agency is not trying to save as many positions as possible; instead, it is sacrificing as many FTEs as possible while continuing to meet its statutory obligations. The most current proposals reduce the agency from its

2010-2011 level of 40 FTEs to 31 FTEs, with no concurrent reduction in the agency's statutory duties and responsibilities. A reduction of three additional FTEs, as suggested, would take the agency from 40 to 28, representing an overall cut of 30 percent of the agency's workforce, which would simply be cutting further into the bone.

Gary

From: Chris Connealy [<mailto:Chris.Connealy@cedarparktx.us>]
Sent: Friday, March 18, 2011 3:41 PM
To: Gary Warren; Deborah Cowan
Cc: dgiordano@ci.duncanville.tx.us
Subject: FW: Texas Fire Commission budget 2011

Gary,

Can you please reply to Chief Giordano's questions.

Thank you,

Chris Connealy
Fire Chief
Cedar Park Fire Department
715 Discovery, Suite 311
Cedar Park, TX 78613
P 512-401-5226 F 512-260-2464

From: David Giordano [<mailto:dgiordano@ci.duncanville.tx.us>]
Sent: Friday, March 18, 2011 1:38 PM
To: Chris Connealy
Subject: Texas Fire Commission budget 2011

Please review the attached memorandum in which I have asked a few questions regarding the Commission and the proposed budget. I look forward to hearing from you and I know you have a very challenging task ahead as the Commission Presiding Officer.



Austin Fire Department

"Our Mission Goes Beyond Our Name"

4201 Ed Bluestein, Austin, TX 78721
www.CityofAustin.org/fire

March 29, 2011

Chief Chris Connealy
Presiding Officer
Texas Commission on Fire Protection
1701 N. Congress Avenue
Austin, TX 78701

Dear Chief Connealy:

On behalf of the six largest fire departments in the state of Texas, I am writing to protest the proposal you plan to put before the House Appropriations Committee on April 28 to raise annual testing and certification fees from \$35 to \$85 per firefighter. For those of us with large departments, **the proposed fee represents a 143 percent increase** that will result in hundreds of thousands of dollars, putting significant additional strain on our budgets in a downward economic cycle.

We firmly believe in the mission and purpose of the Texas Commission on Fire Protection (TCFP); that is not in question. However, the goal of becoming a self-funded agency on the backs of the very departments that you regulate is not an acceptable ideal. Those of us who have signed this letter very much support the Commission, but **not** the fee increase; it falls in line with additional unfunded mandates required by the Commission and most recently includes mandatory advanced inspections and replacement of Personal Protective Equipment (PPE) every 10 years, regardless of condition.

In 2009, TCFP increased the annual fee from \$20 to \$35; just three years later, you propose to raise these fees again from \$35 to \$85 for **a total three year increase of 325 percent.** Currently, based on the 2009 rate, the state's six largest departments (with a combined uniformed strength of 10,498) contribute a total of approximately \$99,775 to the TCFP budget. If the new rate is approved, that amount will jump to approximately \$754,590 beginning in 2012. For a department-by-department breakdown, please see the attached spreadsheet.

Additionally, this increase may have a "chilling effect" on professional development since departments will have to pay twice—once for the application to test and again to apply for certification. For the Austin Fire Department to elevate a firefighter to Fire Officer III would cost \$100 in 2008 and \$280 in 2009. If this increase is approved, it will cost \$765 per person in 2012!

Also, departments have had to bear an additional fee in the last two years which was imposed by TCFP rule. This fee is for background investigations that must be conducted prior to initial certification issuance. In Dallas, for example, this cost (although an FBI NCIC fingerprint check is already conducted as part of the pre-employment process) is in excess of \$40 per firefighter.

To compound the issue, Dallas Fire Rescue can only use L1, which is an agency TCFP has instructed departments to use for the background screening.

It seems disingenuous to expect us to shoulder the majority of funding for TCFP when no additional services are being provided. In fact, we now do more of the work ourselves that TCFP used to provide—certificate issuance, database management, etc. We would be interested to hear what, if any, additions to the current service level we are experiencing to justify such a sharp proposed fee hike.

The bottom line is that although we do wholeheartedly support the TCFP, we cannot support another unfunded mandate to help you become a self-funded entity. I hope you will take our strong disapproval into account before levying such large fees on fire departments across the state in these tight budget conditions.

Sincerely,



Rhoda Mae Kerr
Fire Chief



Terry Garrison, Fire Chief/Houston Fire Department



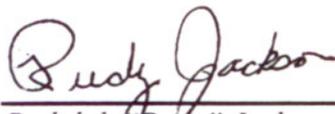
Charles Hood, Fire Chief, San Antonio Fire Department



Otto Drozd III, Fire Chief, El Paso Fire Department



Eddie Burns, Sr., Fire Chief, Dallas Fire Rescue



Rudolph "Rudy" Jackson, Jr., Fire Chief, Fort Worth Fire Department

xc: Members of the House Appropriations Subcommittee on Articles I, IV, and & V/Texas House of Representatives

Gary L. Warren, Sr., Executive Director/Texas Commission on Fire Protection

<u>Department</u>	<u>2009: \$20-\$35</u>	<u>2012: \$35-\$85</u>	<u>2012: Difference - 142.86% increase</u>	<u># of Uniformed Personnel (Authorized Strength)</u>
Austin Fire Department	\$21,740 - \$38,045	\$38,045 - \$92,395	\$54,350	1087
Dallas Fire Rescue	\$35,660 - \$62,405	\$62,405 - \$151,555	\$89,150	1783
El Paso Fire Department	\$17,640 - \$30,870	\$30,870 - \$74,970	\$44,100	882
Fort Worth Fire Department	\$34,330	\$85,765	\$51,435	905
Houston Fire Department	\$62,820	\$209,400	\$146,580	4188
San Antonio Fire Department	\$33,060 - \$57,855	\$57,855 - \$140,505	\$82,650	1653
TOTALS	\$99,775	\$754,590	\$468,265	10,498