

COMMITTEE SUBSTITUTE

FOR

**H. B. 4107**

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(BY DELEGATES MORGAN, STEPHENS, HATFIELD,  
TALBOTT, MARTIN, HARTMAN, STAGGERS,  
AZINGER, HOWELL AND SNUFFER)

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(Originating in the Committee on Government Organization)  
[January 24, 2012]

A BILL to amend and reenact §29-3-9 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §29-3-5d, all relating to volunteer firefighters; requiring the State Fire Commission to establish training, equipment and performance standards by legislative rule; and authorizing emergency rules.

*Be it enacted by the Legislature of West Virginia:*

That §29-3-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §29-3-5d, all to read as follows:

**ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.**

**§29-3-5d. Volunteer firefighters' training.**

1       (a) On or before July 30, 2012, the State Fire  
2       Commission shall propose rules for legislative approval in  
3       accordance with the provisions of article three, chapter  
4       twenty-nine-a of this code, to establish training requirements  
5       for firefighters which:

6       (1) Provide for:

7       (A) Minimum training levels for rescue and fire fighting;

8       (B) Minimum levels of equipment needed to protect life  
9       and property within fire service areas;

10       (C) Minimum performance standards the departments  
11       must meet in response times, communications, levels of  
12       water flow and pressure; and

13       (D) Other performance measures as considered necessary  
14       to meet the overall goals of improved fire prevention and  
15       control.

16       (2) Allow the training to be offered in segments, blocks  
17       or modules: *Provided*, That no firefighter may engage in fire

18 fighting activities, except in response to wildland fires, until  
19 he or she has completed all firefighter one training: *Provided,*  
20 *however,* That support members may provide ancillary  
21 assistance to firefighters as defined by the rule;

22 (3) Provide for online training;

23 (4) Allow testing to be done in person or online; and

24 (5) Establish the testing requirements which include:

25 (A) If the individual is required to test in person, then the  
26 tests must be given regionally at various times throughout the  
27 year; or

28 (B) If the individual is authorized to test online, then the  
29 requirements for online testing must be established.

30 (b) The State Fire Commission may promulgate  
31 emergency rules pursuant to the provisions of section fifteen,  
32 article three, chapter twenty-nine-a of this code to effectuate  
33 the provisions of this section.

34 (c) The training policies in effect as of the effective date  
35 of the enactment of this section during the Regular Session  
36 of 2012 will remain in effect until superseded by the

37 emergency rule or legislative rule promulgated pursuant to  
38 this section.

**§29-3-9. Powers, duties and authority of State Fire Commission  
and State Fire Marshal.**

1 (a) The State Fire Commission may employ personnel,  
2 fix their compensation and, within funds available to do so,  
3 incur expenses as necessary in the performance of the duties  
4 of its office.

5 (b) The State Fire Commission is responsible for fire  
6 programs within this state, including the State Fire Marshal's  
7 office, training, uniform standards and certification, finance  
8 and planning and fire prevention.

9 (c) All state and area training and education in fire  
10 service shall be coordinated by the State Fire Commission.  
11 The State Fire Marshal shall ensure that these programs are  
12 operated throughout the state at a level consistent with needs  
13 identified by the ~~commissioner~~ commission.

14 (d) ~~The State Fire Commission shall develop minimum~~  
15 ~~training levels for firefighters, minimum levels of equipment~~

16 ~~needed to protect life and property within fire service areas,~~  
17 ~~minimum performance standards the departments must meet~~  
18 ~~in response times, communications, minimum levels of water~~  
19 ~~flow and pressure and other performance measures as~~  
20 ~~considered necessary to meet the overall goals of improved~~  
21 ~~fire prevention and control.~~ The State Fire Commission may  
22 make recommendations to the State Insurance Commissioner  
23 regarding town classifications for fire insurance rates.

24 (e) The formation of any new fire department, including  
25 volunteer fire departments, requires the concurrence of the  
26 State Fire Commission. The State Fire Commission shall  
27 develop a method of certification which can be applied to all  
28 fire departments and volunteer fire departments.

29 (f) The State Fire Commission shall develop a plan for  
30 fire prevention and control which shall include, but not be  
31 limited to, the following areas: Manpower needs; location of  
32 training centers; location of fire prevention and control units;  
33 communications; fire fighting facilities; water sources;  
34 vehicular needs; public education and information; public

35 participation; standardization in record keeping; evaluation  
36 of personnel; reporting of fire hazards; programs on mutual  
37 aid; location of public safety agencies; outline of fire  
38 prevention programs; and accessibility of fire prevention  
39 information.

40 (g) The State Fire Commission shall establish fire  
41 protection areas and at such times as funds are available shall  
42 establish field offices for inspection, planning and  
43 certification.

44 (h) The State Fire Marshal may accept, on behalf of the  
45 State Fire Commission, gifts, grants, court ordered civil  
46 forfeiture proceedings and bequests of funds or property  
47 from individuals, foundations, corporations, the federal  
48 government, governmental agencies and other organizations  
49 or institutions. The State Fire Marshal, acting on behalf of  
50 the State Fire Commission, may enter into, sign and execute  
51 any agreements and do and perform any acts that may be  
52 necessary, useful, desirable or convenient to effectuate the  
53 purposes of this article. Moneys from gifts, grants, civil

54 forfeiture proceedings and bequests received by the State Fire  
55 Marshal shall be deposited into the special account set forth  
56 in subsection (c), section twelve-b of this article, and the  
57 State Fire Marshal, with the approval of the State Fire  
58 Commission, has the authority to make expenditures of, or  
59 use of any tangible property, in order to effectuate the  
60 purposes of this article.

61 (i) The State Fire Commission shall establish standards  
62 and procedures by policy to implement the provisions of this  
63 section with regard to the following:

64 (1) Fire prevention and control;

65 (2) Uniform standards of performance, equipment and  
66 training;

67 (3) Certification;

68 (4) Training and education in fire service, subject to the  
69 rule-making requirements set forth in section five-d of this  
70 article; and

71 (5) The creation, operation and responsibilities of fire  
72 departments throughout the state.