

E AND R AMENDMENTS TO LB 1096

Introduced by Enrollment and Review Committee: McGill, 26,
Chairperson

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 Section 1. The Legislature finds that matters relating to
4 emergency medical first response and fire protection are matters of
5 state concern, particularly in larger cities that rely primarily or
6 entirely upon volunteers to provide these services. Recognizing the
7 increasing complexity and difficulty of providing these services,
8 the stringent and growing training demands made upon volunteers,
9 the demographics of an aging population, the economic pressures
10 that deny or inhibit employers from granting the opportunity for
11 volunteers to respond to emergency calls during business hours, and
12 the economic costs to residents and businesses of financing either
13 a paid or partly paid emergency response system, the Legislature
14 hereby declares the necessity of establishing a system and process
15 whereby certain cities of the first class would be required to
16 review, study, and modify on a continuing basis their emergency
17 response systems, with appropriate public input, based upon local
18 conditions and circumstances.

19 Sec. 2. Not later than January 5, 2009, each city of the
20 first class with a population in excess of thirty-seven thousand
21 five hundred inhabitants shall employ a full-time fire chief with
22 appropriate training, credentials, and experience and for whom
23 firefighting or emergency medical first response is a full-time

1 career. The fire chief shall be appointed by the mayor with
2 the approval of the city council. The fire chief shall have the
3 immediate superintendence of the fire prevention, fire suppression,
4 and emergency medical first response services and the facilities
5 and equipment related to such services of the city. The fire
6 chief shall promulgate, implement, and enforce rules governing the
7 actions and conduct of volunteer members of the department so as to
8 be in conformity with the personnel policies of the city.

9 Sec. 3. (1) In addition to such other duties as may be
10 performed by the fire chief employed pursuant to section 2 of this
11 act, he or she shall keep and maintain full and complete records
12 regarding the twelve-month period ending thirty days prior to the
13 annual report of the chief to the city council as provided for in
14 subsection (2) of this section. Such records include, but are not
15 limited to, the number of volunteers in active volunteer service
16 providing emergency response services to the city including their
17 ages, the amount and type of training received by each volunteer
18 during the course of his or her time of service as an active
19 volunteer, the number of new volunteers recruited during such
20 period, the number of volunteers who ceased to be active volunteers
21 during that period, the basic information regarding each volunteer
22 specified in section 35-1309.01, the number and nature of calls or
23 requests for emergency services, the response time for each call,
24 to be calculated from the time of receipt of the dispatch to the
25 time of arrival of the first fire or rescue emergency response
26 vehicle at the site of the request, the number of volunteers
27 responding to each call, and the time each call was received. The

1 city council may specify any additional information to be gathered
2 or collected by the fire chief or as the fire chief may recommend.

3 (2) The fire chief shall collate and analyze the
4 information gathered pursuant to subsection (1) of this section
5 and shall, no less than once in any twelve-month period, on a
6 date specified by the city council, provide a report to the
7 city council at a regular council meeting on the prior year's
8 experience regarding the volunteer department and shall make such
9 recommendations as he or she deems appropriate.

10 Sec. 4. Section 35-901, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 35-901 (1) For purposes of this section, volunteer
13 department shall mean volunteer fire department or volunteer
14 first-aid, rescue, or emergency squad or volunteer fire company
15 serving any city, village, county, township, or rural or suburban
16 fire protection district.

17 (2) Each Except as provided in subsection (4) of this
18 section, each volunteer department may establish a volunteer
19 department trust fund. All general donations, or contributions,
20 bequests, or annuities made to the volunteer department and all
21 money raised by or for the volunteer department shall be deposited
22 in the trust fund. The trust fund shall be under the control
23 of the volunteer department, and the volunteer department may
24 make expenditures from the trust fund as it deems necessary. The
25 treasurer of the volunteer department shall be the custodian of the
26 trust fund.

27 (3) The trust fund shall not be considered public funds

1 or funds of any city, village, county, township, or rural or
2 suburban fire protection district for any purpose, including the
3 Nebraska Budget Act, nor shall any city, village, county, township,
4 or rural or suburban fire protection district incur any liability
5 solely by reason of any expenditure from such fund except liability
6 for property when any city, village, county, township, or rural
7 or suburban fire protection district receives title to property
8 acquired with money from such fund.

9 (4) (a) If the total amount of expenditures and receipts
10 in the trust fund exceeds one hundred thousand dollars in
11 any twelve-month period, the volunteer department shall inform
12 any city, village, county, township, or rural or suburban fire
13 protection district receiving service from the department and such
14 entity may examine or cause to be examined all books, accounts,
15 vouchers, records, and expenditures with regard to the trust fund.

16 (b) Funds, fees, or charges solicited, collected, or
17 received by a volunteer department that are (i) in consequence
18 of the performance of fire or rescue services by the volunteer
19 department at a given place and time, (ii) accomplished through the
20 use by the volunteer department of equipment owned by the taxing
21 authority supporting such department and provided to the volunteer
22 department for that purpose, and (iii) paid by or on behalf of
23 the recipient of those services shall not be deposited in a trust
24 fund authorized by this section. Such funds are public funds of the
25 taxing authority supporting the volunteer department and are deemed
26 to have been collected by the volunteer department as the agent of
27 the taxing authority and are held by the department on its behalf.

1 If such funds are in the possession of a volunteer department,
2 the taxing authority shall cause all the books, accounts, records,
3 vouchers, expenditures, and statements regarding such funds to be
4 examined and independently audited at the expense of the taxing
5 authority by a qualified professional auditor or the Auditor of
6 Public Accounts for the immediately preceding five years.

7 ~~(4)~~ (5) Nothing in this section shall be construed or
8 deemed to permit a violation of the Nebraska Liquor Control Act.

9 ~~(5)~~ (6) All expenditures of public funds as defined in
10 the Nebraska Budget Act for support of a volunteer department or
11 its purposes shall be submitted as claims, approved by the taxing
12 authority supporting such department or its purposes, and published
13 as required by law. All such claims shall be properly itemized for
14 proposed expenditure or reimbursement for costs already incurred
15 and paid except as may be otherwise permitted pursuant to section
16 35-106.

17 ~~(6)~~ (7) All money raised pursuant to the Nebraska Bingo
18 Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card
19 Lottery Act, and the Nebraska Small Lottery and Raffle Act shall be
20 subject to such acts with respect to the deposit and expenditure of
21 such money.

22 (8) No volunteer department shall solicit, charge, or
23 collect any funds, fees, or charges as described in subdivision
24 (4)(b) of this section without the express authorization of the
25 taxing authority supporting the department by vote of a majority
26 of the members of the governing body of such taxing authority.
27 Such authorization shall not extend beyond a twelve-month period

1 but may be renewed at the discretion of the taxing authority in
2 the same manner in which it was initially granted. Upon collection
3 or receipt, such funds, fees, or charges shall be remitted to
4 the designated officer of the taxing authority for deposit to
5 the account of the taxing authority. The taxing authority may
6 appropriate and expend some or all of such funds for the support of
7 a service award benefit program adopted and conducted pursuant to
8 the Volunteer Emergency Responders Recruitment and Retention Act.

9 Sec. 5. Original section 35-901, Reissue Revised Statutes
10 of Nebraska, is repealed.

11 2. On page 1, line 4, strike "a city" and insert "certain
12 cities"; in line 5 strike "the use of a"; and in line 6 strike
13 "fund" and insert "funds".