

**ONE HUNDREDTH LEGISLATURE - SECOND SESSION -
2008**

COMMITTEE STATEMENT

LB1096

Hearing Date: February 05, 2008

Committee On: Urban Affairs

Introducer(s): (Friend)

Title: Provide for the hiring of a fire chief in a city of the first class

Roll Call Vote - Final Committee Action:

Placed on General File with Amendments

Vote Results:

6 Yes	Senators Friend, Janssen, Lathrop, McGill, Rogert, White
1 No	Senators Cornett
0 Absent	
0 Present, not voting	

Proponents:

Senator Mike Friend
Dave Engler
David Hogelin
Darren Bates

Opponents:

Joseph Bockman
David Kindig
Mike Moser
Jerome Thompson
Dave Szymanski
John Stacey
Mike Hegarty
Dale Tedder
Amber Brown
Patrick Sullivan
Jerry Stilmock

Representing:

Introducer
NE Professional Firefighters
Columbus Professional Firefighters
Omaha Professional Firefighters

Representing:

Nebraska State Volunteer Firefighters
United Cities of Sarpy County
City of Columbus
Kearney Fire Dept.
Bellevue Vol. Fire/Rescue Dept.
City of Bellevue
Bellevue Volunteer Fire Dept.
Bellevue Fire Chief
City of Kearney
City of Bellevue
NE State Volunteer Firefighters Assoc.

Kelly Hardin
Lynn Rex
Neutral:
Gary Mixan

Kearney Volunteer Fire Dept.
League of NE Municipalities
Representing:
Bellevue City Council

Summary of purpose and/or change: This legislation proposes to continue the search for a resolution to the public safety issues raised by LB 607 in the 2007 legislative session. That bill provided that any first class city which has a population of greater than thirty-eight thousand people would be required to pay and employ a full-time fire chief and full-time firefighters. It was heard by the Urban Affairs Committee on February 13, 2007 and indefinitely postponed on that same date.

LB 1096 is divided into two parts. Sections 1, 2, and 3 deal with the proposed requirement that first class cities with a population in excess of twenty thousand people be required to hire a career fire chief and that basic data on volunteer performance be gathered by the chief and annually reported to the city council with a public hearing held on the report. The intent is to facilitate the local dialogue on a paid fire department by gathering basic data and requiring an annual public hearing and discussion of the issue.

The records to be kept by the fire chief are to include the number of volunteers in active volunteer service to the city, their ages, the amount of training received by each such volunteer while in active service, the number of new volunteers recruited during each year, the number of volunteers who ceased to be active volunteers during that period, the basic information regarding each volunteer specified in section 35-1309.01 (the portion of the Volunteer Emergency Responders Recruitment and Retention Act which defines what constitutes an active volunteer), the number and nature of calls or requests for emergency services received by the department, the response time for each call (to be calculated from the time of receipt of the call till the arrival of the first emergency response vehicle at the site of the request), the number of volunteers responding to each call, and the time each call was received. The city council may specify additional information to be gathered or collected by the fire chief.

Within thirty of the receipt of the report by the city council, the council is required to hold a public hearing on the report and permit public comment on its contents.

The second part of the bill, found in section 4, proposes to amend section 35-901 to require volunteer fire departments with trust funds which experience financial activity (a total of both receipts and expenditures) in excess of fifty thousand dollars annually to report that fact to the city, village, or fire protection district they serve and would authorize those subdivisions to audit the trust fund books.

This bill's only personnel mandate is the hiring of a career fire chief with appropriate training, credentials, and experience, whose responsibility it will be to have the immediate superintendence of the city's emergency response equipment and services. It does not require the creation of a paid department but rather establishes a process to gather the necessary information to enable the decision to be made locally.

Furthermore, it does not require an audit of volunteer fire department trust funds: it merely authorizes the city, village, or fire protection district which is served by the department to review trust fund books when the level of financial activity exceeds fifty thousand dollars in a given year.

The bill does not make trust fund money "public funds" nor does it empower the city to direct expenditures from the fund or expend funds on its own account.

Explanation of amendments, if any: The committee amendments generally act as refinements rather than policy shifts to the direction of the original bill. They generally reflect responses to testimony presented at the hearing.

In section 2, the population threshold beyond which a first class city must employ a full-time fire chief is raised from twenty thousand to thirty-five thousand, thereby removing several first

class cities (Columbus, Norfolk, North Platte, Hastings, and Kearney) from the list of cities required to hire a fire chief.

The amendments also remove the statutory requirement that the city must provide the fire chief with clerical personnel.

In section 3(1), the full-time chief is required to maintain certain records for an annual report to the city council. The committee amendments require those records to include information on the type of training received by volunteers as well as the amount of training. In addition, the amendment redefines the meaning of “response” time. In the original bill it was specified to be the time between the receipt of the call requesting help until the arrival of the first emergency response vehicle. The amendment would re-define “response time” to be the time between the receipt of the dispatch to the scene of an emergency request until the arrival of the first “fire or rescue” response vehicle (not merely the arrival of a police car).

The committee amendment also removes the requirement that the fire chief’s annual report be presented on or before November 1 of each year, specifying rather that the report be present at least once in any twelve month period on a date specified by the city council. The amendment specifies that the report must be presented at a regular council meeting, but removes the requirement that a public hearing be held on the report and that the fire chief must make a recommendation regarding the need for the hiring of more full-time emergency first responders (although he may make such recommendations if he chooses to do so).

Significant amendments are proposed to section 4 (amending section 35-901).

First the amendment specifies that only “general” donations or contributions may be placed into the protected trust fund defined in this section.

It moves up (in new subdivision 4(a)) the threshold at which a public entity supporting a volunteer department may request an audit from fifty-thousand dollars to one hundred thousand dollars of annual financial activity.

A new subdivision 4(b) is added to section 35-901. It creates an absolute prohibition on the deposit in a protected trust fund of created pursuant to this section of fees collected by a volunteer department for emergency response services performed through the use of publicly owned vehicles provided by the sponsoring subdivision to enable the services to be provided. The fees must be paid by the recipient of the services or paid by a third party on behalf of the recipient.

The amendment specifically provides that such funds remain public funds of the taxing authority and held by the volunteer department only as the agency of the authority. If the fees are in the possession of the volunteer department, the taxing authority is required to procure a full audit of all the financial records of the department for the prior five years, the independent audit is to be conducted by a qualified professional auditor or the Auditor of Public Accounts (or both).

Also, a new subdivision (8) to section 35-901 is added. This subdivision prohibits the collection of the fees described in new subdivision 4(b) of section 35-901 by a volunteer department without the express authorization of the governing body of the taxing authority supporting the volunteer department. This is done by a vote of a majority of the members of the governing body of the authority. The authority to collect the fees cannot extend beyond twelve months but can be renewed at the discretion of the taxing authority in the same manner in which it was initially granted. When collected, the fees are to be remitted to the proper officer of the taxing authority for deposit to the accounts of the taxing authority. The volunteer department has no authority to expend the funds nor can the taxing authority permit the funds to be retained by the volunteer department. The authority may, however, appropriate and expend the funds for the support of a service award benefit program adopted and conducted pursuant to the Volunteer Emergency Responders Recruitment and Retention Act.

Senator Mike Friend, Chairperson