

HB

68

SENATE COMMITTEE REPORT

FURTHER:

DATE TURNED INTO OFFICE 3-19-87

Mr. President:

STATE AFFAIRS Committee considered CSHB 68(SA)

authority of fire department officers

and recommended:

replace with _____ CS FOR _____) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

Jack Kelly (Do Pass)
Don Filler
Don Josephson

OTHER RECOMMENDATIONS

Don Filler
Chairman signature and recommendation

Committee Backup Attached

Alaska State Legislature

REPRESENTATIVE
MIKE W. MILLER
P.O. Box 55094
North Pole, Alaska 99705
(907) 488-2687


District 18
North Pole
Badger Road
Eielson
Moose Creek
Salcha



While in Juneau
P.O. Box V
Juneau, Alaska 99811
(907) 465-4976

House of Representatives

TO: Senator Mitch Abood

FROM: Representative Mike Miller 

RE: Analysis CS for House Bill 68 (State Affairs)

DATE: 3/13/87

Page 1, Lines 10-23

Amends current statutory language which allows officers of a municipal fire department to control activities at a fire. Broadens the language to include emergency situations other than fire suppression and extends the authority to fire officers of any fire department registered with the state fire marshal's office under AS 29.60.130.

Page 1, Lines 24-29

Page 2, Lines 1-2

Minor technical changes to the current statute as recommended by the Revisor of Statutes.

Page 2, Lines 3-8

Replaces the phrase "inspect for preplanning" with "conduct a prefire planning survey" to clarify that this subsection allows fire departments to conduct planning surveys in the event they should have to fight a fire at a particular location where combustible materials are or may be stored. Also expands language to include all registered fire departments.

Page 2, Lines 9-12

Minor technical changes to the current statute as recommended by the Revisor of Statutes.

Page 2, Lines 13-19

Amends the current statutory language dealing with persons who interfere with the operation of fire department personnel in the performance of their duties. Broadens the scope of duties covered and extends the authority to all fire departments registered with the state fire marshal's office.

Page 2, Lines 20-29

Amends the current statutory language by adding a definition for "emergency" and amends the old definition of "inspection for preplanning" to cover "prefire planning survey".

Offered: 2/9/87
Referred: Community &
Regional Affairs

EXISTING LANGUAGE

PROPOSED NEW LANGUAGE 5-0338B

MINOR TECHNICAL CHANGE

Original sponsors: Miller, Cato,
Frank and Koponen

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 68 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the authority of fire department
7 officers."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 18.70.075 is amended to read:

10 Sec. 18.70.075. AUTHORITY OF [MUNICIPAL] FIRE DEPARTMENT OFFI-
11 CERS [AND THEIR PERSONNEL]. (a) ~~A fire~~ [AN] officer of a municipal
12 fire department or ~~a fire department registered under AS 18.70.130~~ [AN
13 AUTHORIZED REPRESENTATIVE], while providing fire protection ~~for other~~
14 ~~emergency~~ services, has the authority to

15 (1) control and direct activities at the ~~scene of a fire or~~
16 ~~emergency~~;

17 (2) order a person to leave a building or place in the
18 vicinity of a [THE] fire ~~or emergency~~, for the purpose of protecting
19 the person from injury;

20 (3) blockade a public highway, street, or private right-of-
21 way temporarily while at ~~the scene of a fire or emergency~~;

22 (4) trespass upon property at or near the scene of a fire
23 ~~or emergency~~ at any time of the day or night;

24 (5) enter a building, including a private dwelling, or
25 [UPON] premises where a fire is in progress, or where there is reason-
26 able cause to believe a fire is in progress, ~~to extinguish~~ [FOR THE
27 PURPOSE OF EXTINGUISHING] the fire;

28 (6) enter a building, including a private dwelling, or
29 premises near the scene of a [THE] fire for the purpose of protecting

1 the building or premises or for the purpose of extinguishing the fire
2 that is in progress in another building or premises;

3 (7) upon 24-hour notice to the owner or occupant, ~~conduct a~~
4 ~~pre-fire planning survey in~~ [INSPECT FOR PREPLANNING] all buildings,
5 structures, or other places within the municipality ~~of the registered~~
6 ~~fire department's district~~, except the interior of a private dwelling,
7 where combustible material is or may become dangerous as a fire menace
8 to the building;

9 (8) direct the removal or destruction of a fence, house,
10 motor vehicle, or other thing ~~judged~~ [THAT THE OFFICER OR AUTHORIZED
11 REPRESENTATIVE MAY JUDGE] necessary [TO REMOVE OR DESTROY] to prevent
12 the further spread of ~~a~~ [THE] fire.

13 (b) An owner or occupant of a building or place specified in
14 this section or any other person on the site of a fire or other ~~fire~~
15 ~~department~~ emergency who refuses to obey the order of ~~a fire~~ [AN]
16 officer of a municipal ~~or registered~~ fire department [OR AN AUTHORIZED
17 REPRESENTATIVE] in the exercise of official duties is guilty of a
18 misdemeanor, and upon conviction, is punishable by imprisonment for
19 one year, or by a fine of not more than \$1,000, or by both.

20 (c) In this section [,]

21 (1) "emergency" means a situation in which the services of
22 fire department personnel are necessary or appropriate to protect
23 life, property, or public health;

24 (2) ~~"pre-fire planning survey"~~ ["INSPECT FOR PREPLANNING"]
25 ~~means a limited inspection for the purpose~~ [TO CONDUCT LIMITED INSPEC-
26 TIONS FOR PURPOSES] of preparing a fire attack plan in the event of a
27 future emergency [, BUT DOES NOT INCLUDE INSPECTIONS FOR PURPOSES OF
28 DETERMINING COMPLIANCE WITH STATUTORY OR MUNICIPAL FIRE CODE REQUIRE-
29 MENTS].

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

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REQUEST: _____
Revision Date: _____
Title: An Act relating to the authority of fire department officers.
Sponsor: Miller, Cato, Frank & Koponen
Requestor: House C & RA

Bill Version: CSHB 03 (SA)
Publish Date: HOUSE 2/13/87
Agency Affected: Public Safety
BRU: Fire Prevention
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Gordon Brunton *GB* Phone: 465-4331
Division: Fire Prevention Date: 2-09-87
Approved by Commissioner: [Signature] Date: 2-9-87
Agency: Public Safety

JNR
2/14/87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

JAN 23 1987



ALASKA FIRE CHIEF'S ASSOCIATION

PCST OFFICE BOX 304 • CORDOVA, ALASKA 99574 • TEL. (907) 424-7475

RESOLUTION 86 - 11

TITLE: Alaska Statute 18.70.075

Whereas AS 18.70.075 identifies officers only from "municipal fire department" in addressing the authority of these individuals at fire scenes; and

Whereas most local fire chiefs are not part of organized municipalities in Alaska; and

Whereas AS 18.70.075 also makes reference to only "fire protection services" in identifying the duties of these 'municipal fire departments'; and

Whereas it is a well known fact that fire departments respond to and are called upon to handle a wide variety of emergencies that are not fire related or involve burning structures, vehicles, etc;

Therefore, be it resolved that

The Alaska Fire Chiefs Association and the Alaska State Firefighters Association strongly urge the State of Alaska to change the wording in AS 18.70.075 to reflect the following:

- 1) change "municipal fire department" to "registered fire department"
- 2) change "fire protection services" to "fire department related emergencies which may include, but are not limited to, fire suppression, rescue services, and hazardous materials incidents...."

Recommendation: PASS

Adoption: PASS NO PASS

Distribution: Legislative Distribution
Governor

Dewey Wretsell
Dewey Wretsell, Pres., A.F.C.A.

Jason L. Elson
Jason Elson, Pres., A.S.F.A.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FIRE PREVENTION

REPLY TO:

P.O. BOX N
JUNEAU, ALASKA 99811-1200
PHONE: (907) 465-4331

5700 EAST TUDOR ROAD
ANCHORAGE, ALASKA 99507-1225
PHONE: (907) 269-5604

1979 PEGER ROAD
FAIRBANKS, ALASKA 99709
PHONE: (907) 456-4002

March 9, 1987

The Honorable Mitch Abood
Chairman, Senate Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

C
Committee
?

RE: HB 68 Hearings

Dear Senator Abood:

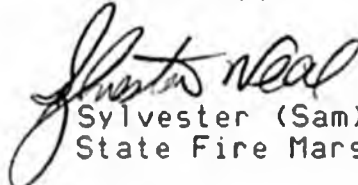
The fireground authority of a fire chief in the State of Alaska has been unclear for many years. Borough and City attorneys are reluctant for their fire departments to perform their customary role without more clarity in the State statutes.

The Division of Fire Prevention has received repeated requests to adopt emergency regulations to address the issue. House Bill 68 would provide the solution to the problem and is the preferred method.

I would urge that your committee set early hearings and urge passage by the Senate body.

The Fire Chiefs and Firefighters Associations both support this legislation and little or no opposition is expected.

Sincerely,


Sylvester (Sam) Neal
State Fire Marshal

SN:BJN

Attachments

L87-118

RECEIVED
MAR 12 1987

STEVE COWPER, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

DIVISION OF FIRE PREVENTION

REPLY TO:

P.O. BOX N
JUNEAU, ALASKA 99811-1200
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PHONE: (907) 269-5604

1979 PEGER ROAD
FAIRBANKS, ALASKA 99709
PHONE: (907) 456-4002

March 9, 1987

The Honorable Mitch Abood
Chairman, Senate Affairs Committee
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

*C
Cmtle
?*

RE: HB 68 Hearings

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Sincerely,

Sylvester Neal
Sylvester (Sam) Neal
State Fire Marshal

SN:BJN

Attachments

L87-118

RECEIVED
MAR 12 1987

X

February 17, 1987

The Honorable Juanita Helms
Mayor, Fairbanks North Star Borough
P.O. Box 1267
Fairbanks, Alaska 99707

Dear Mayor Helms:

Thanks for your letter and your support of our attempts to clarify the traditional services our fire departments perform throughout the state. As you may be aware, our attempts to pass HB 514 last session failed. Based on direction from the Fire Chiefs at our annual conference in Kodiak, we found a sponsor for what is now HB 68.

I feel HB 68 substantially addresses the issues of any fire chief's authority to handle local emergencies. Had HB 68 not been introduced this session, I would not have hesitated to address the issue through the emergency regulatory process.

Our administrative regulations cannot repeat or conflict with a statutory provision. Input from the fire chiefs and local governments during public hearings is the best avenue to address any concerns lacking in the legislation.

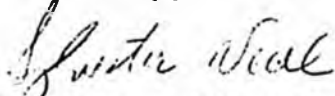
The legislation is subject to further amendments when it reaches the Senate. Should it fail to pass or meet the basic needs of the fire service, we will seriously evaluate all options, including the adoption of emergency regulations, to properly address the issue.

In summary, I believe it would be counter-productive to address the issue while it is being reviewed by the legislature. Your concept is a viable alternative. I commend the entire Interior Chiefs Organization for their input and concerns.

Mayor Helms
Page two
February 17, 1987

Thank you for your strong support to resolve this issue.

Sincerely,



Sylvester (Sam) Neal
State Fire Marshal

cc: Barry Jennings, President, Interior Fire Chiefs Assn.
Dewey Whetsell, President, Alaska Fire Chiefs Assn.
Gordon Brunton, Deputy Fire Marshal II
Vern Long, Deputy Fire Marshal II
James Vaden, Deputy Commissioner, Public Safety

Enclosure

L87-104



Fairbanks North Star Borough

Mayor: Juanita Helms

January 28, 1987

RECEIVED

FEB 02 1987

DIRECTOR'S OFFICE
DIVISION OF FIRE PREVENTION
ANCHORAGE, ALASKA

M
Sylvester Neal, State Fire Marshal
Department of Public Safety
Division of Fire Prevention
5700 E. Tudor Road
Anchorage AK 99507

RE: Emergency Regulations Requested for 13 AAC 52.030

Dear Mr. Neal:

The fire service in Alaska is being placed in an extremely dangerous position of being expected to respond to a wide variety of emergency situations without having statutory authority for such life and property saving actions.

Therefore, I am requesting your support in issuing Emergency Regulations to 13 AAC 52.030 (Title: Standards of Organization and Services of a Fire Department) that will provide this critical support to the fire service throughout our state.

It is through the issuance of such Emergency Regulations that this administrative code as well as AS 18.70.075 will become more meaningful and practical for emergency responding agencies.

The enclosed proposal for Emergency Regulations is a copy of that recently submitted by the Interior Fire Chiefs Association.

I would appreciate hearing from you on the anticipated time period and administrative procedures necessary to accomplish this issuance.

Sincerely,

JUANITA HELMS
Borough mayor

enclosure

cc: Barry Jennings, Fire Chief & President,
Interior Fire Chiefs Association

cc Borden
Vandy
2/2



FIRE DEPARTMENT CITY OF FAIRBANKS

656 7th AVENUE
FAIRBANKS, ALASKA 99701
907-452-1527



WILLIAM T. SHECHTER
FIRE CHIEF

January 29, 1997



Alaska Fire Chiefs Association
c/o Cordova Fire Department
P.O. Box 304
Cordova, AK 99754



Attn: Chief Whetsell

Ref: Emergency Regulation for 13 AAC 52.030



Enclosed is a copy of the letter signed by Mayor Helms supporting the proposal for emergency regulations of this administrative code.



I have also enclosed a draft copy of the letter to be signed by Barry Jennings, President, Interior Fire Chiefs Association.



Since this approach is consistent with the wishes of the Alaska Fire Chiefs Association as identified in previous resolutions, I am requesting a similar letter be prepared on A.F.C.A stationary under your signature to be sent to Sam Neal.



Please give this your attention as soon as possible.

Sincerely,

William Shechter, Fire Chief

WTS:nba



INTERIOR FIRE CHIEFS ASSOCIATION

PROPOSAL

13 AAC 52.030

TITLE: STANDARDS OF ORGANIZATION AND SERVICES OF A FIRE DEPARTMENT

ADD NEW SUBSECTION (c): "Definitions"

(c) Definitions

(1) "Municipal Fire Department" (ref: AS 18.70.075)

Defined to mean any fire department located in the State of Alaska and registered with the Office of the State Fire Marshal, Department of Public Safety.

(2) "fire protection services" (ref: AS 18.70.075)

Defined as follows: (ref: 1985 UFC-Article 10, Div. 1, Section 10.101)

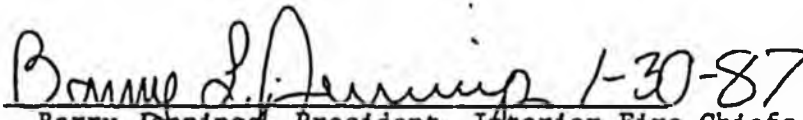
The chief and his authorized representatives, as may be in charge at the scene of a fire or other emergency involving the protection of life and/or property and any part thereof, shall have the power and authority to direct such operation as may be necessary to extinguish or control any fire, perform any rescue operation, investigate the existence of suspected or reported fires, gas leaks or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty.

SUBMITTED BY: INTERIOR FIRE CHIEFS ASSOCIATION

SUBMITTED TO: SYLVESTER NEAL, STATE FIRE MARSHAL

SUBMITTED FOR: ADOPTION AS AN EMERGENCY CHANGE TO THE APPROPRIATE ADMINISTRATIVE CODE

SIGNED:

 1-30-87

Barry Jennings, President, Interior Fire Chiefs Assoc.

TESTIMONY IN SUPPORT OF CSHB 68

My name is Bill Hagevig. I am presently serving as legislative liaison for the Gastineau Chapter of the Alaska State Firefighters Association. It is in that capacity that I am here today. I am a former fire officer, and am retired from state service wherein I served 15 years as Supervisor of Fire Service Training.

CSHB 68 was requested by the Alaska Fire Service to update the existing statute, AS 18.70.075 which was enacted in the early seventies. At that time, it was becoming apparent in many states that much of the authority exercised by fire officers was assumed, and not substantiated in law. In Alaska, most cities with long established fire departments had appropriate enabling ordinances which established the fire department and outlined the responsibilities and authority of its officers. In most small communities and rural villages, this was not the case. This, of course, left fire officers without protection from potential liabilities which could arise out of the performance of their duties. Officers of volunteer and part-paid fire departments were especially vulnerable.

To resolve the problem, the Fire Service, through its fraternal organizations, asked the State Legislature to assist with an appropriate statute to validate the specific kinds of decisions exercised in the course of fireground operations. The result was AS 18.70.075.

CSHB 68 was requested to update the existing statute. AS 18.70.075 applies only to fire scene situations. For that period the provisions of

the law were adequate. This is no longer the case. Fire department personnel are now called upon to respond to a wide range of emergency medical situations, as well as rescue operations involving air crash and marine incidents. Most recently, fire personnel have become concerned with incidents involving a wide variety of hazardous materials in their local communities.

When these incidents occur, and fire department personnel and equipment are committed, it should be under the command of legally authorized fire officers. This is not regarded as an incursion into the duties and responsibilities of other public safety disciplines such as local police or state troopers. Nor does it conflict with statutory authority of agencies such as the Department of Environmental Conservation or the Office of the State Forester. Each of the above agencies has their own statutory authority, and have a long record of working closely with the fire service when the need arises.

Finally, Section(a)(7) of the statute being considered in amendment provides for pre-fire planning surveys by fire service personnel on buildings or other structures with significant potential for life loss, explosion, toxic gas emission, or any other characteristics which may make fire suppression or rescue operations more difficult or dangerous without a preconceived plan. Emphasis was placed on changing the original text from inspection to survey, so that the public understands that this is not an enforcement activity. Nor would a pre-fire planning survey be conducted without permission of the owner or occupant.

Thank you for considering these comments. If there are any questions, I will do my best to respond to them.



ALASKA FIRE CHIEF'S ASSOCIATION

POST OFFICE BOX 304 • CORDOVA, ALASKA 99574 • TEL. (907) 424-7475

RESOLUTION 86 - 11

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Recommendation: PASS

Adoption: PASS NO PASS

Distribution: Legislative Distribution
Governor


Dewey Whetsell, Pres., A.F.C.A.


Jason Elson, Pres., A.S.F.A.