

1991 Senate Bill 514

Date of enactment: April 14, 1992
Date of publication*: April 28, 1992

1991 WISCONSIN ACT 187

AN ACT to repeal 101.575 (3) (a) 6 and 8; to amend 101.14 (2) (c) 1, 101.14 (2) (d) to (f), 101.575 (1), 101.575 (3) (a) 2, 101.575 (3) (b) and 101.575 (6) (a) (intro.), 1 and 2; to repeal and recreate 101.14 (2) (cm); and to create 101.575 (1) (am) of the statutes, relating to: fire inspection requirements, the use and distribution of fire department dues and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

PREFATORY NOTE: This bill was developed and recommended to the legislative council for introduction by its special committee on fire inspections and fire dues. The bill's provisions are explained in the NOTES following each SECTION of the bill.

SECTION 1. 101.14 (2) (c) 1. of the statutes is amended to read:

101.14 (2) (c) 1. Except as provided under subd. 2 and par. (cm), the chief of every fire department shall provide that the inspections required under par. (b) be made at least once in 6 months each nonoverlapping 6-month period per calendar year in all of the territory served by his or her fire department, and not less than once in 3 months in any territory which the common council has designated or thereafter designates as within the fire limits or as a congested district subject to conflagration, and oftener as the chief of the fire department orders. Each 6-month period shall begin on January 1 and July 1, and each 3-month period on January 1, April 1, July 1 and October 1 of each year. The chief of a fire department may require more frequent inspections than required under this subdivision. The department by rule shall provide for general exceptions, based on the type of occupancy or use of the premises, where less frequent inspections are required. Upon written request by the chief of a fire department, the department by special order may grant an exception to a city, village or town to conduct

less frequent inspections than required under this subdivision.

NOTE: Under current s. 101.14 (2), stats., the chief of every city, village and town fire department must provide for the inspection of every public building and place of employment in order to detect and eliminate any fire hazard or violation of law relating to fire hazards and for general fire prevention purposes. The statute requires that each public building and place of employment outside the city of Milwaukee must be inspected:

1. At least once in each 6-month period beginning on January 1 and July 1 of each year.
2. In any territory designated by a common council "as within the fire limits or as a congested area subject to conflagration", at least once in each 3-month period beginning on January 1, April 1, July 1 and October 1 of each year.

This SECTION retains the current semiannual inspection requirements of s. 101.14 (2) (c), stats., but repeals the quarterly inspection requirements and all specific starting dates (January 1, April 1, July 1 and October 1) in current law.

The bill authorizes the chief of a fire department to conduct more frequent fire inspections. The bill requires the department of industry, labor and human relations (DILHR) by administrative rule to provide general exceptions, based on type of occupancy or use, where fewer inspections are permitted. DILHR is further authorized to grant exceptions by special order to a specific city, village or town upon written request by the fire chief.

SECTION 2. 101.14 (2) (cm) of the statutes is repealed and recreated to read:

101.14 (2) (cm) In addition to the requirements of pars. (b) and (c), a fire department shall provide public fire education services, in consultation with the department and the fire prevention council.

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NOTE: Current s. 101.14 (2) (cm), stats., provides that, instead of the statutory inspection requirements of s. 101.14 (2) (c), stats., a fire department may meet its frequency of inspection obligations if it does all of the following:

1. Completes at least 80% of the total required inspections under s. 101.14 (2) (c), stats.
2. Completes at least 50% of the required number of inspections for each public building and place of employment that is subject to inspection.
3. Provides public fire education services prescribed by rule of DILHR.

This SECTION repeals the optional fire inspection provisions contained in s. 101.14 (2) (cm), stats., but retains a general requirement that fire departments offer fire education services to the public, after consultation with DILHR and the fire prevention council.

SECTION 3. 101.14 (2) (d) to (f) of the statutes are amended to read:

101.14 (2) (d) The chief of every fire department, or, in 1st class cities, the building inspector appointed by the department under par. (a), shall designate a sufficient number of inspectors to make the inspections required under pars. (b) to ~~(em)~~ and (c).

(e) Written reports of inspection shall be made and kept on file ~~in the office of the chief of the fire department~~ by the authority having jurisdiction to conduct inspections, or its designee, in the manner and form required by the department.

(f) Every inspection required under pars. (b) to ~~(em)~~ and (c) is subject to the supervision and direction of the department, which shall, after audit, certify to the commissioner of insurance after the expiration of each calendar year each city, village or town where the inspections for the year have been made, and where records have been made and kept on file as required under par. (e).

NOTE: Under current law, written fire inspection reports must be made and kept on file in the office of the fire chief in the manner and form required by DILHR.

This SECTION requires inspection reports to be maintained by the authority having jurisdiction to conduct fire inspections, or its designee.

SECTION 4. 101.575 (1) of the statutes is amended to read:

101.575 (1) (a) ~~Every~~ Except as provided in par. (am), every city, village or town maintaining a fire department ~~which that~~ complies with sub. (3) this subsection and the requirements of subs. (3) to (6) is entitled to a proportionate share of all fire department dues collected under ss. 101.573 and 601.93 after deducting the administrative expenses of the department under s. 101.573, based on the equalized valuation of real property improvements upon land within the city, village or town, but not less than the amount the municipality received under s. 601.93 (3), 1977 stats., and chapter 26, laws of 1979, in calendar year 1979.

(b) Every city, village or town ~~which that~~ contracts for fire protection and fire prevention services which that comply with s. 101.14 (2) from another city, village or

town is entitled to the dues specified in par. (a) if a ~~certified copy of the contract, ordinances or resolutions constituting the agreement is filed with the department~~ and the department determines that the fire department furnishing the protection has sufficient equipment to and can provide the agreed protection without endangering property within its own limits and the fire prevention services comply with s. 101.14 (2). All such contracts, ordinances or resolutions shall describe the territory protected by township or section lines.

(c) Any city, village or town, not maintaining a fire department, which ~~purchases not less than the minimum fire fighting equipment required for eligibility under sub. (3), and which that~~ for the purpose of obtaining fire protection and prevention services for itself enters into an agreement with another city, village or town for the fire department of the other city, village or town to house and operate the equipment, is entitled to the dues specified in par. (a) if a certified copy of the contract constituting the agreement, containing a complete description of the fire fighting equipment purchased by the municipality receiving protection, and a description by township or section lines of the territory protected, is filed with the department and the department determines that the equipment meets the requirements of sub. (3) and the fire prevention services comply with s. 101.14 (2). Two or more municipalities which that together have purchased not less than the minimum fire fighting equipment required for eligibility under sub. (3) and have entered into a fire protection agreement in the manner prescribed in this paragraph shall each be entitled to dues under par. (a).

NOTE: This SECTION removes the current statutory requirement that, when one city, village or town contracts with another to provide fire protection and prevention services, copies of all relevant contracts, ordinances and resolutions be filed with DILHR.

Also deleted is current statutory language relating to the purchase and maintenance of fire fighting equipment that meets certain minimum standards.

SECTION 5. 101.575 (1) (am) of the statutes is created to read:

101.575 (1) (am) If the department determines that a city, village or town fire department has failed to satisfy the requirements of this subsection or subs. (3) to (6), the department shall nonetheless pay dues for that calendar year to that city, village or town. The department shall issue a notice of noncompliance to the chief of the fire department, the governing body and the highest elected official of the city, village or town. If the fire department cannot demonstrate to the department that the fire department has met all requirements within one year after receipt of the notice or prior to the next audit by the department, whichever is later, the city, village or town shall not be entitled to dues under par. (a) for that year in which the city, village or town becomes not entitled to

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dues and for all subsequent calendar years until the requirements are met.

NOTE: Current s. 101.575 (1), stats., provides that every city, village or town that maintains a fire department that complies with certain state standards is entitled to a proportionate share of all fire department dues collected by DILHR and the office of the commissioner of insurance under ss. 101.573 and 601.93, stats., respectively, based on the equalized valuation of real property improvements. Section 101.575 (3), stats., provides that a city, village or town may not receive its share of annual fire department dues unless it has a fire department that satisfies a number of requirements relating to organization, training, equipment and facilities.

Current s. 101.575 (4), stats., provides that no city, village or town may be paid fire department dues for any year unless DILHR determines that the requirements of s. 101.14 (2), stats., including the performance of the requisite number of fire inspections, have been met. The payment of fire department dues is also contingent upon compliance with s. 101.575 (6), stats., which limits the use of fire dues for specific purposes, as well as the submission of a form prescribed by DILHR by rule and signed by the municipal clerk and the fire chief certifying either that the fire department has complied with the statutory requirements entitling it to dues or that DILHR has audited the fire department and has made such a determination. A city, village or town that contracts with another city, village or town to provide fire protection and fire prevention services is also entitled to its proportionate share of dues if the city, village or town providing fire protection can do so without endangering property within its own limits and if other statutory requirements are met. DILHR may not pay any annual fire dues to a city, village or town whose fire department fails to meet any of the above-cited statutory requirements.

This SECTION changes current law to provide that whenever DILHR determines that a fire department has failed to satisfy a statutory requirement that is a condition for the receipt of fire dues, DILHR shall issue a notice of noncompliance to the fire chief, the governing body and the highest elected official of the city, town or village. However, DILHR will still pay dues for that year.

If, after one year or by the time of the next DILHR audit of the fire department, whichever is later, it cannot be demonstrated to DILHR that these statutory requirements have been met, the city, village or town shall be ineligible to receive any fire dues for that year and any subsequent years until the statutory conditions have been satisfied.

SECTION 6. 101.575 (3) (a) 2. of the statutes is amended to read:

101.575 (3) (a) 2. Singly, or in combination with another fire department under a mutual aid agreement, ~~has a total active membership of at least 22 fire fighters and can ensure the response of at least 4 fire fighters, none of whom are~~ is the chief, to a first alarm for a building.

NOTE: This SECTION repeals the current statutory requirement that a fire department maintain an active membership of 22 fire fighters (which may be in combination with another

fire department under a mutual aid pact) in order to be eligible for its share of annual fire department dues.

SECTION 7. 101.575 (3) (a) 6. and 8. of the statutes are repealed.

NOTE: Current law requires that, in order to receive its share of annual fire department dues, a municipal fire department must do both of the following:

1. Maintain at least one piece of apparatus conforming to national fire prevention association standard 1901, that requires a permanently mounted pump that can deliver at least 500 gallons of water per minute at a pressure of 150 pounds per square inch and a water tank with at least a 300-gallon capacity.

2. Provide a fire station capable of housing the required fire apparatus and equipment.

This SECTION repeals these statutory requirements.

SECTION 8. 101.575 (3) (b) of the statutes is amended to read:

101.575 (3) (b) Each city, village or town eligible for dues under this section shall maintain either a voluntary fire department ~~with not less than 22 active members which~~ that holds a meeting at least once each month, or a paid or partly paid fire department with sufficient personnel ready for service at all times ~~to operate the equipment specified in par. (a).~~

NOTE: See the NOTE following SECTION 6 of this bill.

SECTION 9. 101.575 (6) (a) (intro.), 1 and 2 of the statutes are amended to read:

101.575 (6) (a) (intro.) No city, village or town maintaining a fire department under this section may use any dues received under s. 101.573 and this section for any purpose except the direct provision of the following:

1. ~~Fire~~ The purchase of fire protection equipment.
2. ~~Fire inspection, prevention or protection and public~~ education.

NOTE: Under current law, a city, village or town is required to use its 2% fire department dues distribution solely for the following purposes:

1. Fire protection equipment.
2. Fire inspection, prevention and protection.
3. Training for fire inspectors and fire fighters.
4. Funding for fire fighter's pension and disability programs.

This SECTION further limits the use of dues by providing that the distribution may only be used for the "direct provision" of certain equipment and services. Also, the SECTION deletes the statutory authorization to use dues to provide fire prevention and protection services and adds new authorization to use dues to provide fire prevention education to the public.