

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4078/1dn
RJM:cmh:jf

February 4, 2000

Representative Porter:

1. The attached bill incorporates changes per my discussions with the department of commerce. However, you may want the department to review the draft to ensure that I have accurately accomplished the department's intent. In particular, please note the following issues.

2. The department asked for clarification as to whether the department may refuse donations and gifts to the education program created in proposed s. 101.139 and whether the department may use donations and gifts it accepts for the purpose of administering that program. It is my opinion that the department is under no obligation to accept donations or gifts. In addition, it is my opinion that the appropriation under s. 20.143 (3) (g), stats., permits the department to use gifts and donations given for the purpose of funding the public education program to cover the administrative expenses of the program.

3. The definition of "fire department" in proposed s. 101.01 (5m) covers all entities authorized to provide fire protection services to a city, village or town. In addition, because a town may contract with "any person" for fire protection services, the definition covers any person that provides these services under contract with a town.

This definition also applies to s. 101.055 (3) (d), stats., which prohibits the department from adopting public employe safety standards that require a member of a volunteer or paid fire department maintained by a city, village, town or county to complete more than 60 hours of training before participating in structural fire fighting. Please have the department review this provision to make sure that the definition properly applies.

4. In proposed s. 101.14 (2) (a), the bill retains the requirement, contained in the previous draft, that each city, village and town must ensure that all duties established under s. 101.14 (2), stats., (fire inspection, record keeping and public education) are carried out in the city, village or town. My notes were not clear regarding the department's intent on this issue. Please let me know if any changes are needed.

5. Proposed s. 101.141 governs record keeping and reporting of fires. Due to the fact that a private fire company may provide fire protection services to towns and certain villages, it is necessary to clarify that the open records law applies to records maintained under this section. Otherwise, it is possible that records maintained by a

private fire company may not be subject to public inspection. I should have included this provision in the previous draft. I apologize for any inconvenience.

6. The fire dues eligibility requirements under proposed s. 101.575 (4) (a) specify that a mutual aid agreement may not be used to satisfy the fire protection and fire prevention services requirements, except with regard to ensuring adequate response to a first-alarm fire. The term "mutual aid agreement" is currently undefined in the statutes, and it may be difficult for a court or municipality to discern the difference between a contract for fire protection services and a mutual aid agreement. Please let me know if you intend to define "mutual aid agreement" or if these provisions are inconsistent with your intent.

7. In order to further clarify the role of mutual aid agreements under the fire dues program, I amended s. 101.575 (6) (b), stats., and changed the language of proposed s. 101.575 (4) (am). Neither of these treatments was discussed at my meeting with the department. Please call if any changes are necessary.

8. The department asked whether the department of revenue is required to provide the department with the equalized valuation of each municipality that is eligible to receive fire dues. I was unable to locate any current statutory requirement that the department of revenue provide this information. However, because it is unclear whether the department has had difficulty obtaining the information, I did not create a new requirement in the bill.

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