

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-4078/P1dn  
RJM:cmh:jf

January 24, 2000

Representative Porter:

1. Attached is a preliminary draft of a bill generally relating to fire safety and the multifamily dwelling code. Although the language submitted by the department of commerce (department) was helpful in completing this bill, due to the confusing state of the underlying statutes, the bill contains numerous differences from the submitted language. These differences are primarily due to my efforts to make these statutes readable. I have highlighted some of the major differences and issues below. I have tried to accomplish the intent of the submitted language but, as is often the case with a bill of this size, additional changes may be needed to make the bill conform to your and the department's intent. Please let me know if you desire any changes. After you approve of the draft, I will complete an introducible version.

2. The fire safety and injury prevention education program is established in proposed s. 101.139. I did not include a separate authorization to establish a fire safety program under s. 101.14 (1) (a), stats., as requested by the department, because the program established in proposed s. 101.139 appears to include this authorization. As currently drafted, the fire safety and injury prevention education program may be funded out of applicable grants and donations, safety and buildings operations program revenue or any general purpose revenue that the legislature allocates to the new appropriation account under proposed s. 20.143 (3) (e). As I previously discussed with John Lippitt at the department, this new appropriation account is not funded in the bill.

3. The bill repeals that portion of the appropriation currently in s. 20.143 (3) (La), stats., relating to administrative expenses under s. 101.141, stats., because the bill transfers the record maintenance duties under s. 101.141, stats., from the department to fire departments.

4. Generally, the department has jurisdiction over places of employment and public buildings, as well as certain residential buildings. The language submitted by the department amended s. 101.14 (1) (a), stats., to include a general statement of the department's authority and jurisdiction over fire inspections, fire prevention, fire detection and fire suppression in all buildings. The jurisdiction and powers of the department are primarily in s. 101.02, stats., and, thus, I have placed this grant of authority in proposed s. 101.02 (15) (am). Please review this section and let me know if it is inconsistent with your intent.

5. The bill places the duties of cities, villages and towns in s. 101.14 (2), stats., and the eligibility requirements for receiving fire department dues in s. 101.575, stats. Currently, a city, village or town must comply with s. 101.575 (3), stats., in order to be eligible to receive fire department dues. However, under the language submitted by the department, the requirements under s. 101.573 (3), stats., are a mandate rather than simply an eligibility requirement. Thus, the bill moves those provisions to proposed s. 101.14 (2) (ag). In addition, under proposed s. 101.575 (4), a city, village or town still must satisfy these requirements in order to be eligible to receive fire department dues.

Does the new language in proposed s. 101.14 (2) (ag) 3. clearly describe what is intended by the term “public fire education”?

6. The language submitted by the department cleared up an ambiguity in s. 101.141, stats., by indicating that certain fire department records are open to the public *as specified in ch. 19* (open records law). Because the applicable fire department records fall within the definition of “record” in s. 19.32 (2), stats., and, thus, are subject to the open records law, the bill deletes any reference to the records being open to public inspection in s. 101.141, stats.

7. Per my understanding of the department’s intent, the bill conforms the procedure for collecting and distributing fire department dues with the current practice of the department and the commissioner of insurance. See proposed ss. 101.573 (3) (a), 601.93 (2) and 604.04 (3) (b). You may want to have both the commissioner of insurance and the department review these provisions to ensure that the provisions are adequate.

8. The language submitted by the department contained an amendment to s. 101.575 (1) (b) and (c), stats., to account for the possibility that a city, village or town may contract for fire protection or fire prevention services from a fire department rather than with another city, village or town. However, under current law only a city, village or town may operate a fire department. As a result, the bill does not include the requested language.

The bill repeals s. 101.575 (1) (c), stats., because the requirement in that paragraph is covered by proposed s. 101.575 (4) (a) 1. and (am).

9. Under the bill, all eligibility requirements for receiving fire department dues are consolidated in one location, proposed s. 101.575 (4) (a). In consolidating these eligibility requirements, I tried to use consistent terminology with regard to those municipalities that receive fire protection and fire prevention services under a contract or agreement with another municipality. See proposed s. 101.575 (4) (a) 3. and 4., stats. The department should review these provisions to ensure that they are consistent with the department’s understanding of current law.

Currently, s. 101.575 (4) (a) 1., stats., requires a city, village, town or fire department to comply with “sub. (6) and s. 101.14 (2).” Although the language submitted by the department did not treat this section, the bill requires a city, village or town to comply with all of s. 101.575, rather than just sub. (6). This treatment seems consistent with the intent of the department.

10. The bill amends s. 101.575 (6) (b), stats., to account for the provision of services under a mutual aid agreement. Although this change seems consistent with the general intent of the department, you may want the department to review this provision to ensure that the provision rightly includes mutual aid agreements.

11. Regarding the smoke detectors that are approved for use under proposed ss. 101.645 (2), 101.745 (2) and 101.925 (2), you may want to require that a smoke detector be approved by Underwriters Laboratory or any other independent testing laboratory *approved by the department*.

12. The language submitted by the department would have prohibited the department from promulgating certain rules under s. 101.973 (1), stats., unless the rules were recommended by the multifamily dwelling code council. In effect, the council would have the authority to prevent the department from promulgating these rules. With certain limited exceptions, a "council" under current law is an advisory body that may make recommendations but that otherwise does not have powers to compel or prohibit agency activities. I drafted proposed s. 101.973 (1) in order to be consistent with current law regarding the powers of a council. Under the bill, the department is required to obtain the recommendation of the council before promulgating these rules but is not bound by the recommendation. See proposed s. 101.973 (1). If this provision is not sufficient, please let me know and we can discuss other options for addressing this issue.

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