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H.527

Introduced by Representatives Shand of Weathersfield, Adams of Hartland,
Bissonnette of Winooski, Botzow of Pownal, Cheney of
Norwich, Donaghy of Poultney, Edwards of Brattleboro,
Howrigan of Fairfield, Johnson of South Hero, Malcolm of
Pawlet, Marek of Newfane, Pellett of Chester, Smith of
Mendon, Stevens of Shoreham, Sweaney of Windsor, Turner of
Milton and Wilson of Manchester

Referred to Committee on

Date:

Subject: Municipal government; fire departments; costs; recovery

Statement of purpose: This bill proposes to allow a municipality to recover the
costs of its fire department responding to emergencies and nonemergencies.

An act relating to municipal recovery of costs of fire department response

It is hereby enacted by the General Assembly of the State of Vermont:

~~Sec. 1. PURPOSE~~

~~The purpose of this act is to provide for the reimbursement of costs incurred
by a municipality for emergency and nonemergency responses by the
municipal fire department or cooperating fire departments from other towns for
special events, malicious incidents, nuisance incidents, hazardous materials~~

1 ~~incidents, motor vehicle accidents, and incidents caused primarily by~~
2 ~~negligence or willful disregard for established fire and life-safety codes and~~
3 ~~ordinances such as nonpermitted burns, permitted burns that get out of control~~
4 ~~due to negligence, and wildland fires.~~

5 Sec. 2. SUBCHAPTER DESIGNATION

6 Sections 1951–1957 of chapter 57 of Title 24 shall be designated as
7 Subchapter 1. General Provisions.

8 Sec. 3. 24 V.S.A. chapter 57, subchapter 2 is added to read:

9 Subchapter 2. Emergency Fire and Hazardous Waste Response Liability

10 § 1958. DEFINITIONS

11 Unless the context specifically requires otherwise, as used in this
12 subchapter:

13 (1) “Alarm activation” or “automatic alarm” means an audible or visual
14 alarm activation within or outside of a protected property, including those
15 systems incorporating automatic fire department notification.

16 (2) “Emergency incident” means an incident that requires fire,
17 hazardous waste, or emergency medical response in an immediate fashion,
18 following established emergency response protocols.

19 (3) “Emergency personnel” means the personnel appointed by the
20 municipality who are employees or volunteers of the municipal or cooperating

1 ~~municipal fire department or public works department during their~~
2 ~~involvement in an emergency or nonemergency incident.~~

3 (4) "Emergency system" means a system within a given property
4 provided for activation and occupant or emergency services notification in the
5 event of a fire or medical emergency.

6 (5) "Fire chief" means the chief engineer of the municipal fire
7 department.

8 (6) "Malicious incident" means an emergency incident which stems
9 from an individual's intentional purpose to cause property damage, endanger
10 lives, or cause the response of emergency personnel for other than an actual
11 emergency.

12 (7) "Motor vehicle accident" means an incident involving one or more
13 motorized vehicles, including cars, trucks, buses, trains, motorcycles, ATVs,
14 snowmobiles, boats, and planes, and the vehicles or trailers being pulled by
15 motorized vehicles.

16 (8) "Nonemergency incident" means an incident which allows for fire,
17 hazardous waste or emergency medical response in a less urgent fashion than
18 for an emergency, following established nonemergency response protocols.

19 (9) "Nonpermitted burn" means the intentional disposal of outside
20 debris via burning, without the verbal or written permission of an authorized
21 official within a fire department.

1 ~~(10) "Nuisance incident" means an incident that is of the same nature,~~
2 ~~on a repetitive basis, at the same location, due to the lack of servicing to~~
3 ~~mechanical and electrical equipment of an emergency system, the failure to~~
4 ~~correct a previously documented fire hazard, or the false reporting of an~~
5 ~~emergency incident.~~

6 (11) "Permitted burn" means the intentional disposal of outside debris
7 via burning, with the verbal or written permission of an authorized official
8 within a fire department.

9 (12) "Special event" means a nonemergency event that occurs within a
10 municipality requiring the presence of emergency personnel or permitting by
11 the municipality as required by law or the fire department, or as requested by
12 the owner of the involved property or event coordinator.

13 (13) "Municipal resident" means a person who resides in the
14 municipality.

15 (14) "Wildland fire" means an outside fire involving general natural
16 combustible materials, other than a permitted burn, with no restriction
17 concerning the area involved or size of any damaged area.

18 § 1959. ELIGIBLE OCCURRENCES AND INCIDENTS; ENFORCEMENT

19 (a) The following types of occurrences and incidents within the primary
20 coverage area of a municipal fire department shall be eligible for invoicing:

21 (1) malicious incidents;

- 1 ~~(2) nuisance incidents;~~
- 2 (3) motor vehicle accidents;
- 3 (4) hazardous materials incidents;
- 4 (5) nonpermitted burns;
- 5 (6) permitted burns which get out of control due to negligence;
- 6 (7) wildland fires caused by negligence;
- 7 (8) special events.
- 8 (b) The enforcement, invoicing, and application of this subchapter shall be
- 9 the responsibility of the person appointed by the legislative body of the
- 10 municipality. The appointed person may conduct investigations and take other
- 11 steps that are necessary and provided by law to enforce this subchapter.
- 12 § 1960. INVOICING
- 13 (a) A malicious incident shall be invoiced per occurrence. The perpetrator
- 14 or perpetrators shall be jointly and severally responsible. In the event the
- 15 perpetrator or perpetrators cannot be identified, the property owner shall be
- 16 responsible.
- 17 (b) A nuisance incident shall be invoiced per occurrence after three
- 18 occurrences per calendar year. The property owner shall be responsible unless
- 19 specific individuals or companies are found to be responsible for the incident;
- 20 at which time, invoices shall be issued accordingly.

1 ~~(c) A motor vehicle accident in the municipality, including state and federal~~
2 ~~highways within the primary coverage area of the municipality, shall be~~
3 ~~invoiced per occurrence. In the event multiple vehicles are involved,~~
4 ~~responsibility for costs may be prorated, as determined by the appointed person~~
5 ~~in charge, among the person or persons, operator or operators, and vehicle~~
6 ~~owner or owners involved.~~

7 (d) A hazardous materials incident shall be invoiced per occurrence. The
8 property owner or supplying company or both shall be responsible.

9 (e) A nonpermitted burn shall be invoiced per occurrence. The individual
10 responsible for the burn shall be responsible.

11 (f) A permitted burn which gets out of control due to negligence shall be
12 invoiced per occurrence. The individual to whom the permit was issued shall
13 be responsible.

14 (g) A wildland fire shall be invoiced per occurrence. The individual
15 responsible for the fire shall be responsible.

16 (h) If the responsible party under this section cannot be identified or
17 located or reimbursement cannot be obtained from the responsible party, the
18 property owner shall be responsible for the invoiced costs if the person in
19 charge determines that services were made necessary due to the fault of the
20 property owner.

1 ~~(i) A special event shall be invoiced per occurrence. The property owner or~~
2 ~~event organizer or organizers shall be responsible as indicated at the time of~~
3 ~~the event planning.~~

4 (j) Invoicing or reimbursement rates for an incident or occurrence shall be
5 as established by the municipality. Rates shall be on file at the municipal
6 clerk's office and available for public inspection.

7 (k) Reimbursement of costs incurred by a municipality for emergency and
8 nonemergency responses by the municipal fire department shall be sought only
9 for the occurrences and incidents set forth in subsections (a) through (h) of this
10 section and only as follows:

11 (1) Occurrences and incidents shall be invoiced to municipal residents,
12 property owners, nonresidents, and nonproperty owners.

13 (2) Motor vehicle accidents shall be invoiced as follows:

14 (A) Both municipal residents and nonmunicipal residents shall be
15 invoiced for motor vehicle accidents in circumstances in which a traffic ticket
16 or citation is issued by a police officer or a physical arrest by a police officer
17 has occurred.

18 (B) Only nonmunicipal residents shall be invoiced for motor vehicle
19 accidents in circumstances in which no traffic ticket or citation is issued by a
20 police officer or no physical arrest by a police officer has occurred.

1 ~~(1) A municipality shall be reimbursed by the responsible party or parties as~~
2 ~~set forth in section 1960 of this title for reasonable and necessary expenses~~
3 ~~incurred by the municipal fire department pursuant to the following~~
4 ~~procedures:~~

5 ~~(1) Invoices shall be issued by the fire chief.~~

6 ~~(2) Invoices shall include the date or dates on which services were~~
7 ~~provided by the municipal fire department, the type of incident that is serving~~
8 ~~as the basis for the invoice, an explanation of the services provided, and the~~
9 ~~cost of the services provided.~~

10 ~~(3) Invoices shall provide that payment shall be made to the municipal~~
11 ~~treasurer or fire department within 30 days of the date of the invoice with~~
12 ~~interest to accrue at the statutory rate beginning on the 31st day.~~

13 ~~(4) The invoice shall be mailed first class mail to the last known address~~
14 ~~of the person responsible for paying the invoice.~~

15 § 1960a. APPEALS

16 ~~(a) An invoice may be appealed to the legislative body of the municipality.~~
17 ~~The appeal shall be in writing and shall be filed with the legislative body~~
18 ~~within 10 days of the invoice date. The appeal shall be acted upon by the~~
19 ~~legislative body within 15 days after receipt of the written appeal. Upon~~
20 ~~appeal, the legislative body shall reverse, affirm, or modify in any regard the~~
21 ~~original invoicing determination of the appointed person in charge. The~~

1 ~~legislative body shall issue a written decision to the appellant within 15 days of~~
2 ~~the appeal hearing.~~

3 ~~(b) An appeal from the decision of the legislative body shall be to the~~
4 ~~superior court in the county in which the municipality is located and pursuant~~
5 ~~to the Vermont Rules of Civil Procedure.~~

6
Sec. 1. MUNICIPAL COST RECOVERY STUDY COMMITTEE

(a) There is created the municipal cost recovery study committee to evaluate whether or not, or to what extent, to allow municipalities to recover the costs of fire department response to emergencies and nonemergencies on class 1 and federal highways.

(b) The committee shall be comprised of eight ~~seven~~ members as follows:

(1) Two members appointed by the Vermont League of Cities and Towns, one representing a large municipality and one representing a small municipality;

(2) The commissioner of banking, insurance, securities, and health care administration or designee;

(3) The commissioner of public safety or designee;

(4) The secretary of transportation or designee;

(5) Two members appointed by the Vermont Coalition of Fire and Rescue Services, one representing volunteer firefighters and one representing career firefighters;

(6) One member appointed by the Vermont ambulance association.

(c) The committee shall study and evaluate, as it relates to the issue of allowing municipalities to recover the costs of fire department response to emergencies and nonemergencies on class 1 and federal highways:

(1) The state's public policy;

(2) The state's responsibility;

(3) The state's fiscal responsibility, including potential funding mechanisms;

(4) Costs to insurance companies;

(5) Inequities between and among municipalities;

(6) Approaches taken in other states.

(d) The department of public safety shall ensure that administrative support is provided to the committee, and the department may do so by arranging for that support to be provided by a willing municipal member of the Vermont League of Cities and Towns.

(e) By January 1, 2011 the committee shall report its recommendations in the form of proposed legislation to the general assembly.

(f) The committee may meet as often as necessary to fulfill its obligations under this section.