

- SUBJECT:** Continuing the Texas Forest Service
- COMMITTEE:** Agriculture and Livestock — favorable, without amendment
- VOTE:** 7 ayes — Hardcastle, C. Anderson, Isaac, Kleinschmidt, Landtroop, Lozano, Miles
- 0 nays
- 2 absent — C. Howard, Hughes
- SENATE VOTE:** On final passage, March 30 — 31-0
- WITNESSES:** (*On House companion, HB 2308:*)
For — (*Registered, but did not testify:* Heather Cooke, City of Austin; Tommy Engelke, Texas Agricultural Cooperative Council; Ron Hufford, Texas Forestry Association; Steve Perdue, State Firemen’s and Fire Marshals’ Association; Jim Reaves, Texas Nursery and Landscape Association; Seth Terry, Texas Farm Bureau; Bob Turner, Texas Poultry Federation, Texas Sheep and Goat Raisers Association)
- Against — None
- On — (*Registered, but did not testify:* Tom Boggus, Texas Forest Service; Amy Trost, Sunset Advisory Commission)
- BACKGROUND:** The Texas Forest Service (TFS) is charged with maintaining the state’s forests and related resources. The agency, part of the Texas A&M University System, assists Texans with the protection of trees and forests. Core TFS missions include to:
- suppress fires in wildlands and fires that threaten communities by providing personnel and grants to volunteer firefighters;
 - respond to natural disasters, such as hurricanes, and to train local emergency responders; and
 - provide technical assistance and funds to promote sustainable forestry practices and forest health.

TFS employs about 390 full-time staff, about three-fourths of whom work in 52 field offices across the state. The remaining quarter work in the agency's headquarters in College Station. The agency spent about \$113 million in fiscal 2009. Of this, about \$57 million went to direct firefighting and emergency response, about \$28 million went to grants to volunteer fire departments, and about \$11 million went to forestry programs.

TFS is overseen by the Texas A&M University System Board of Regents, which has nine members appointed by the governor. The board hires the TFS director, who reports to the Agriculture and Life Sciences dean.

Unless it is extended, the agency will expire September 1, 2011.

DIGEST:

SB 646 would extend the Texas Forest Service for 12 years, until September 1, 2023. The bill would require the agency to adopt a wildfire protection plan and to modify provisions governing wildfire response and compensation for volunteer firefighters and fire departments.

Wildfire protection plan. TFS would have to hold public meetings to develop and update a wildfire protection plan. The plan would have to:

- define the agency's role in managing wildfires and supporting local fire department responses, including community engagement with the agency;
- describe the role of volunteer fire departments in wildfire response;
- describe the expected revenue, expenses, staffing, and future funding necessary to implement and sustain the plan;
- estimate any expected savings resulting from the plan;
- provide performance measures for evaluating the plan;
- describe the TFS role in conducting prescribed burns and assess statewide efforts to conduct those burns;
- identify, analyze, and make recommendations regarding wildfire trends and issues; and
- address any other matter determined relevant by the TFS director.

TFS would have to submit the wildfire protection plan with its legislative appropriations request to the lieutenant governor, the House speaker, and appropriate legislative committees.

Wildfire response. The bill would allow TFS to mobilize a wildfire

hazard response team under the direction of the Texas Division of Emergency Management to provide support for operations of the state, disaster districts, or local jurisdictions. The agency could support the state's all-hazard response operations by providing disaster response training to personnel and other responders and maintaining teams consisting of TFS employees and other responders. The TFS director could establish guidelines for local volunteer fire departments to assist TFS in responding to a wildfire if necessary.

The bill would require TFS to use the most cost-effective combination of volunteer firefighters, temporary employees, and out-of-state personnel and equipment available when responding to a wildfire.

SB 646 would expand the definition of "wildfire" to include a fire occurring wherever urban and rural areas met and would make conforming changes to statute to reflect the updated definition. It would revise a provision governing the statewide fire coordination center to make it optional for the center to provide dispatching services for wildfire control.

Compensation. The bill would allow TFS to provide compensation to the extent that resources were available, including reimbursements for the use of equipment, to volunteer firefighters and departments for assisting in wildfire response. The TFS director would determine compensation and reimbursements based on the types of labor and equipment provided and the minimum qualifications a volunteer department would have to meet to qualify. A firefighter who received compensation would not be subject to certain certification requirements of the Texas Commission on Fire Protection.

TFS also could request reimbursement from the Legislature for payments made to volunteer firefighters and departments for their assistance. It could issue a National Wildfire Coordinating Group certification to a volunteer firefighter under terms that the director determined.

The bill would add specific criteria for the director to consider when distributing money from the Volunteer Fire Department Assistance Fund. The director would have to consider the most recent Southern Wildfire Risk Assessment when distributing funds. TFS also could designate some of the fund to assisting volunteer fire departments with meeting matching requirements for federal grants. The bill would require the TFS director to adopt rules to ensure public participation, transparency, and accountability

in the administration of the existing volunteer fire department assistance program.

The bill would take effect September 1, 2011. The TFS director would have to adopt rules as necessary to implement it as soon as practicable after the effective date.

**SUPPORTERS
SAY:**

SB 646 would put into effect important changes to the Texas Forest Service to maximize the agency's performance while retaining the unique oversight structure that helps the agency function efficiently.

The bill would implement Sunset Advisory Commission recommendations regarding developing a statewide fire protection plan, maximizing local volunteer firefighting resources, adopting clear criteria on wildfire risk and threat when awarding grants to volunteer fire programs, improving cost-effectiveness of fire response, and proposing other changes to improve performance. It would extend the agency for the standard 12-year time horizon until 2023.

The bill also would avoid making some of recommendations in the Sunset Advisory Commission's staff report that could impede operations. The agency currently benefits from the oversight of the A&M System Board of Regents and the A&M System. The current oversight structure provides the flexibility necessary for timely responses to natural hazards while ensuring that agency leadership remains accountable to university leadership. Adding an additional advisory body, such as a commission, would be counter to how the Legislature has opted to structure governance in higher education. The additional oversight could prove duplicative and unwieldy, and would not serve a clear purpose.

The bill also would retain the authority of TFS to appoint law enforcement officers. Transferring TFS law enforcement duties to other state agencies and eliminating some peace officers completely would impede investigations of arson and timber theft. While the State Fire Marshal's Office is responsible for investigating arson statewide, the arson duties of TFS are specifically focused on wildfires. These enforcement powers originally were entrusted to TFS because other agencies had insufficient resources or were tasked with other priorities. Removing these functions from TFS would result in reduced enforcement and weaken deterrents against committing crimes of arson and timber theft.

OPPONENTS

SB 646 should be amended to include all recommendations from the

SAY:

Sunset Advisory Commission staff report. While TFS benefits from its unique placement under the A&M system, the university system is unable to provide the policy direction that an oversight body generally provides. The university system oversight is comparatively nebulous and primarily concerned with academic matters. The A&M Board of Regents rarely reviews substantive, policy-related items concerning TFS. The lack of direct, policy-oriented oversight has resulted in numerous organizational challenges in recent years. These challenges include frequent reorganizations, lack of long-term strategic planning, and some ineffective organizational schemes.

Sunset staff recommended creating a Forest Service Commission appointed by the A&M Board of Regents. The commission could hire the TFS director, adopt rules, review current advisory bodies at TFS, and recommend an agency budget. Creating this separate oversight of the agency accountable to the board of regents would provide direct, policy-focused oversight that the agency currently lacks. The commission could work toward resolving organizational issues and ensuring that TFS is effectively serving the mounting needs placed upon the agency.

The bill should be amended to disband some peace officers at the agency and transfer other law enforcement functions to other agencies. This would implement a Sunset staff recommendation to remove the law enforcement authority of TFS. The TFS arson and timber theft investigations could be assumed by the state fire marshal and by local entities. It is unusual for a state forestry agency to employ police forces for these purposes. Moving these functions to the fire marshal and to local enforcement authorities would remove some overlap and would save the state's General Revenue Fund \$1.2 million in fiscal 2012-13.

NOTES:

The House companion bill, HB 2308 by Cook, was considered in a public hearing and left pending by the House Agriculture and Livestock Committee on March 22.