



S. 2411, The Assistance to Firefighters Act of 2004

Statement by
Chief Ernest Mitchell, Ret.

before the

Committee on Commerce, Science, and Transportation

United States Senate

July 8, 2004

INTERNATIONAL ASSOCIATION OF FIRE CHIEFS
4025 FAIR RIDGE DRIVE • FAIRFAX, VA 22033-2868
TEL 703.273.0911 • FAX 703.273.9363

Mr. Chairman and members of the committee, I am Ernest Mitchell, recently retired chief of the Pasadena (CA) Fire Department. I appear today as president of the International Association of Fire Chiefs (IAFC), which represents the leadership and management of America's fire and emergency service.

America's fire and emergency service reaches every community across the nation, protecting urban, suburban, and rural neighborhoods. Nearly 1.1 million men and women serve in more than 30,000 career, volunteer, and combination fire departments across the United States. The fire service is the only entity that is locally situated, staffed, and equipped to respond to all types of emergencies. Members of the fire service respond to natural disasters such as earthquakes, tornadoes, and floods as well as to manmade catastrophes, both accidental and deliberate. As such, America's fire service is an all-risk, all-hazard response entity.

The FIRE Act Grant Program Works

Mr. Chairman, in your invitation you asked witnesses to address S. 2411, the bill to reauthorize the Assistance to Firefighters Grant Program, better known as the FIRE Act. The FIRE Act is one of the most important relationships between the federal government and the fire service. On behalf of the members of the IAFC, I thank you for holding this hearing.

We consistently hear from our members that they have a great number of needs to be met, ranging from fire apparatus to self-contained breathing apparatus to training. We are pleased to note, Mr. Chairman, that this bill would authorize a new survey to determine the current level of need in America's fire service. We are also very pleased that this bill would reauthorize a highly effective federal grant program.

Congressional, administration, and fire service officials alike have called the FIRE Act one of the very best federal grant programs. The U.S. Department of Agriculture (USDA) issued a program analysis in 2003, proclaiming that the FIRE Act works. In USDA's own words, the FIRE Act "has been highly effective in increasing the safety and effectiveness of grant recipients . . . 99% of program participants are satisfied with the program's ability to meet the needs of their department . . . [and] 97% of program participants reported positive impact on their ability to handle fire and fire-related incidents."¹

There are good reasons for the FIRE Act's success, and they are the five pillars of the program.

First, funds go directly to local fire departments for the purposes intended. There is no opportunity for the money to get bottlenecked at intermediate levels as is the case with so much other first responder funding.

Second, grants are awarded on a competitive basis, and not based on a pre-determined formula. We cannot equip this nation's fire service with a one-size-fits-all formula. Formulas cannot account for whether a particular community is a city with mostly high-rise buildings, or whether it is an area out west that is more susceptible to wildland fires. Formulas cannot account for local budgets, or the age and level of use of the equipment in each of this nation's 30,000-plus fire departments. If a fire chief can make a good case for a grant, the competitive process will acknowledge that.

The third pillar of the FIRE Act is that grant applications are peer-reviewed. That means fire service people are looking at fire service grants. Experienced and informed members of the fire service community know what kinds of equipment and training we really need.

¹ U.S. Department of Agriculture Executive Potential Program Team 6, Survey, Assessment, and Recommendations for the Assistance to Firefighters Grant Program, Final Report, prepared for the U.S. Fire Administration, Federal Emergency Management Agency, January 31, 2003, p. 40 (emphasis removed).

The fourth point is that grants are supplemental only; they may not supplant local funds. The point of the FIRE Act is to raise the capability of fire departments across the country, not to replace line items in local budgets. A local community may not reduce the department's budget to offset a FIRE Act grant.

The fifth and final pillar of the FIRE Act's success is that it requires a co-payment by the community. This is really a requirement of community "buy-in" to the idea of improving the fire service and, therefore, advancing public safety. It is a clear demonstration of a community's partnership with the federal government to increase the capability of protecting this nation's critical infrastructure.

Local Control Must Be Maintained

Perhaps the most prominent theme that unifies the five pillars of the FIRE Act is local control. Local fire chiefs, in consultation with their firefighters and community leaders, decide what is most important to the community. These requests are then competitively reviewed by the people that are most familiar with the needs: local fire service representatives from across the country. Finally, the local community must "buy-in" to the grant by providing matching funds and agreeing that federal dollars will not supplant regular local funding to the fire department. I submit to you, Mr. Chairman, that this consistent level of local involvement and control lies at the very heart of the FIRE Act's sustained success.

We are concerned that this local control is being eroded. One example is the fact that the Office for Domestic Preparedness (ODP), which is now in charge of administering the FIRE Act, for the most part administers grants that go through the states. FIRE Act grants, on the other hand, go directly to local fire departments.

Another example is the current emphasis by ODP on the fire service's response to chemical, biological, radiological, nuclear and explosive (CBRNE) incidents. As you are aware, formal management of the FIRE Act was transferred this fiscal year from the U.S. Fire Administration (USFA) to ODP. While ODP has committed to running this program in substantially the same manner as the USFA, we are concerned about the strong emphasis on terrorism response. Acts of terrorism are just some of the many hazards to which America's fire service responds. Congress has made it clear that the FIRE Act is intended to build the basic tools of firefighting in order to enhance our all-hazards response.² We are concerned that ODP's emphasis on terrorism might undermine this overarching goal and begin the transformation of the FIRE Act into a terrorism-response program.

To illustrate this point, I would like to talk about the experience of one of my colleagues, Chief Ben Estes, retired chief of the Pocatello (ID) Fire Department and current president of the Idaho Fire Chiefs Association. ODP invited representatives from several state homeland security departments to come to Washington, DC this past May to participate in the review of FIRE Act grant applications that request CBRNE-related equipment or training. The state of Idaho asked Chief Estes to attend on its behalf. This is a new level of review instituted by ODP. I believe it is meant to ensure that money is not duplicative and is spent in a coordinated fashion, both of which are important goals for any federal program.

² See, for example, appropriations report language for FY2003: "The conferees have agreed to establish this new appropriations account for firefighter assistance grants [the Emergency Management Planning and Assistance account] so that there will be no doubt as to the importance of this program and to protect this program from being lost in the morass of the Department of Homeland Security" (H.R. Rep. No. 108-010, Title III (2003)).

In report language for FY2004, Congress said: "This Committee . . . recommends the program remain in the Emergency Preparedness and Response Directorate in a separate appropriation so there is no doubt as to its importance, and to protect this program from being lost in the first responders grant programs" (H.R. Rep. No. 108-169, Title III (2004)).

However, unlike the peer-review process in place for the remainder of the FIRE Act applications, the reviewers were almost exclusively employees of state homeland security departments. Very few had any fire service experience; Chief Estes was the rare exception.

Chief Estes said that the panel asked three main questions of grant applications:

1. Is the application consistent with the state's homeland security plan?
2. Does the requested training duplicate anything the state has provided, or intends to provide, the applicant?
3. Are there any specific items that you recommend not receive FIRE Act grant money?

Chief Estes thought that question one was within the appropriate scope of this group's review, although he expressed concern that this particular group of individuals had little understanding of what fire departments do and how they do it. Chief Estes had serious concerns with questions two and three.

Question two allowed state officials to effectively veto a fire department's funding request if the state "intended" to provide the training or equipment. This question means that legitimate fire department needs could be vetoed if the state had only the vaguest of intentions to provide the training or equipment. Mr. Chairman, as you are well aware, government agencies often intend to do things that in reality are often long-delayed, if ever actually delivered.

Question three is problematic because it allowed state officials effective veto power over particular classes of equipment or training that departments may request. Chief Estes was also concerned about the general discussions among this group that they wanted to exert significantly more control over all of the funding that went out through this program.

Mr. Chairman, I ask that you amend this bill to move the FIRE Act back within the jurisdiction of the USFA. The IAFC supported placing the USFA in charge of the FIRE Act in the initial authorization, and we support it in H.R. 4107, the companion reauthorization bill in the U.S. House of Representatives. The USFA has very successfully managed this program, and we commend Administrator David Paulison for his outstanding leadership.

The FIRE Act Should Remain a Fire Service Program

We are also concerned about the provision in this bill to make volunteer emergency medical service (EMS) organizations eligible to receive grants. Providing financial assistance to volunteer EMS organizations – indeed, any EMS organizations – is a laudable goal. However, modifying the FIRE Act is not the best way to accomplish that goal. The FIRE Act is meant to improve the readiness and response of local fire departments. Maintaining this clearly defined purpose is critical to the long-term success of the program. Opening up the program to non-fire service recipients would erode this singular focus. Once the door has been opened to expand the list of eligible agencies, Congress would get requests to further expand the program from EMS agencies affiliated with hospitals, third service career agencies, and from private, for-profit corporations. The FIRE Act would then cease to be a core fire service program.

Also, please bear in mind that EMS is an integral part of firefighting. In fact, the Bureau of Labor Statistics definition of firefighting is: "Control and extinguish fires or respond to emergency situations where life, property, or the environment is at risk. Duties may include fire prevention, emergency medical service, hazardous material response, search and rescue, and disaster management."³ The Fair

³ U.S. Department of Labor, Bureau of Labor Statistics, Standard Occupational Classification 33-2011: Fire Fighters (emphasis added)

Labor Standards Act defines an “employee in fire protection activities” to include “a firefighter, paramedic, emergency medical technician, rescue worker, ambulance personnel, or hazardous materials worker . . . [.]”⁴

The fire-based EMS community does benefit under the current version of the FIRE Act, particularly under changes made in Fiscal Year 2004. In order to increase the amount of funding directed toward the EMS program category, EMS was incorporated into the operations and firefighter safety category. Representatives from fire service organizations recognized that by incorporating EMS funds into this larger category, grant requests for EMS training or equipment would increase because fire chiefs could work them into larger requests that addressed other fire department functions. Preliminary data from the USFA, which is listed below, indicates that this administrative change has significantly increased both the number of applications and the total dollar amount of funding requested in the EMS program area.⁵ For example:

- The number of EMS applications increased from 216 to 2,584. This is nearly an eleven-fold increase.
- The total dollar amount requested for EMS increased from less than \$17 million to more than \$66 million. This is close to a four-fold increase.
- As a percentage of total applications, requests for EMS funding increased from one percent to 12.7 percent.
- As a percentage of total funding requests, EMS increased from 0.7 percent to 2.5 percent.

We also note, with appreciation and support, that S. 2411 would allow applicants to request funds for automated external defibrillator (AED) devices, and that the bill would provide a match reduction incentive to apply for these devices. According to USFA statistics, the leading cause of fatal injuries to firefighters is heart attack. In fact, in a retrospective study of firefighter fatalities from 1984 to 2000, the proportion of firefighter fatalities from heart attacks remained constant over that 16 year period.⁶ I am convinced that if more emergency response vehicles had an AED available, we could save more firefighters’ lives. Therefore, while we generally do not endorse favoring one piece of equipment over another in the FIRE Act grant process, we do endorse this provision to promote the use of AEDs.

Finally, Mr. Chairman, it is important to recognize that volunteer EMS agencies have significant EMS-specific funding streams available to them that are not available to many fire departments, most significantly, third-party reimbursement for ambulance transport. Pre-hospital emergency medical care is composed of two distinct services: first response and ambulance transport. The fire service is the overwhelming provider of EMS first response across the United States. Strategically placed in the community for rapid response, fire departments quickly get trained medical personnel to a patient’s side after 9-1-1 is called. As you can imagine, sustaining this level of rapid response is very expensive and the burden of this cost falls exclusively on local taxpayers. Because of antiquated federal Medicare laws, EMS first response is not eligible for third-party reimbursement.

⁴ 29 U.S.C. 203(y) (as amended by P.L. 106-151)

⁵ Since no awards have yet been made, only statistics for application requests are available.

⁶ TriData Corporation, Firefighter Fatality Retrospective Study, prepared for the Federal Emergency Management Agency, United States Fire Administration, National Fire Data Center, April 2002, pp. 23-24.

The other component of EMS is ambulance transport. This service is provided by a much wider variety of providers, including for-profit corporations, hospitals, government third-service, and volunteer EMS agencies, as well as fire departments, which provide only one-third of ambulance transports.⁷ This broader mix of providers is explained by the fact that ambulance transport is eligible for third-party reimbursement. As a result, most ambulance transport providers bill patients and their insurance companies for every ambulance run. Medicare alone reimburses more than \$3 billion for ambulance transport annually. Additional reimbursement comes from Medicaid, private insurers, and the patients themselves. As noted earlier, EMS first response services are not eligible for any of this funding and this financial burden falls almost exclusively on the fire service. The FIRE Act is one of the only sources of funding – aside from local taxpayer dollars – for fire departments that provide this important, and expensive, service to their communities.

In light of the significant funding already available for ambulance transport, the administrative changes that are targeting more funding toward EMS, and the fact that S. 2411 would promote the use of AEDs, I urge you, Mr. Chairman, not to open this grant program beyond America's fire service. When we look at the potential number of increased applicants, the potential decrease in available appropriations over the next few years, and the significant number of basic unmet needs in the fire service, we remain very concerned about the impact of the EMS language in this bill.

Funding Caps Must Be in Place

The IAFC is concerned also about two provisions of the bill that deal with funding levels. The first is about the cap on grant funding. The bill would set a grant cap of the greater of \$2,250,000 or the amount equal to one-half of one percent of the total amount of appropriated funds. This formula could grant an unreasonable amount of money to any one jurisdiction. We support the grant cap language in the House bill (H.R. 4107), which simply says, "no single recipient may receive more than one half of one percent of the funds appropriated under this section for a single fiscal year." This language would ensure an equitable distribution of funds no matter what a particular year's appropriation may be.

The bill would also increase the funds available for fire prevention and firefighter safety programs from five percent to six percent. Five percent is the amount that we supported in the original law, and it is the amount that we support in the House bill. The IAFC is committed as much to preventing fires as we are to extinguishing them. We are also committed to promoting and ensuring firefighter safety. However, funds for those types of activities must be balanced against the dire need for improving emergency response equipment and training. Increasing the amount of funds available for fire prevention and firefighter safety would start us on a slippery slope of dedicating more of the funding that is needed to serve the FIRE Act's core purposes.

Technical Corrections

We suggest three technical corrections to this bill, which I will simply outline in bullet form below. The suggested changes are underlined.

- Page 4, lines 16-21 should read: "(ii) ANNUAL REVIEW OF CRITERIA.—Not less often than once each year, the Secretary of Homeland Security, in consultation with the Administrator, shall convene a meeting of individuals who are members of national fire service organizations . . . [.]” The current wording – “members of a fire service” – would be overly vague.

⁷ Findings from the 1999 National Survey of Ambulance Providers, Final Report, March 2000, p. 13. This report was conducted by Project HOPE Center for Health Affairs in conjunction with the negotiated rulemaking process that accompanied the development of the Medicare ambulance fee schedule.

We would also like to see the bill specify the organizations to be involved. In February of 2004, 10 major fire service organizations submitted to Congress a white paper detailing our requests for this reauthorization. In our suggested bill language, we specified the organizations that represent America's fire service experts in an effort to be as clear as possible about who should be involved in setting grant criteria.⁸ Congress often specifies organizations to be involved in particular studies or projects, and this should be no exception. The organizations we specified are long-standing and well-established, and are likely to still be in business in 2010, when this reauthorization is set to expire.

- Page 5, lines 5-12 should read: “(i) REQUIREMENT FOR REVIEW.—The Secretary of Homeland Security shall award grants under this section based on the review of applications for such grants by a panel of fire service personnel appointed by national organizations recognized for expertise in the operation and administration of fire services.” The current wording – “by a national organization” – would allow only one organization to select the reviewing panel.
- On pages 10-11, the term “first due emergency vehicles” should be replaced with “emergency response vehicles.” The term “first due” literally applies to the vehicle that arrives first on the scene. It is a term used by the fire service that the bill as currently written would incorrectly define.

Conclusion

In conclusion, I would like to thank you, Mr. Chairman, for cosponsoring this bill and for holding this hearing on a most important federal grant program. The FIRE Act is an endeavor for which the taxpayers and the federal government can – and should – be proud.

I will be happy to answer any of your questions.

⁸ The organizations listed in the white paper are the Congressional Fire Services Institute, International Association of Arson Investigators, International Association of Fire Chiefs, International Association of Fire Fighters, International Fire Service Training Association, International Society of Fire Service Instructors, National Fire Protection Association, National Volunteer Fire Council, North American Fire Training Directors, and “any other non-federal fire service organization the Secretary deems necessary.”