Bill as Introduced

SB 97 – AS INTRODUCED

2003 SESSION

03-1061
06/01

SENATE BILL ***97***

AN ACT limiting the liability of firefighters working for certain private firefighting units.

SPONSORS: Sen. Clegg, Dist 14

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill declares that firefighters working for a private firefighting unit which has contracted with a local governing body are agents of the municipality and enjoy the same privileges and immunities as the employees of the municipality.

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 97 – AS INTRODUCED

03-1061
06/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT limiting the liability of firefighters working for certain private firefighting units.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Status of Firefighters who are Members of Private Firefighting Units Which Contract with a Municipality. Amend RSA 154:1-d, II to read as follows:

II. Any firefighter, paid or volunteer, who is acting in an official capacity under the direction or supervision of the elected or appointed fire chief, or designee, of a municipal fire department organized in accordance with RSA 154:1, or who is participating in a fire department activity sanctioned by the local governing body or its designee, shall be an agent of the municipality, enjoying the same privileges and immunities as the municipality or employees of the municipality. ***A firefighter, who is acting in an official capacity, shall include a member of a private firefighting unit which has contracted with the municipality or other political subdivision under RSA 154:1-c.*** Such privileges and immunities include, but are not limited to, indemnification for civil rights damages to the extent set forth in RSA 31:106, and indemnification for any other accidental damages to the extent set forth in RSA 31:105, if the municipality has adopted that section.

2 Effective Date. This act shall take effect 60 days after its passage.

Amendments

Sen. Clegg, Dist. 14
February 5, 2003
2003-0188s
06/01

Amendment to SB 97

Amend RSA 154:1-d, II as inserted by section 1 of the bill by replacing it with the following:

II. Any firefighter, paid or volunteer, who is acting in an official capacity under the direction or supervision of the elected or appointed fire chief, or designee, of a municipal fire department organized in accordance with RSA 154:1, ***or who is a member of a not for profit private firefighting unit which has contracted with a municipality or other political subdivision and is organized in accordance with RSA 154:1-c,*** or who is participating in a fire department activity sanctioned by the local governing body or its designee, shall be an agent of the municipality, enjoying the same privileges and immunities as the municipality or employees of the municipality. Such privileges and immunities include, but are not limited to, indemnification for civil rights damages to the extent set forth in RSA 31:106, and indemnification for any other accidental damages to the extent set forth in RSA 31:105, if the municipality has adopted that section.

2003-0188s

AMENDED ANALYSIS

This bill declares that firefighters working for a not for profit private firefighting unit which has contracted with a local governing body are agents of the municipality and enjoy the same privileges and immunities as the employees of the municipality.

Committee Minutes

Date: February 5, 2003
Time: 2:15 p.m.
Room: 102 LOB

The Senate Committee on Executive Departments and Administration held a hearing on the following:

SB 97	limiting the liability of firefighters working for certain private firefighting units.

Members of Committee present:	Senator Prescott Senator Peterson Senator Estabrook Senator Cohen Senator Kenney

---

The Chair, Senator Russell Prescott, opened the hearing.

At this time I'd like to open the hearing on SB 97. This is limiting the liability of firefighters working for certain private firefighting units. I'll be looking over the sign-up sheet to call upon who will be introducing the bill. We should wait for Senator Clegg. Is there a way we can ask Senator Clegg if he is going to introduce the bill? I'd like to call upon the prime sponsor, Senator Clegg.

Senator Robert Clegg, Jr., D. 14: Thank you Mr. Chairman. I have an amendment to the bill. I need to keep one copy though unless you have some with you. The original intent if I might is to protect firefighters over in Candia. What's happened over there is that they're actually not a municipal fire department. They are 100% volunteer. They're a private group that is funded by the town. One day someone woke up and said. What they did was they woke and found out that they weren't covered under the limited liability because they're not municipal firefighters. So here we've got a group of guys that go out every day and they fight fires, man the fire station, they do everything and if something goes wrong they can be sued personally. I worked with Jim Demers as you can see to come up with an amendment to the bill because the firefighters wanted to make sure that what I wasn't doing was opening the door for communities to privatize fire departments. It

wasn't my intent. My intent is to cover the guys in Candia. We worked this out with a couple of lawyers and we think that what we've done is exempted people like the Candia fire department from personal liability. I'll say it now because I know the municipal association is against this bill because it says that's it's possible that it puts any liability onto the city or town of Candia. I don't think it's right that we expect fire guys to go out there. Risk their lives going into burning buildings or rescuing us from car crashes and then stick them out there dangling with the possibility that they could get personally sued and loose their homes. I'd be against making any change that would in any way harm those poor guys that are stuck there. I'll tell you that Candia is putting a warrant article out to ask the town to vote to take over 100% the fire department. But it's not guaranteed that it's going to happen. Some people in Candia have said to me that they have operated very efficiently not being a town department. They hold fundraisers to buy equipment. They do this and they do that so it's not guaranteed that these guys will get taken over. But by the same token, it's guaranteed that they can be sued under the current practice and I'm just looking to protect the guy who's not out to harm anybody but out to help anybody. I'll take any questions.

Senator Russell E. Prescott, D. 23: Senator Estabrook.

Senator Iris Estabrook, D. 21: Thanks, Mr. Chairman. When is that vote on the warrant article?

Senator Robert Clegg, Jr., D. 14: Maybe in March. Sometime in March.

Senator Iris Estabrook, D. 21: So it would be on the 10th or 11th.

Senator Russell E. Prescott, D. 23: (inaudible) to find out how this amendment works. Are you going to speak to that or is?

Senator Robert Clegg, Jr., D. 14: You want to know how the amendment works.

Senator Russell E. Prescott, D. 23: or is someone going to speak to that?

Senator Robert Clegg, Jr., D. 14: Basically it says, that it adds in the statute, what exists there, Any firefighter paid or volunteer, who is acting in an official capacity under the direction or supervision of the elected or appointed fire chief, or designee, of a municipal fire department organized in accordance with RSA 154:1. That's what protects all our fire fighters now. We've added or not for private, not for profit private fire department organized in accordance with 154:1-c which is what Candia is. It's a private not for profit,

you can't be called a volunteer because you can't volunteer to a municipal department that doesn't exist.

Senator Russell E. Prescott, D. 23: RSA 154:1-c refers to voluntary fire departments?

Senator Robert Clegg, Jr., D. 14: I believe so.

Mr. Demers: It refers to private.

Senator Robert Clegg, Jr., D. 14: Private.

Mr. Demers: Private fire departments.

Senator Russell E. Prescott, D. 23: Thank you. Any questions of the committee for Senator Clegg? Senator Kenney.

Senator Joseph D. Kenney, D. 3: Just some clarifications. A private fire fighting unit in Candia do they get paid by the Candia municipality at this point?

Senator Robert Clegg, Jr., D. 14: The municipality of Candia actually grants them x amount of dollars per year to use in their budget. I'm not sure exactly how they pay themselves or if they do. I'm sure they do in some manner but they all have jobs, other jobs, but they're not on the town payroll as far as I understand.

Senator Joseph D. Kenney, D. 3: Follow-up? So why doesn't the town of Candia look in whatever budget they give them, put in a line item that includes liability insurance?

Senator Robert Clegg, Jr., D. 14: Still doesn't stop you from going directly after the firefighter himself. There can be liability insurance but what's the maximum claim you're going to get. Your liability insurance only goes up to a million and somebody sues you for 15. I've had situations where we've had 15 million dollars worth of insurance and been sued for 25 million. The first carrier puts the money on the table and says see you later, I'm out of here. Because I'm only in for a million and then the next guy, you're umbrella insurers have to pick up. So if the city says yes, we'll insure you up to a million dollars and somebody sues you for more than that then you're personally in for the rest. Did I confuse you Senator?

Senator Joseph D. Kenney, D. 3: No, it's, being a selectman I probably would have handled this private firefighter unit a little bit different because what I

think we're trying to do is look at insurance. I think we're somehow trying to look at this clay mold and build it into something that there probably is a simple way of doing it.

Senator Robert Clegg, Jr., D. 14: We think this is the simplest way to do it is to just grant them the same immunity that you grant every other firefighter that works for a town. Because in essence they only serve Candia and I'm sure they have mutual aide agreements but in essence they're serving only that community. So we're just giving them the same status.

Senator Russell E. Prescott, D. 23: Senator Estabrook.

Senator Iris Estabrook, D. 21: Thank you Mr. Chairman. So as far as you're aware, is Candia the only community in this situation?

Senator Robert Clegg, Jr., D. 14: I used to believe that but I've been told that there may be other places further up north where it's strictly voluntary. The towns never formally adopted certain crews. Senator Flanders told me today that they had to do something two years ago in his area where they actually took them in to be part of the municipality because the same problem arose. There were accidents running an ambulance and found out they'd be personally responsible unless the town took them in as a unit of the community.

Senator Russell E. Prescott, D. 23: How can the member of a private firefighting unit be acting in an official capacity? Under the direction of an elected or appointed fire chief?

Senator Robert Clegg, Jr., D. 14: Well, Candia fire department does have a fire chief and they operate under the same standards. In fact, the fire chief is Les Cartier and he's a member of a lot of the boards over at the Fire Marshall's office.

Senator Russell E. Prescott, D. 23: He is an employee of the town?

Senator Robert Clegg, Jr., D. 14: He's not an employee of the town because the town doesn't own, but since the only actions they have are upon the, in Candia itself and they serve no other, he acts as the fire chief. He has responsibilities under the statutes as the fire chief even though he's a volunteer fire chief. The rest of the statute, in my opinion, covers his actions. He still has to act in the same manner. The only difference is who owns them.

Senator Russell E. Prescott, D. 23: So you believe that inserting this sentence that they will be acting on an official capacity even if they are private volunteer.

Senator Robert Clegg, Jr., D. 14: They wouldn't be an official capacity if the town. If the towns not giving you any money to assist you in answering all the calls in your community then I wouldn't say that you had automatic official capacity. Where the community actually gives you money to operate and understands that your of their sole source other than again mutual aide agreements I would say that's pretty official because the town does contribute to their budget.

Senator Russell E. Prescott, D. 23: Senator Kenney.

Senator Joseph D. Kenney, D. 3: I'll ask a stupid question. If there's a fire, does that private fire-fighting unit have to respond in Candia?

Senator Robert Clegg, Jr., D. 14: Yes they do.

Senator Joseph D. Kenney, D. 3: This is highly unique Mr. Chairman.

Senator Russell E. Prescott, D. 23: That's the official capacity.

Senator Joseph D. Kenney, D. 3: I'll make another kind of correlation. Elected tax assessors, there's only like two communities in the whole state that have elected tax assessors. They're being phased out and this is another example where I simply just think that it's a process of local government saying that certain things need to be phased out but we're hanging on to this kind of dinosaur period type of situations. That's my thoughts on it anyway.

Senator Robert Clegg, Jr., D. 14: They're trying to phase it out. If the voters in the community decide that this year isn't the year to phase it out, I've got a whole bunch of guys that are stuck with a whole lot of personal liability that shouldn't be. They are, they are, they do have a warrant article out to try to go municipal.

Senator Russell E. Prescott, D. 23: Senator Kenney.

Senator Joseph D. Kenney, D. 3: Everything is timing as far as town meetings and the legislative process but how would you see us trying to meet both the towns and the legislative direction. How can we meet both of those within the time constraints of hill?

Senator Robert Clegg, Jr., D. 14: If we pass this bill out of the Senate, it goes to the House. The time it takes it to go through the House, there will have been a March 11th meeting and if the town says no to Candia then we're in pretty good shape to protect those guys. If the town says you're a municipal fire department then I guess we just say unless somebody can come up with another town that needs it, that we're done with the bill. I guess I'm (inaudible)

Senator Joseph D. Kenney, D. 3: I appreciate your efforts Senator Clegg in helping out the community of Candia in their firefighting unit. It's admirable. I just want to make sure that we're not creating something that we don't need to do as far with statewide.

Senator Robert Clegg, Jr., D. 14: I can tell you that they're not even in my district. I just happened to run into a few of the guys and I work with a few of them and they're regular guys. Some of them make more money than, a lot more money than we do to.

Senator Russell E. Prescott, D. 23: Did any of them ask for a firefighters license plate? Who sponsored bill?

Senator Robert Clegg, Jr., D. 14: Where is that?

Senator Russell E. Prescott, D. 23: Thank you Senator Clegg. Seeing no further questions you may go. May I call upon the other person that wishes to testify? Judy Silva.

Ms. Silva: Thank you Mr. Chairman, members of the committee. I am Judy Silva from the Municipal Association and I'm here as Senator Clegg said, in opposition to the bill as it is written. I know that Senator Clegg is very upset with us for our position. I think he feels that we are not supportive of firefighters and the things that they do. I wish to tell you that it is not the case. We would ask you to look at what this bill does in the larger context of the statute regarding firefighters, which is 154 in general. RSA 154:1 allows the legislative body of a municipality which in towns is the town meeting to choose a form of organization for their fire department. There are five specific options that are provided or there's a general provision that says a town can adopt whatever form the town meeting may choose to put together and adopt. So that is how you become a municipal fire department. This statutory structure was put into place as I understand it because over time we had this situation develop where there were a number of small little fire departments out there, some of them even a kind of neighborhood department, that had developed historically. The question arose to what degree are these department independent departments, to what degree are

they municipal departments, to what degree are their firefighters protected under municipal liability and what situations does the municipality have liability for the actions of these departments. So this provision was put into place whereby the municipalities determined the form of organization for that department. So it would be clear that yes you are a municipal department or no you are not a municipal department. What 154:1-c says that if you're not organized under a structure adopted under 154:1 than you're a private unit. So you're not a municipal unit, you're a private unit. What 154:1-d says which is the section that is the subject matter of this bill is for a fire department organized under 154:1, so ratified by the municipality that fire department and those fire fighters are agents of the municipality and enjoy the same immunities and privileges as the municipality and it's employees. What this new language does, either the original version or the amended version is say that if you are a private unit under contract or not under contract. I guess you work (inaudible) your municipality that you are also immune but it also says that this private unit is an agent of the municipality and thus their actions even if they are not fire fighter related actions but something else to do with the department could result in municipal liability. That's the language that causes the concern. As a private municipal or non-municipal unit the municipality has no control over the operation over the private unit or it's policies. Yet the municipality could incur liability. I don't think that there's any intent to leave these folks out there uncovered but there is the other side of the coin that we need to look at too and try to see some way to resolve that issue. As Senator Clegg said, I'm sure this is where it came from, it has to do with the Candia situation but I guess our concern is that the language would apply to everyone and that this whole issue may be resolved by this warrant article that Candia will vote on the 15th of March is when their town meeting is. So we would ask because of these cross liability issues that are brought into play and because the effect could be well beyond Candia but in other situations too that we may not be aware of at this point that you hold off on acting on this until the Candia situation is worked out. That if you do feel that you need to go forward with it that perhaps you make this a local option so that there can be something worked out between the municipality and the fire department to provide liability protection. But the terms of that can be worked out so that both parties are clear as to what would be covered. Which was my understanding of the whole intention of the rewrite of the 154 to begin with. Thank you.

Senator Russell E. Prescott, D. 23: Thank you. I'd like to talk about the fact that the town does have a contract with this department, voluntary non-profit department that's how it's written. I know in business someone buys a product from me it's like a contract and if that product fails and I didn't do anything with its installation I'm liable. I don't think the town is not liable today. If we pass this they're still going to be liable. Can you see my frame of

thought because they are contracting all ready with the fire department therefore they're liable for what the fire departments going to be doing? Have you checked with the legal counsel for your association to see if that is the case? The town is already liable?

Ms. Silva: What I did do was talk with people over on our insurance side who don't insure the town so they're not involved in this issue at all. They looked at it as a situation as an independent contractor. When you hire an independent contractor my understanding is that you're not necessarily liable for the actions of the independent contractor.

Senator Russell E. Prescott, D. 23: I believe only if you give yourself, only if you give a release.

Ms. Silva: I don't know if that is always necessarily the case.

Senator Russell E. Prescott, D. 23: In this world I think it is.

Ms. Silva: In the language of the statute, the very first line of paragraph 2 says here, "any fire-fighter, paid or volunteer who is acting in an official capacity under the direction of a municipal fire department organized in accordance with 154:1" and this is clearly not a municipal fire department organized in accordance with 154:1.

Senator Russell E. Prescott, D. 23: But, in the next line says "not for profit, under contract". So the town has the ability to either make the contract or not. They make the contract, wouldn't you surmise they take liability for what the contract is what the contractor is doing?

Ms. Silva: I think that under contact provision. That's the new language you would be adding under the statute. I guess to begin with

Senator Russell E. Prescott, D. 23: It wouldn't be new language. It would be an existing form of how the association between the town and the fire department exist. Exist by contract. It's referencing that. Therefore if it exists by contract we'd be given liability.

Ms. Silva: Just because you exist I don't know that you exist by contract. You may have a contractual relationship with the municipality but that doesn't mean that you're a municipal department.

Senator Russell E. Prescott, D. 23: True.

Ms. Silva: It's the municipal departments that the wording of this statute currently gives the immunity to. Even backing up even further, I've been making a number of calls trying to figure out this situation, it's not clear whether or not there is in fact a contract between the Candia fire department and the town of Candia. I know that they've been given, that the town, according to Senator Clegg, gives them money. I don't know what the terms of that are. How that all works. There's, it raises any number of issues. For example, the town has given them money if they've bought equipment with the money, should the department dissolve, who does the equipment belong to. There are all of those issues that making something a municipal department was designed to clarify. I think that the liability issue is that as well.

Senator Russell E. Prescott, D. 23: Could you help me with my question? Since the town has a contract with the voluntary non-profit fire department, aren't they already liable? Could you help me with that? Maybe do some further research there?

Ms. Silva: I'd be happy to look at that. The folks that I talked to did not feel that was the case but I can look a little bit further.

Senator Russell E. Prescott, D. 23: I will be able to find out from other sources myself. Senator Kenney?

Senator Joseph D. Kenney, D. 3: Question that just kind of entered my mind was, if you get the firefighter unit or individuals not acting in a fiscal capacity, but say it's another matter such as a sexual harassment law suit? Under this language if this were to pass, enjoying the same privileges and immunities, would that make the town liable at that point?

Ms. Silva: I'm sorry. Could you run that by me?

Senator Joseph D. Kenney, D. 3: OK. Under this language I sense that if this bill were to pass with the amendment that it's really in regard to the official capacity of this private fire-fighting unit, but can you think of anything? An example comes to mind, if it were in an unofficial capacity as far as liability, such as a sexual harassment law-suit, would you think that they would enjoy the same privileges and immunities as a municipality because of this new language?

Ms. Silva: Thank you. I think I was trying to write down the question so I missed some of the beginning part. I think that's what the statute specifically addresses as well as the fire fighting type duties because the last two lines I'm looking at the amendment, but the end of that paragraph that is

already in place talks about such privileges and immunities include, but are not limited to, indemnification for civil rights damages and also indemnification for any other accidental damages. So the civil rights damages kind of situation would include those kinds of sexual harassment allegations. That would be part of what the immunities and privileges would be that would be extended to the private unit.

Senator Joseph D. Kenney, D. 3: So that for you a sense that the municipality would suddenly be responsible for a situation like that if this was to pass into law?

Ms. Silva: Yes, yes.

Senator Russell E. Prescott, D. 23: Thank you Senator Kenney. Then you believe the official capacity includes sexual harassment?

Ms. Silva: Though just by virtue of the language of the statute it says such privileges and immunities include but are not limited to that. It could be official capacity could be something to do in the who gets to be included as a member of this private unit and should the unit decide not to admit women that would be, I think, the official capacity of the unit in terms of how they do what they do and who gets to belong and that could potentially be a sexual harassment situation.

Senator Russell E. Prescott, D. 23: So that's already in place?

Ms. Silva: Not for private fire-fighting units.

Senator Russell E. Prescott, D. 23: Not for private but for municipal fire departments it's already there.

Ms. Silva: Yes. If one, if you're outside of your fire department activities. If you have, I would say, if you have a fire fighter who's in a meeting someplace not related to their fire-fighting activities or in a bar and they're harassing somebody that's not covered. But if they were harassing somebody within the department or on the job, then that would be covered as part of their official capacity.

Senator Russell E. Prescott, D. 23: I would tend to disagree that someone acting in an official capacity would not be official to be a sexual harasser.

Ms. Silva: You're not officially allowed to be sexual harasser but in the course of your official capacity you could be acting in a way that was sexually harassing.

Senator Russell E. Prescott, D. 23: Very good.

Ms. Silva: If you did not allow women into the department for example.

Senator Russell E. Prescott, D. 23: Any other questions of the committee? Senator Cohen?

Senator Burton J. Cohen, D. 24: Is there a language you might suggest that could amend this to address your concern? Maybe not necessarily right this minute.

Ms. Silva: I guess making it be a local option would address my concern because then the municipality and the fire department can agree on the terms of that liability or whatever liability coverage they may want to (inaudible) I mean it would be part of their contract negotiations and I don't see that there would be any issue with that.

Senator Russell E. Prescott, D. 23: Any further questions?

Ms. Silva: Thank you very much.

Senator Russell E. Prescott, D. 23: Thank you very much. Anyone else wishing to testify please come forward.

Mr. Demers: Thank you Mr. Chairman. For the record my names is James Demers and I would like to testify on behalf of two clients today. I'll start first with the Professional Fire Fighters of New Hampshire. This bill will not directly impact them because it's aimed at volunteer fire departments. Senator Clegg was correct. Our initial concern was tinkering with language that would deal with private firefighters, private fire departments. Back in the early 1980's there actually was a move in New Hampshire to make the Dover Fire Department a private fire department where they were going to contract out to the Wackenhut Service. That caused quite an uproar throughtout the state of New Hampshire and ultimately did not happen. The professional fire fighters initial concern was with regard to private entities like Wackenhut. The amendment you have in front of you deals strictly with not for profit private fire departments which is meant to zero in on the Candia situation, the volunteer fire department. So from a professional fire fighters stand point they have no problem with the language in giving the volunteer fire fighters the same immunity that they receive when they go out to fight a fire. The premise behind that is that you don't want any fire fighter when he responds to a scene having second thoughts about entering a burning building or rescuing a life. The fear from some distraction, one being

the potential of a lawsuit. You want these people to do what they're supposed to do and go in and do their job without concerns. That's why the state has granted immunity to fire fighters and as you know I also represent the New Hampshire Trial Lawyers Association and their role has always been to oppose immunities and liability immunities for entities except we have always stood immunity where public safety is at stake. The Trial Lawyers are not opposed to this language. Their feeling again is that as long as there is an entity that people have recourse against in the case of wanton misbehavior or gross negligence, which would be the employer, then this, they have no problem with this immunity being extended to the volunteers as well. The debate that has just gone on with regard to official capacity in the first sentence, I don't think it was ever intended that official capacity was to mean any more than doing the job as a fire fighter. Responding to a fire and fighting a fire. So I guess, I'm not a lawyer but I guess words can be stretched to be more than what they're intended but I don't think it was ever intended to mean anything other than what their real job is, fighting a fire. In this particular case, that's all the immunity is intended to deal with. If a fire fighter is doing his or her job, responding to a scene, fighting a fire, performing a rescue, they can enter that building without the fear of a lawsuit. If something goes wrong and there is grounds for a lawsuit, there obviously has to be some recourse available to the injured party and in this particular case, as we've done with municipal fire departments, the employer, the municipality is the one that would have to argue that particular case. I can tell you from talking to the two groups they have no problem with this particular piece of legislation. I know that there are some new issues that came to light yesterday and Judy made me aware of the concerns that have come forward. From the standpoint of the two groups that I represent this is not an issue.

Senator Russell E. Prescott, D. 23: Any questions of the committee? Senator Cohen.

Senator Burton J. Cohen, D. 24: So you would not be, would not share the concerns of the municipal association that if someone is acting in an official capacity and is in the process of doing fire fighting, if this person, for example in the case of sexual harassment, am I not exposed the municipality to ..

Mr. Demers: I don't want to play lawyer because I'm not but I can tell you that the intent was never for that language to be any broader than the capacity of fighting a fire. I've seen lawyer's interpretations many times and I suppose that someone could make that argument and if that language needs to be tightened up then that may be something to look at. But I can tell you also that this language has been on the books since 1994 for

municipal fire fighters and I'm not aware of any particular case where it's been interpreted beyond the actual duties of the fire fighter.

Senator Russell E. Prescott, D. 23: Any further? Senator Kenney.

Senator Joseph D. Kenney, D. 3: I just had a technical question. When we say volunteer fire fighters in the case of Candia, private fire department, volunteer and not for profit, in the case of Candia, is that one in the same?

Mr. Demers: I don't believe that the Candia Fire Department which is a private, not for profit fire department is a full time department. I may be wrong but it is a volunteer department. It's a volunteer private fire department, not for profit

Senator Joseph D. Kenney, D. 3: If I could follow up, is it a 501:C3, not for profit unit.

Mr. Demers: I don't know. Those fire fighters are not part of the professional fire fighters so I don't know their specific or anything.

Senator Russell E. Prescott, D. 23: Any further questions?

Mr. Demers: Thank you.

Senator Russell E. Prescott, D. 23: Any one else wish to testify on this bill?

Mr. Minis: I do. For thirty seconds.

Senator Russell E. Prescott, D. 23: Please and the come forward and state your name for the record.

Mr. Minis: For the record my name is David Minis. I represent the New Hampshire Association of Fire Chiefs. I don't come here with an official position on this bill although I did just look at Senator Cleggs proposed amendment. Speaking for my client, we're much more comfortable with the amendment than we were with the original bill. I will have an official position from my client next Thursday. We are looking at it right now and trying to see if it has ramifications beyond Candia. We don't believe that it does but we want to make sure. In reference to Senator Kenneys question I believe that in Candia, the fire chief of the Candia Private Company here, is full time and I believe that the deputy is part time. Everybody else is volunteer. The issue in Candia is unfortunate. There are a number of other issues that have permeation's from this, even to the forest fire wardens. There's a lot of issues involved in this and we're very hopeful that at Town

Meeting Candia will, the townspeople of Candia will do the right thing and purchase the private fire department and make it part of the municipality and in that case this issue would go away.

Senator Russell E. Prescott, D. 23: Senator Kenney.

Senator Joseph D. Kenney, D. 3: Is it a 501: C-3?

Mr. Minnis: No.

Senator Joseph D. Kenney, D. 3: What is it then when it comes to reporting it to the IRS?

Mr. Minnis: I don't know, there's 22 C's. It's C-1 through C-22 and I'm not sure which one it falls under. 4, 7, something like that. I'm in the process of researching it right now and I'll have an answer for you for next week. I just wanted to let you know that we're looking at it.

Senator Russell E. Prescott, D. 23: Any further questions of the committee?

Mr. Minnis: Thank you very much. I appreciate your thirty seconds.

Senator Russell E. Prescott, D. 23: Anyone else wish to testify of SB 97? Thank you. I'll close the hearing on SB 97.

Respectfully submitted.

Pamela Manocchi

Pamela Manocchi
February 27, 2003

Speakers

SENATE Executive Departments & Administration

Date February 5, 2003 Time 2:15 p.m. Public Hearing on
Bill # SB 97

limiting the liability of firefighters working for certain private firefighting units.

(Please print) ***Please check box(es) at left that apply.***

SPEAKING?	FAVOR	OPPOSED	NAME	REPRESENTING
☑	☑	☐	JAMES DEMERS	TLA, FIREFIGHTERS
☑	☑	☐	DAVID MINIS	WA Assoc. Fire Chiefs
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☒	☐	☒	Judy Silva	NFIRA
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		
☐	☐	☐		

Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: March 19, 2003

THE COMMITTEE ON Executive Departments and Administration

to which was referred Senate Bill 97

AN ACT limiting the liability of firefighters working for certain private firefighting units.

VOTE: 5-0

2003-0921s

Having considered the same, report the same with the following amendment and recommend that the bill: **AS AMENDED OUGHT TO PASS.**

Senator Joseph D. Kenney
For the Committee

SB97 Docket

Next|Prev|Results List|Main|Bill Status

Bill Title: limiting the liability of firefighters working for certain private firefighting units.

Date	Body	Description
1/30/2003	S	Introduced and Ref. to Executive Departments & Administration; SJ 3, Pg.34
1/31/2003	S	Hearing; February 5, 2003, Room 102, LOB, 2:15 p.m.; SC7
3/21/2003	S	Committee Report; Ought to Pass with Amendment{0921}, [03/27/03]; SC15, Pg.31
3/27/2003	S	Committee Amendment{0921}, AA, VV; SJ 10, Pg.160-161
3/27/2003	S	Ought to Pass with Amendment{0921}, MA, VV; OT3rdg; SJ 10, Pg.161
3/27/2003	S	Passed by 3rd Reading Resolution; SJ 10, Pg.213
4/1/2003	H	03/26/2003 Introduced and ref to Judiciary; HJ34, p1085
4/8/2003	H	Hearing Apr 15 1:30 RM208,LOB
4/16/2003	H	Subcom Work Session Apr 23 10:00 RM208,LOB
5/21/2003	H	Maj Report ITL for May 29 (Vote 18-0;CC)
5/29/2003	H	ITL Report Adopted; HJ 45, p1456

Next|Prev|Results List|Main|Bill Status

Docket Abbreviations