



Fire Department Dues

Informational
Paper
92

Wisconsin Legislative Fiscal Bureau

January, 2019

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Introduction

The state administers a fire department dues program, which uses revenues collected from insurers doing a fire insurance business in the state to fund state and local fire prevention and fire protection programs. The program is often referred to as the "2% fire dues program" because the revenue collected by the state from insurers to support the program is equal to 2% of the fire insurance premiums received by the insurers.

The Department of Safety and Professional Services (DSPS) distributes most of the 2% fire department dues revenues to each city, village, or town maintaining a local fire department that complies with state law. Municipalities must use the fire dues payments they receive from the state only for eligible activities related to operation of a fire department. In addition, state revenues received under the fire dues program are used for DSPS administration of statewide fire prevention and fire protection programs, state administration of fire dues eligibility and payments, and Wisconsin Technical College System (WTCS) support of fire-fighter training programs.

This paper describes fire department dues program revenues collected by the state. It also describes expenditures made from fire department dues revenues, including: (a) DSPS distribution of fire dues payments to local governments that maintain fire departments; (b) DSPS administration of fire prevention and fire protection programs; (c) WTCS administration of fire fighter training programs; and (d) WTCS fire fighter school training program local assistance (tuition payments for fire fighters).

The DSPS fire prevention program is authorized under section 101.14 of the statutes,

and the fire dues program is authorized under ss. 101.573 and 101.575 of the statutes. DSPS administers the fire prevention and fire dues programs under administrative rules in chapter SPS 314 of the Wisconsin Administrative Code.

Revenue

Any insurer doing a fire insurance business in Wisconsin must pay to the state, under s. 601.93 of the statutes, fire department dues equal to 2% of the amount of all Wisconsin-based premiums paid to the company during the preceding calendar year for insurance against loss by fire, including insurance on property exempt from taxation.

Fire department dues revenues are collected by the Office of the Commissioner of Insurance (OCI). Every insurer doing a fire insurance business in the state is required to file a statement with OCI by March 1 each year. The statement must show the amount of premiums for fire insurance for the preceding calendar year. Before May 1 of each year, OCI reports to DSPS on the amount of fire department dues received from insurers during the prior calendar year. Table 1 shows the amount of fire department dues reported by OCI to DSPS for the past 10 fiscal years. Wisconsin-domiciled companies are known as "domestic" insurers and accounted for approximately 42 to 48% of the total fire insurance coverage in the state during recent years, varying by year, and thus accounted for approximately 42 to 48% of the total fire department dues revenues received by the state. Companies based in other states are termed "nondomestic" or "foreign" companies and pay the remainder of the fire dues.

Table 1: Fire Department Dues Revenues Reported by the Office of the Commissioner of Insurance

Fiscal Year	Amount	% Change
2008-09	\$15,758,000	
2009-10	16,167,200	2.6%
2010-11	16,549,600	2.4
2011-12	17,675,700	6.8
2012-13	17,434,600*	-1.4
2013-14	19,736,700	13.2
2014-15	18,717,500*	-5.2
2015-16	20,239,500	8.1
2016-17	21,824,900	7.8
2017-18	21,548,600	-1.3

* 2012-13 and 2014-15 figures include adjustments to correct overpayments or reporting errors in the previous years.

In addition to the fire dues assessed on insurance companies, Wisconsin imposes taxes on insurance companies. (See the Legislative Fiscal Bureau informational paper entitled, "Taxation of Insurance Companies" for more information.) Wisconsin taxes on insurance premiums employ both "retaliatory" and "reciprocal" provisions, intended to equalize the state tax treatment of insurers operating in more than one state. The 2% fire dues are included in the calculation of retaliatory and reciprocal taxation. Most other states utilize retaliatory taxation but do not provide reciprocity. The retaliatory statute specifies that Wisconsin may impose higher taxes than its statutory rate on a foreign insurer doing business in the state, to the extent that the insurer's home state imposes a tax on Wisconsin firms operating there that is higher than Wisconsin's statutory rate. The reciprocal statute provides that foreign (non-Wisconsin) insurers doing business in the state shall pay no additional and no higher taxes, fees or other charges than their home state imposes on similar Wisconsin insurers operating there. This provision allows a foreign insurer to be taxed at rates lower than those specified in the Wisconsin statutes, if its home state imposes a lower tax. Under the retaliatory statute, if, for example, the fire dues rate would be increased, it could potentially trigger retaliatory tax provisions

in other states that would increase the taxes Wisconsin-domiciled insurers pay in the other states.

Summary of Expenditures

The Department of Safety and Professional Services is required to calculate, by May 1 each year, the proper amount of fire dues to be paid to each qualifying city, village or town. The statutes direct DSPS to calculate this by adding unexpended funds from the prior year to the fire department dues revenues reported by OCI. Then DSPS subtracts the appropriated amounts for the DSPS administrative appropriation and the two WTCS fire fighter training appropriations. Finally, DSPS withholds 0.5% of the remaining fire dues funds. The resulting amount is distributed to municipalities. The 0.5% of fire dues funds that is withheld from distribution is disbursed in the following fiscal year if needed to correct errors of DSPS or OCI, or to correct payments to municipalities. Any of the 0.5% of revenues that is withheld but not distributed is added to the revenue available in the subsequent year for distribution to municipalities.

Any unencumbered funds at the end of the fiscal year in the annual DSPS administrative appropriation, WTCS operations appropriation, or the WTCS fire fighter school training program local assistance appropriation revert to the fire dues distribution continuing appropriation and are available for distribution to municipalities in the subsequent year.

Table 2 illustrates the calculation made by DSPS of the fire department dues revenues available for distribution to municipalities in 2017-18.

Table 3 shows the actual expenditures of fire dues revenues for the four appropriations from fiscal years 2008-09 through 2017-18. Table 3

Table 2: Fire Dues Revenues Available for Distribution to Fire Departments, Calculation on May 1, 2018, for 2017-18 Distribution

Revenues	
Remaining 0.5% funds withheld in the prior year	\$101,175.85
Prior year unexpended administrative Funds - DSPS	120,271.16
Prior year unexpended funds - WTCS	3,722.00
Correction for prior year fire dues payment	64,474.34
Accounting adjustment	0.05
Fire Department Dues Reported by OCI	<u>21,548,550.43</u>
Total Program Revenue	<u>\$21,838,193.83</u>
Less Program Appropriations	
DSPS fire prevention and fire dues administration	- \$728,600.00
WTCS fire schools local assistance	- 600,000.00
WTCS fire schools administration	<u>- 400,100.00</u>
Total Program Appropriations	<u>- \$1,728,700.00</u>
Gross Amount Available for Distribution	\$20,109,493.83
Less Adjustments	
Less 0.5% Withheld	- \$100,547.47
Less Aid Payments Made to Date	- 84,190.23
Plus Refunds of Prior Year Payments	<u>5,201.19</u>
Total Adjustments	<u>- \$179,536.51</u>
Final Amount Available for Distribution to Municipalities*	\$19,929,957.32

* Due to a calculation error, DSPS distributed \$19,919,554. Amounts retained by DSPS will be available for distribution in 2018-19.

also shows the appropriated amounts for 2018-19 for the DSPS and the two WTCS appropriations, and the estimated amount available for distribution to municipalities. The annual expenditures differ from the revenues reported by OCI in Table 1 because of the impact of withholding 0.5% of revenue each year for subsequent corrections and for the expenditure of prior year's committed, but unspent, funds.

Fire Dues Distribution to Municipalities

The Department of Safety and Professional Services is responsible for the distribution of fire department dues under ss. 101.573 and 101.575 of the statutes to cities, villages, and towns that maintain fire departments or contract for fire protection if the municipalities meet specific criteria. DSPS distributes a proportionate share of the revenues based on the equalized valuation of real property improvements on land within the qualifying municipalities. If a municipality had 1% of the equalized value of real property improvements in the state, the municipality would receive 1% of the fire dues distributed in that year. However, qualified municipalities may not receive less than they

Table 3: Expenditures of Fire Department Dues Revenues

Fiscal Year	Fire Dues Distribution to Municipalities (1)	Percent Change in Distribution	Fire Prevention and Fire Dues Administration	WTCS Fire Schools Local Assistance	WTCS Fire Schools Administration	Total Fire Dues Expenditures
2008-09	\$13,982,400	2.0%	\$715,700	\$600,000	\$533,800	\$15,831,900
2009-10	14,710,800	5.2	668,400	600,000	437,900	16,417,100
2010-11	14,840,600	0.9	626,900	600,000	437,900	16,505,400
2011-12	16,098,600	8.5	540,500	600,000	406,200	17,645,300
2012-13	15,889,100	-1.3	534,900	600,000	406,200	17,430,200
2013-14	17,977,500	13.1	571,300	600,000	413,900	19,562,700
2014-15	17,136,100	-4.7	707,400	600,000	409,500	18,853,000
2015-16	18,575,100	8.4	660,200	600,000	422,900	20,258,200
2016-17	20,134,000	8.4	610,400	600,000	418,600	21,763,000
2017-18 (2)	19,919,600	-1.1	633,200	600,000	400,000	21,552,800
2018-19 est.	20,250,000	1.7	728,600	600,000	400,900	21,979,500

(1) Fire dues are distributed for municipality eligibility in the preceding calendar year. For example, the 2017-18 fire dues were distributed for calendar year 2017 activities.

(2) Amounts appropriated in 2017-18 and not spent will be available for distribution in 2018-19.

received in fiscal year 1978-79 for calendar year 1978 (a total of \$3.5 million statewide). In 2017-18, \$8,000 was distributed to 14 municipalities under the provision.

OCI reported to DSPS by May 1, 2018, on the amount of 2017 fire dues paid by insurers. DSPS then calculated the fire dues distribution to municipalities to be paid in 2017-18 based on the January 1, 2017, equalized valuation. Payments to local governments for calendar year 2017 fire dues were compiled in May, 2018, and paid in July, 2018, from the 2017-18 appropriation. The distribution of 2017-18 (calendar year 2017) fire dues to 1,843 municipalities was \$19.9 million.

Table 4 shows the fire dues payments distributed in every county in the three most recent fiscal years of 2015-16 (calendar year 2015 dues), 2016-17 (calendar year 2016) and 2017-18 (calendar year 2017, paid to the municipality in July, 2018). The table shows the number of towns, villages, and cities in every county that received fire dues payments in 2017-18, and the total amount of payments distributed.

Eligibility Requirements

Every city, village, or town that maintains a fire department that complies with statutory requirements is entitled to receive a proportionate share of fire department dues. DSPS is responsible for determining whether a local government is entitled to receive a fire dues payment.

Any city, village, or town may receive fire dues if it has a fire department which meets all of the following requirements:

- a. Is organized to provide continuous fire protection in the city, village, or town and has a designated chief;
- b. Singly, or in combination with another fire department under a mutual aid agreement, can ensure the response of at least four fire fighters,

none of whom is the chief, to a first alarm for a building;

- c. Provides a training program in accordance with DSPS rules;
- d. Provides facilities capable, without delay, of receiving an alarm and dispatching fire fighters and apparatus; and
- e. Maintains either a voluntary fire department that holds a meeting at least once each month or a paid or partly paid fire department with sufficient personnel ready for service at all times.

The city, village, or town maintaining a fire department may only use fire dues for the direct provision of the following four activities:

- a. The purchase of fire protection equipment;
- b. Fire inspection and public education;
- c. Training of fire fighters and fire inspectors performing public fire education and fire inspection duties; and
- d. Whole or partial funding of fire fighters' pension funds or other special funds for the benefit of disabled or retired fire fighters.

In order for any city, village, or town that contracts with another municipality for fire protection to be eligible for fire dues payments, the contract with the other municipality must be sufficient to provide fire protection to the entire city, village, or town. Any city, village, or town that contracts for fire protection service must give the fire department dues payments received from the state to the municipality or fire department providing the fire protection service, and that municipality or fire department must use those payments only for the four eligible activities specified above.

Table 4: Fire Dues Payments to Municipalities, by County (Fiscal Years 2015-16 through 2017-18)

County	Number of 2017-18 Recipient Municipalities	2015-16 (CY2015)	2016-17 (CY2016)	2017-18 (CY2017)	County	Number of 2017-18 Recipient Municipalities	2015-16 (CY2015)	2016-17 (CY2016)	2017-18 (CY2017)
Adams	19	\$74,868	\$79,847	\$78,981	Manitowoc	30	\$217,477	\$232,587	\$220,704
Ashland	16	39,429	42,465	40,970	Marathon	56	391,661	423,148	419,177
Barron	35	142,756	154,531	152,308	Marinette	25	126,121	136,231	135,674
Bayfield	28	67,653	71,219	68,559	Marquette	19	57,747	56,001	54,410
Brown	24	790,431	847,785	852,211	Menominee	1	7,958	8,617	8,448
Buffalo	23	38,524	41,547	40,715	Milwaukee	19	2,344,871	2,538,472	2,441,030
Burnett	24	70,279	77,753	77,225	Monroe	32	124,077	133,008	131,610
Calumet	17	114,881	123,894	124,769	Oconto	28	127,950	137,660	135,031
Chippewa	31	189,116	206,571	202,974	Oneida	21	197,670	209,216	201,671
Clark	44	76,363	84,412	83,983	Outagamie	31	597,344	646,445	648,246
Columbia	34	195,164	212,136	207,517	Ozaukee	14	399,003	435,509	426,464
Crawford	21	42,823	47,202	45,598	Pepin	11	21,927	24,317	23,781
Dane	59	2,057,122	2,279,482	2,329,295	Pierce	25	129,726	141,368	142,720
Dodge	41	232,604	248,301	245,038	Polk	35	146,870	159,595	158,117
Door	19	215,628	231,958	222,863	Portage	27	217,458	232,434	232,134
Douglas	22	123,757	132,994	129,267	Price	22	42,981	46,482	44,314
Dunn	30	114,725	125,201	124,073	Racine	17	556,501	595,830	585,709
Eau Claire	18	304,823	337,700	338,442	Richland	22	42,408	46,154	45,003
Florence	8	18,886	19,798	19,227	Rock	28	407,207	441,018	443,361
Fond du Lac	32	283,165	303,042	296,475	Rusk	33	37,605	39,229	37,708
Forest	15	32,694	33,722	33,032	Saint Croix	33	305,880	344,188	350,263
Grant	52	125,763	135,349	132,606	Sauk	37	258,209	273,769	268,412
Green	23	114,307	125,327	122,517	Sawyer	21	83,181	88,753	86,902
Green Lake	16	69,961	74,420	70,924	Shawano	36	108,944	114,853	113,005
Iowa	25	72,578	77,928	77,847	Sheboygan	28	348,162	370,875	371,403
Iron	12	25,445	26,311	25,260	Taylor	27	50,362	54,878	52,033
Jackson	27	54,360	59,111	57,331	Trempealeau	26	74,840	83,202	87,795
Jefferson	24	264,275	284,782	283,107	Vernon	29	72,832	76,328	74,751
Juneau	28	69,154	75,512	75,795	Vilas	15	169,240	178,393	173,204
Kenosha	13	485,284	536,825	541,089	Walworth	28	455,593	488,453	481,799
Kewaunee	14	76,122	82,044	69,347	Washburn	21	71,380	76,804	63,417
La Crosse	18	355,256	387,977	392,618	Washington	20	506,967	551,931	552,562
Lafayette	26	42,825	46,982	45,679	Waukesha	37	1,823,082	1,987,954	1,970,798
Langlade	19	58,403	61,303	59,929	Waupaca	34	151,041	161,930	162,285
Lincoln	18	81,372	85,549	84,845	Waushara	25	81,388	85,776	82,020
					Winnebago	21	496,870	534,909	530,071
					Wood	34	204,817	216,698	211,106
					Total	1,843	\$18,575,142	\$20,133,994	\$19,919,555

In addition to these requirements, the municipality must be in substantial compliance with all program requirements. Before DSPS pays fire department dues to a city, village or town, the Department is required to determine that the city, village, town, or fire department is in substantial compliance with the program requirements to: (a)

spend fire dues only on permitted uses; (b) comply with program requirements; and (c) provide for fire inspections of every public building and place of employment in the fire department's territory, generally at least once in each non-overlapping six-month period per calendar year, or two inspections per year, except in the City of

Milwaukee, which establishes its own inspection schedule.

Under 2013 Act 20, municipalities must be in substantial compliance with the s. 101.141 requirements to keep records of fires and submit the reports of fires to the U.S. Fire Administration for inclusion in the National Fire Incident Reporting System. Prior to enactment of 2013 Act 20, fire departments were required to comply with the fire incident reporting requirements, but the receipt of fire dues was not conditioned upon compliance with the reporting requirements.

Under statutorily-authorized administrative rules, SPS 314.01 (13)(b) 7., authorizes municipalities to pass an ordinance under which the municipality conducts one fire inspection per calendar year instead of two, provided the interval between those inspections does not exceed 15 months. DSPS does not keep records of which municipalities have adopted such an ordinance.

DSPS utilizes an online self-certification process whereby, on or before April 1 of every year, the city, village, or town clerk, and the chief of the fire department providing fire protection to the municipality, must complete an online registration and certification process. The officials must certify that the fire department is in substantial compliance with the fire dues program requirements, including compliance with the fire incident reporting requirements.

Determination of Substantial Compliance

Under statutorily-required administrative rules, SPS 314.03 (1)(i) defines "substantial compliance" as:

""Substantial compliance," for the purposes of s. 101.575 (4)(a)1. and 2., Stats., means an ample amount of the required activity was performed through a concerted effort aimed at total compliance. A determination of substantial compliance is obtained through a common-sense approach to evaluating whether enough

effort was made to comply with the applicable statute or code requirements. Substantial compliance is not a specific number or percent of compliance. A determination of substantial compliance in any one year or regulatory standard does not mean that the same amount of compliance or effort in the following year or in another area of the code automatically equals substantial compliance."

If DSPS determines that a city, village, or town does not meet the "substantial compliance" eligibility requirements, DSPS pays the fire dues to the municipality for that calendar year and issues a notice of noncompliance to the chief of the fire department, the governing body and the highest elected official of the municipality. If the municipality does not meet the requirements within one year after receipt of the notice or prior to the next audit by DSPS, whichever is later, the city, village, or town will not be entitled to fire dues for that year and for all subsequent calendar years until the requirements are met.

DSPS issues a notice of noncompliance based on one or more of the following reasons: (a) the municipality fails to self-certify compliance; (b) the municipality self-certifies noncompliance; (c) the municipality returns an incomplete self-certification form; (c) the municipality is not compliant with fire incident reporting requirements; (d) the municipality has incomplete records regarding such matters as training, use of fire dues funds or fire inspections; or (e) an audit by DSPS results in failure. Table 5 includes information about noncompliance with fire dues requirements from 2012-13 through 2017-18. The table shows the number of municipalities that received notices of noncompliance.

Table 5 also shows the number of on-site audits performed by DSPS, and the number of municipalities that did not receive fire dues payments due to noncompliance.

In 2016-17, DSPS issued notices of noncompliance for 53 municipalities. The reasons

Table 5: Municipalities Determined to be Noncompliant with Fire Dues Requirements

	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Number of Noncompliant Municipalities	50	17	37	19	53	58
On-Site Audits Performed by DSPS	11	24	187	233	249	123
Number of Municipalities That Did Not Receive Payment Due to Noncompliance	2	2	5	7	8	10

included 24 failures to self-certify, two that self-certified as noncompliant, five that were noncompliant with the fire incident reporting requirements, and 22 with recordkeeping concerns. Eight municipalities did not receive fire dues payments due to noncompliance. These included: (a) the Town of Sanborn in Ashland County; (b) the Towns of Sheldon and Wellington in Monroe County; (c) the Town and Village of Ettrick in Trempealeau County; and (d) the Towns of Forest and Whitestown, and Village of Ontario in Vernon County.

In 2017-18, DSPS issued notices of noncompliance to 58 municipalities. The reasons for the notices included one for failure to self-certify, one that was noncompliant with fire incident reporting requirements, one incomplete, and 55 with recordkeeping concerns. Ten municipalities did not receive a fire dues payment due to noncompliance, including: (a) the Village of Elderon in Marathon County; (b) the Towns of Sheldon and Wellington in Monroe County; (c) the Towns of Forest and Whitestown, and Village of Ontario in Vernon County; and (d) the Towns of Brooklyn, Frog Creek and Minong, and Village of Minong in Washburn County.

DSPS fire prevention coordinators performed 233 onsite audits in 2015-16, 249 in 2016-17, and 123 in 2017-18.

Administrative rules in SPS 314.01 establish an appeals process to be followed if DSPS determines a municipality is not in substantial compliance with the fire dues requirements. The appeals process does not apply in situations where the non-compliance is based on the self-certification by the

fire department and municipality. A fire department or a municipality served by the fire department may submit an appeal within 30 days after DSPS's determination of ineligibility. An appeals board appointed by DSPS would consider the appeal and forward its findings to the Secretary of DSPS within 30 days. The DSPS Secretary would uphold or overturn the Department's initial determination of failure. This appeals procedure has not been used. DSPS indicates that most determinations of noncompliance have been based on the municipality failing the onsite audit.

If DSPS withholds payments of any fire dues to a municipality that would have used the dues for payments into any fire fighter's pension fund or other special funds for disabled or retired fire fighters, the municipality would be required to make a payment to the pension fund or other special fund from any other available fund of the municipality. If no other fund would be available, the municipality would be required to make the payment from the next taxes levied and collected for the city, village, or town.

DSPS Administrative Appropriation

DSPS is responsible for administering a statewide fire prevention program. DSPS is appropriated \$728,600 in 2017-18 and \$728,600 in 2018-19 from fire dues revenues with 5.5 positions. The Department uses the administrative funds for activities such as: (a) conducting annual training sessions for local fire inspectors; (b) providing onsite consultations and technical

assistance to fire department officials and inspectors related to fire prevention and fire safety elements of the state building and fire prevention codes; (c) administering code provisions related to fire prevention; (d) determining eligibility of municipalities to receive fire dues distribution; (e) calculating payments of fire dues; (f) verifying compliance of municipalities with the fire dues program criteria; (g) maintaining a database of fire incident reporting records of all fires occurring in the state; and (h) providing information related to fire safety.

The 5.5 full-time equivalent (FTE) DSPS positions include: (a) 4.0 FTE fire prevention coordinators whose duties include auditing municipalities for fire dues grant eligibility, assisting municipalities and local fire departments in meeting state requirements, and providing technical support, onsite consultations and audits, and training regarding fire prevention; and (b) 1.5 FTE program support positions who are responsible for entering fire prevention data into databases, providing information related to fire prevention programs, and managing the fire incident reporting and self-certification activities of the fire prevention program.

During the 2017-19 biennium, specific duties of the four fire prevention coordinators have included: (a) consulting with local fire department and municipal officials regarding fire dues compliance requirements, and regarding the fire prevention code and commercial building code requirements for new buildings and changes of use in existing buildings; (b) providing onsite consultations and training for municipal fire departments; and (c) performing onsite audits of fire departments and associated follow-up audits.

Under statutorily-required administrative rules in SPS 314.03 (1), "administrative expenses" under the administrative appropriation are defined as expenditures for the direct costs and indirect costs of administering s. 101.14 (fire inspections, prevention, detection and suppression), s. 101.141

(record keeping of fires) and s. 101.573 (fire dues distribution) of the statutes, as follows:

a. "Direct costs" means the cost of salaries, limited-term employees, fringe benefits, and supplies to administer the three statutes.

b. "Indirect costs" means the cost, determined on a pro rata basis, of management and administrative services provided to administer the three statutes.

c. "Supplies" means equipment, memberships, postage, printing, rent, subscriptions, telecommunications, travel, utilities, and similar outfitting and services, directly related to administering the three statutes.

In 2015, DSPS began to contract with a private vendor to provide software, technical assistance, and training to local fire departments to help them meet the statutory requirement to report every fire involving a building to the U.S. Fire Administration for inclusion in the National Fire Incident Reporting System. As of July, 2018, 65 fire departments had begun using the software to report fire incidents, and an additional six fire departments had begun using the software for training or inspection activities. Other fire departments use other types of software to report fire incidents.

Wisconsin Technical College System Programs

The Wisconsin Technical College System (WTCS) is responsible for fire fighter training programs in the WTCS districts. In each of 2017-18 and 2018-19, \$600,000 of fire dues revenues is appropriated for tuition for members of volunteer and paid fire departments to attend fire fighter training programs. WTCS reimburses technical college districts for their training costs. In 2018-19, funding supported training for 4,999 firefighters in programs conducted by WTCS districts.

In addition, the WTCS is appropriated \$400,100 in 2017-18 and \$400,900 in 2018-19 from fire dues revenues with 3.0 permanent positions for: (a) development and purchase of curriculum materials; (b) workshops for fire fighters; (c)

an annual workshop for WTCS fire fighter instructors and trainers from fire departments; (d) technical assistance to WTCS districts; and (e) testing and certification of fire fighters.