



Volunteer & Combination Officers Section of The International Association of Fire Chiefs

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VCOS Board Telecon Thursday, October 29, 2013

Affordable Health Care Act Minutes

Present: Chief Timothy Wall, Chief Jim Wilson, Chief Fred Windisch, Chief Shane Crutcher, Chief Randy Larson, Chief Ted Lowden, Chief Mike Vaughn, Chief Jim Seavey

Absent: Dave Fulmer, Dan Eggleston

Staff: Evan Davis, Joelle Fishkin, Kelly Ameen

- Windisch states that this is a great opportunity to write a comprehensive definition of a volunteer and submit it to the IRS.
- Lowden states that the issue of who is an “employee” is complicated; for example, in New Jersey, volunteers are considered employees so they can have workmen’s comp in case of an injury. A definition could include: “It’s not their primary position and they make less than XX on an annual basis.”
- Evan Davis states that IAFC originally discussed reclassifying volunteers, but decided against it to prevent volunteers from losing their eligibility for workers’ comp. The IAFC ultimately decided to focus on either exempting or opting out volunteer departments from the PPACA.
- Wilson explains that trying to restrict this conversation to “volunteers” because it gets bogged down with other types of volunteers, like Red Cross volunteers.
- Evan Davis states that IAFC is researching other groups to see if there are any other similar situations with the police departments, auxiliary groups, etc. It currently seems that volunteer EMTs and volunteer firefighters represent the largest group.
- Windisch states serious concern with passing any legislation with current situation in Washington DC right now. “Rules” are much easier to implement than legislation.
- Davis thinks it might be advisable to wait to see what the IRS implements before we decide which option to pursue.
- Crutcher asks where the IRS is in the rule-making process.
- Davis says there was a big push back from many stakeholders and it seems that they had no knowledge of the issue when it was rolled out. They are much more informed at this time and are probably studying the issue. We’re hoping that they will write some clarifying language (if not an exemption) in the final rules. When

decision was made to push back enforcement to 2015, it left the date of when the rules would be finalized a little less clear. My guess is we might see the rules in January or February 2014. The administration is still hearing a lot of negative feedback from labor on these rules so we may still have a chance to give input for the rules before the final rules come out.

- Wilson asks what the chance is that there would be some bi-partisan support if this goes to legislation.
- Davis states that both the House and the Senate realize there are problems and that both Democrats and Republicans have listened to the IAFC's concerns. IAFC will make every effort to get bi-partisan support. To date, no Democrat has consented to write a letter to the IRS in support of our position, although some Republicans have. However, it is still the goal of the House Republican Leadership to defund the PPACA so they're reluctant to amend the legislation, they would rather get rid of it. Legislation is usually more permanent than rule-making.
- Seavey says that the NVFC's position is to inundate the IRS with comments explaining the great difficulties which will impact the volunteer fire service if the legislation is implemented as it is currently written.
- Davis says that 24 comments have already been submitted to the IRS by fire departments, which is an excellent number. IRS is required by law to read and respond to all comments submitted to the Federal Register.
- Wall says that another email announcement may go out before the November 8 deadline.

SUMMARY FOR TODAY'S CALL

Rep. Jon Runyan (R-NJ)'s health advisor approached the IAFC about potential legislative options to address the issue of how the Affordable Care Act's requirement for large employers to offer insurance to their employees will impact the volunteer fire service. We have identified two potential ways of addressing the issue:

- 1) **Opt-Out Method:** This method would allow volunteer fire departments to opt-out of the requirement to offer insurance to employees. As a result, if a volunteer fire department chooses, they can decide to opt out of a requirement to offer insurance to their volunteers. If we choose this option, we will have to make sure that we define "volunteer" in a very careful way. The IAFC has already heard from the IAFF that they do not oppose our efforts to get an exemption for volunteers, they just want to make sure we don't do anything that would also exempt career firefighters.
- 2) **Waiving volunteers:** The second option would be to exempt volunteers from being counted as "employees" when a fire department counts their employees to see if they qualify as a large employer. Again, we will have to make sure we define "volunteer" in a clear way that does not leave the door open for also including career firefighters.

Rep. Runyan's staffer said he will take both of these options to Rep. Runyan to see which he would prefer. Additionally, he said that Rep. Runyan would only want to introduce a bill if it

also has the support of the IAFC. We are still in a very early stage of planning a) which option we want to pick and b) if we want to introduce legislation now or if we want to wait and see what is in the IRS' final rule before pursuing the legislative route.

Additionally, Chief Wall asked me to send you a copy of the PPACA resolution from the CFSI National Advisory Committee meeting last week. The IAFC worked with the NVFC and IAFF to introduce and support a resolution to formally have the CFSI engaged in this issue. Please feel free to let me know if you or anyone else has any questions.

Thanks,

Evan Davis
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International Association of Fire Chiefs
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