

1 HOUSE BILL NO. 86

2 INTRODUCED BY M. DUNWELL

3 BY REQUEST OF THE LOCAL GOVERNMENT INTERIM COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE CREATION OF REGIONAL FIRE
6 PROTECTION SERVICE AUTHORITIES; REQUIRING A REGIONAL FIRE PROTECTION SERVICE
7 AUTHORITY PLAN; REQUIRING A PUBLIC HEARING AND ELECTION TO ESTABLISH AN AUTHORITY;
8 ESTABLISHING THE POWERS AND DUTIES OF AN AUTHORITY; ALLOWING CERTAIN AREAS TO BE
9 ANNEXED, WITHDRAWN, OR DETRACTED FROM AN AUTHORITY; ALLOWING AN AUTHORITY TO
10 MAKE ASSESSMENTS OR IMPOSE FEES FOR THE OPERATION OF THE AUTHORITY; ALLOWING FOR
11 A BENEFIT CHARGE ON PERSONAL PROPERTY AND IMPROVEMENTS LOCATED IN AN AUTHORITY;
12 LIMITING THE LIABILITY OF REGIONAL FIRE PROTECTION SERVICE AUTHORITIES; LIMITING
13 GOVERNMENTAL LIABILITY; PROVIDING DEFINITIONS; AMENDING SECTIONS 7-3-1345, 7-4-2711, 7-6-
14 204, 7-33-2108, 7-33-2110, 7-33-2202, 7-33-2208, 7-33-2316, 7-33-2405, 7-33-4101, 7-33-4110, 7-33-4112, 7-
15 33-4510, 10-3-209, AND 19-17-102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

16
17 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

18
19 NEW SECTION. Section 1. Purpose. The purpose of [sections 1 through 19] is to allow for the
20 creation and governance of regional fire protection service authorities.

21
22 NEW SECTION. Section 2. Definitions. As used in [sections 1 through 19], unless the context
23 clearly indicates otherwise, the following definitions apply:

24 (1) "Authority" means a regional fire protection service authority established under [sections 1 through
25 19].

26 (2) "Board" means the governing board of a regional fire protection service authority.

27 (3) "Fire protection jurisdiction" means a government fire agency organized under this chapter.

28 (4) "Governing body" means the governing body of the local government.

1 (5) "Local government" means a city, town, county, or consolidated city-county government.

2 (6) "Regional fire protection service authority plan" or "authority plan" means a plan developed in
3 accordance with [section 4(2)] that provides for the administration and operation of a regional fire protection
4 service authority that is approved in accordance with [section 7].

5
6 **NEW SECTION. Section 3. Authorization to create authority -- planning committee.** (1) Any two
7 or more adjacent fire protection jurisdictions may propose creation of an authority and convene an authority
8 planning committee. A fire protection jurisdiction may not participate in more than one authority.

9 (2) The governing body of a fire protection jurisdiction participating in planning under [sections 1
10 through 19] shall designate two elected or appointed trustees to the authority planning committee. If the
11 governing body of a participating fire protection jurisdiction is the board of county commissioners, then the
12 board of county commissioners shall designate one member to serve on the planning committee.

13 (3) Funding for operation of the planning committee may be provided by the board of county
14 commissioners of each county in which the authority is proposed to be located or by the fire protection
15 jurisdictions proposing the authority.

16 (4) Unless it dissolves itself, the planning committee shall create a regional fire protection service
17 authority plan.

18 (5) At its first meeting, the planning committee shall elect officers and provide for the adoption of rules
19 and other operating procedures.

20 (6) The planning committee may dissolve itself at any time by a majority vote of the total membership
21 of the planning committee. A participating fire protection jurisdiction may withdraw on written notice to the other
22 jurisdictions.

23 (7) Meetings of the planning committee are considered public meetings and must be noticed as
24 provided in 7-1-2121 or, if a municipality is a participant, in 7-1-4127.

25
26 **NEW SECTION. Section 4. Planning committee creation of authority plan -- plan contents.** (1)
27 The planning committee shall:

28 (a) adopt a regional fire protection service authority plan providing for the design, financing, and

1 development of fire protection and emergency services;

2 (b) seek and consider input from municipalities and counties located within or partially within each
3 participating fire protection jurisdiction; and

4 (c) provide opportunities for public participation and public comment during the design of the authority
5 plan.

6 (2) The authority plan must include:

7 (a) the name of the proposed authority;

8 (b) a statement on the necessity of creation of the proposed authority;

9 (c) a description of the geographic area of the proposed authority, including maps of the area;

10 (d) proposed financing for the proposed authority as provided in [section 17];

11 (e) a description of how the proposed authority will be governed, including whether or not the
12 governing body will be elected or appointed, the term of service for members consistent with the provisions of
13 [section 7(5)], and the duties of the governing body consistent with [section 10];

14 (f) the services that will be provided through the proposed authority;

15 (g) the process for dissolving the fire protection jurisdictions that will be replaced by the proposed
16 authority and how responsibilities will be transferred to the proposed authority, as provided in [section 11];

17 (h) information and proposed financing, if necessary and intended for firefighters, for the purchase of
18 disability income insurance coverage or workers' compensation coverage for members of an authority; and

19 (i) any other aspect of the proposed authority that the planning committee determines to be necessary
20 for informing the public about the operation of the proposed authority.

21 (3) After an authority plan has been adopted by the planning committee, the authority plan must be
22 forwarded to the governing bodies of the local governments whose fire protection jurisdictions are participants
23 in the planning committee.

24
25 **NEW SECTION. Section 5. Determining authority boundaries.** (1) The boundaries of a proposed
26 authority must be mapped, clearly described, and made available to the public at the time of the publication of
27 the notice of public hearing pursuant to [section 6].

28 (2) The planning committee shall consult with a professional land surveyor, as defined in 37-67-101,

1 to prepare a legal description of the boundaries for the proposed authority.

2 (3) The boundaries of the proposed authority must follow the boundaries of the fire protection
3 jurisdictions that are included in the proposed authority.

4
5 **NEW SECTION. Section 6. Authority plan -- plan hearing.** (1) Within 60 days of receipt of an
6 authority plan, the governing bodies of the local governments whose fire protection jurisdictions are part of the
7 proposed authority shall hold at least one public hearing, noticed as provided in 7-1-2121 or 7-1-4127, on the
8 creation of the proposed authority.

9 (2) Within 30 days after the public hearing, each governing body shall determine whether to order that
10 the question of creation of an authority be submitted to the electorate.

11 (3) If a governing body orders that the question of creation of an authority be submitted to the
12 electorate, the governing body shall pass a resolution of intention to submit the question to the electorate. The
13 resolution must state the items that are required to be included in the authority plan under [section 4(2)].

14 (4) A governing body may request changes to an authority plan based on public comment and may
15 schedule subsequent public hearings on those changes.

16
17 **NEW SECTION. Section 7. Submission to electorate -- conduct of election -- combination of**
18 **elections.** (1) If a governing body orders that the question of creation of an authority be submitted to the
19 electorate, the election must be conducted in accordance with Title 13, chapter 1, part 5.

20 (2) The proposition to be submitted to the electorate must read: "Shall the proposition to create (name
21 of proposed authority) be adopted?"

22 (3) An individual is entitled to vote on the proposition if the individual is:

23 (a) a registered elector of the state; and

24 (b) a resident of or owner of taxable real property in the area subject to the proposed authority.

25 (4) If the proposition is approved, the election administrator of each county shall:

26 (a) immediately file with the secretary of state a certificate stating that the proposition was adopted;

27 (b) record the certificate in the office of the clerk and recorder of the county or counties in which the
28 authority is situated; and

1 (c) notify any municipalities lying within the boundaries of the authority.

2 (5) (a) If the authority plan calls for the authority to be administered by an elected board, the governing
3 body may order that the election on the question of creation of an authority be combined with the election of the
4 members of the board so that the qualified electors may vote on these matters on the same date and at the
5 same time. The provisions of 7-11-1010 apply to terms of board members if the election is combined.

6 (b) The governing body may order that the approval or rejection of creation of the authority also
7 constitutes the approval or rejection of the authority plan.

8 (6) If a majority of the electorate in each fire protection jurisdiction that proposes to create an authority
9 approves creation of the authority, the authority is created.

10 (7) Upon creation of the authority, the fire protection jurisdictions included in the authority cease to
11 exist.

12
13 **NEW SECTION. Section 8. Certificate of establishment.** (1) On receipt of the certificate referred to
14 in [section 7(4)], the secretary of state shall, within 10 days, issue a certificate reciting that the specified
15 authority has been established according to the laws of the state. A copy of the certificate must be transmitted
16 to and filed with the clerk and recorder of the county or counties in which the authority is situated.

17 (2) When the certificate is issued by the secretary of state, the authority named in the certificate is
18 established with all of the rights, privileges, and powers set forth in [section 10].

19
20 **NEW SECTION. Section 9. Order creating authority -- additional reporting requirements.** (1) A
21 governing body shall create an authority if the eligible registered voters have approved creation as provided in
22 [section 7].

23 (2) To create the authority, the governing body shall issue an order or pass an ordinance or resolution
24 in accordance with the resolution of intention introduced and passed by the governing body. This must be done
25 within 30 days after the electorate's approval of the creation of the authority.

26 (3) The provisions of 7-11-1014 apply to additional reporting requirements for an authority.

27
28 **NEW SECTION. Section 10. Governance -- powers and duties.** (1) An authority must be

1 administered and operated by an elected or appointed board as determined by the authority plan.

2 (2) (a) Except as provided in [section 7(5)], the provisions of Title 7, chapter 1, part 2, apply to the
3 board. Specific powers and duties granted to the board and those specifically withheld must be stated.

4 (b) A vacancy created pursuant to 2-16-501 that occurs during a term must be filled for the unexpired
5 term by the governing body. The member appointed to fill the vacancy holds the office until a successor has
6 been appointed and qualified.

7 (c) The governing body may grant additional powers to the board. This includes the authorization to
8 use privately contracted legal counsel or the attorney of the governing body.

9 (d) The governing body has ultimate authority under this subsection (2).

10 (3) The board shall:

11 (a) adopt rules for the conduct of business bylaws to govern authority affairs; and

12 (b) prepare and submit annual budgets and work plans to the governing body for review and
13 approval.

14 (4) The board is responsible for executing the voter-approved authority plan.

15 (5) The board may:

16 (a) employ personnel for operating the authority and executing the plan;

17 (b) purchase, rent, or lease equipment, personal property, and material necessary to execute the plan
18 and provide necessary services;

19 (c) cooperate or contract with any corporation, association, individual, or group of individuals,
20 including an agency of federal, state, or local government, to execute the plan;

21 (d) receive gifts, grants, or donations for the purpose of executing the plan and providing necessary
22 services;

23 (e) construct, improve, and maintain new or existing facilities and buildings for the purpose of
24 executing the plan and providing necessary services;

25 (f) monitor and audit the progress and execution of fire protection and emergency service projects to
26 protect the investment of the public, and annually report its findings; and

27 (g) borrow money by the issuance of:

28 (i) general obligation bonds, as authorized by the governing body pursuant to Title 7, chapter 6, part

1 40, and the appropriate provisions of Title 7, chapter 7, part 22 or 42; or

2 (ii) revenue bonds for the lease, purchase, and maintenance of land, facilities, and buildings and the
3 funding of projects pursuant to Title 7, chapter 7, part 25 or 44.

4
5 **NEW SECTION. Section 11. Transfer of responsibilities and employees to authority.** (1) Subject
6 to the regional fire protection service authority plan, on the creation date of the authority or on the effective date
7 that a fire protection jurisdiction is subsequently annexed into an authority:

8 (a) all powers, duties, and functions of a participating fire protection jurisdiction pertaining to fire
9 protection and emergency services must be transferred to the authority;

10 (b) all reports, documents, surveys, books, records, files, papers, or written material possessed by the
11 participating fire protection jurisdiction that pertain to fire protection and emergency services powers, functions,
12 and duties must be delivered to the authority;

13 (c) all real property and personal property, including cabinets, furniture, office equipment, motor
14 vehicles, and other tangible property, used by the participating fire protection jurisdiction to carry out the fire
15 protection and emergency services powers, functions, and duties must be transferred to the authority;

16 (d) all funds, credits, or other assets held by the participating fire protection jurisdiction in connection
17 with the fire protection and emergency services powers, functions, and duties must be transferred and credited
18 to the authority; and

19 (e) any warrant or bonded indebtedness held by the participating fire protection jurisdiction must be
20 transferred to the authority.

21 (2) Except as otherwise provided in the authority plan, whenever a question arises as to the transfer
22 of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used
23 or held in the exercise of the powers and the performance of the duties and functions transferred, the governing
24 body of the participating fire protection jurisdiction shall make a determination as to the proper allocation.

25 (3) Except as otherwise provided in the authority plan, all rules and all pending business before the
26 participating fire protection jurisdiction pertaining to the powers, functions, and duties transferred must be
27 continued and acted on by the authority, and all existing contracts and obligations must remain in full force and
28 must be performed by the authority.

1 (4) The transfer of the powers, duties, functions, and personnel of the participating fire protection
2 jurisdiction does not affect the validity of any act performed before creation of the authority.

3 (5) (a) Subject to subsection (5)(b), all employees of the fire protection jurisdictions included in an
4 authority are transferred to the jurisdiction of the authority on the authority's creation date. Upon transfer, unless
5 an agreement for different terms of transfer is reached between the collective bargaining representatives of the
6 transferring employees and the fire protection jurisdictions included in the authority, an employee is entitled to
7 the employee rights, benefits, and privileges to which the employee would have been entitled as an employee
8 of the fire protection jurisdiction included in the authority, including rights to:

9 (i) compensation at least equal to the level at the time of transfer;

10 (ii) retirement, vacation, sick leave, and any other accrued benefit, including disability income
11 insurance coverage or workers' compensation coverage;

12 (iii) promotion and service time accrual; and

13 (iv) the length or terms of probationary periods, including no requirement for an additional probationary
14 period if one had been completed before the transfer date.

15 (b) Nothing contained in this section may be construed to alter an existing collective bargaining unit or
16 the provisions of an existing collective bargaining agreement until the agreement has expired or until the
17 bargaining unit has been modified as provided by law.

18
19 **NEW SECTION. Section 12. Withdrawal of territory -- reannexation.** (1) An authority may withdraw
20 areas from its boundaries or reannex into the authority areas that previously had been withdrawn from the
21 authority under this section.

22 (2) (a) The withdrawal of an area is authorized on adoption of a resolution by the board approving the
23 withdrawal and on approval of the withdrawal by the governing body after a public hearing.

24 (b) The resolution must include a plan for withdrawal that contains a timetable for withdrawal, a
25 boundary map of the area to be withdrawn, and the financial impact of the withdrawal on the property remaining
26 under the authority's jurisdiction.

27 (c) A withdrawal under this section is effective at the end of the day on December 31 of the year in
28 which the governing body approval under subsection (2)(a) is granted. However, for the purposes of

1 establishing boundaries for property tax purposes, the boundaries must be established immediately on the
2 approval of the governing body.

3 (d) The withdrawal of an area from the boundaries of an authority under this section does not exempt
4 any property from taxation for the purpose of paying the costs of redeeming any indebtedness of the authority
5 existing at the time of withdrawal.

6 (3) (a) An area that has been withdrawn from the boundaries of an authority under this section may
7 be reannexed into the authority on adoption of a resolution by the board proposing the reannexation, subject to
8 the approval of the governing body after a public hearing.

9 (b) A reannexation under this section is effective at the end of the day on December 31 of the year in
10 which the adoption of the resolution under subsection (3)(a) is granted. However, for the purposes of
11 establishing boundaries for property tax purposes, the boundaries must be established immediately on the
12 approval of the governing body.

13 (c) Reannexation into an authority may be proposed by a petition signed by at least 10% of the
14 owners of real property in the area proposed for reannexation. On receipt of a petition, the governing body shall
15 hold a public hearing on the proposal and shall submit the question of reannexation to the qualified voters in the
16 area. On approval of the proposal by a majority of the electorate, the governing body shall order reannexation.

17
18 **NEW SECTION. Section 13. Withdrawal by owner of individual tract adjacent to municipality.**

19 (1) In lieu of the withdrawal procedure provided for in [section 12] or the detracting procedure provided for in
20 [section 14], if a person owns land within the boundaries of an authority adjacent to a city or town that is not
21 part of the authority, the land may be withdrawn from the authority and annexed to the city or town as provided
22 in this section.

23 (2) (a) The landowner shall mail notice to the board of the landowner's intent to request withdrawal
24 from the authority upon annexation to a city or town.

25 (b) The landowner shall attach a copy of the notice of intention to the petition submitted to the
26 municipal governing body requesting annexation.

27 (3) Following the adoption of the annexation order under 7-2-4714, the land is withdrawn from the
28 authority.

1
2 **NEW SECTION. Section 14. Detraction of undeveloped property classified as forest land from**
3 **authority -- petition -- plan for division.** (1) (a) The board may vote to detract undeveloped forest land, as
4 classified in 76-13-102(3), from the authority as set forth in this section.

5 (b) The undeveloped forest land proposed to be detracted from the authority may not be wholly
6 surrounded by the property proposed to remain in the authority.

7 (2) (a) Upon receipt of a petition signed by the owners of 40% or more of the real property within the
8 area proposed to be detracted from the authority and owners of property representing 40% or more of the
9 taxable value of property within the area proposed to be detracted from the authority, the board must prepare a
10 plan for detraction from the authority.

11 (b) The petition must describe the boundaries of the proposed detracted area and the boundaries of
12 the remaining area.

13 (c) The board may require the petitioning landowner or landowners to prepare a draft detraction plan
14 for consideration by the board.

15 (3) The plan for detraction of the area from the authority must contain, at a minimum, the following
16 information:

17 (a) a timetable for detraction of the area, including an effective date that must be after the time
18 allowed for protests to the detraction;

19 (b) a plan for fire and emergency services within the area to be detracted;

20 (c) the boundary maps of the authority after detraction of the area;

21 (d) the estimated financial impact of the detraction on an owner of a home valued at \$100,000 within
22 the area remaining in the authority after the detraction of the proposed area; and

23 (e) a method for the fair and equitable division of the assets and liabilities of the authority, if
24 applicable.

25 (4) (a) Within 30 days following receipt of the plan required in subsection (3), the board shall set a date
26 for a public hearing on the proposed detraction and shall give notice of the hearing as provided in 7-1-2121.

27 (b) The board shall also forward a copy of the proposed plan for detraction of the area and provide
28 written notice of the hearing as provided in subsection (4)(a) to the governing body of the fire protection

1 jurisdiction that is proposed to be responsible for fire and emergency services within the area after detracting
2 from the authority, if a fire protection jurisdiction is identified.

3 (5) After the hearing, the plan for detracting must be approved, the petition must be granted, and the
4 area must be detracted from the authority unless, at the time of the hearing provided for in subsection (4)(a),
5 protests are provided by:

6 (a) the owners of 40% or more of the real property in the entire authority and owners of property
7 representing 40% or more of the taxable value of property in the entire authority; or

8 (b) the governing body of the fire protection jurisdiction proposed to be responsible for fire and
9 emergency services within the area after detracting from the authority, if a fire protection jurisdiction is
10 identified.

11 (6) (a) Upon the detracting of an area from the authority, any assets and liabilities of the authority must
12 be distributed in accordance with the plan for detracting.

13 (b) A detracted area continues to be liable for any existing warrant and bonded indebtedness of the
14 authority.

15
16 **NEW SECTION. Section 15. Annexation of adjacent fire protection jurisdiction.** (1) A fire
17 protection jurisdiction that is adjacent to the boundary of a regional fire protection service authority is eligible for
18 annexation by the authority.

19 (2) An annexation is initiated by the adoption of a resolution by the governing body of a fire protection
20 jurisdiction requesting annexation. The resolution requesting annexation must then be filed with the board that
21 is requested to annex the fire protection jurisdiction.

22 (3) Except as otherwise provided in the regional fire protection service authority plan, on receipt of the
23 resolution requesting annexation, the governing board of the authority may adopt a resolution amending its plan
24 to establish terms and conditions of the requested annexation and submit the resolution and amended plan to
25 the fire protection jurisdiction requesting annexation. An election to authorize the annexation may be held only if
26 the governing body of the fire protection jurisdiction seeking annexation adopts a resolution approving both the
27 annexation and the related amended plan.

28 (4) (a) An annexation is authorized if the voters in the fire protection jurisdiction proposed to be

1 annexed approve by a simple majority vote a single ballot measure approving the annexation and related
2 amended plan.

3 (b) An annexation is effective on the date specified in the ballot measure. If the ballot measure does
4 not specify an effective date, the effective date is on the subsequent January 1 or July 1, whichever occurs first.

5
6 **NEW SECTION. Section 16. Annexation of adjacent territory.** (1) Adjacent territory outside the
7 limits of the authority that is not already a part of an existing fire protection jurisdiction may be annexed to the
8 authority as provided in this section.

9 (2) A petition in writing by the owners of 40% or more of the real property within the proposed area to
10 be annexed and owners of property representing 40% or more of the taxable value of property within the
11 proposed area to be annexed must be presented to the board for approval.

12 (3) Within 30 days following receipt of the petition, the board shall set a date for a public hearing on
13 the petition and shall give notice of the hearing as provided in 7-1-2121.

14 (4) After the hearing, the board shall consider the petition and any objections to the annexation. The
15 board shall approve the annexation unless, at the time of the hearing on the petition, protests are presented by
16 at least 40% of the owners of real property in the area proposed for annexation and owners of property
17 representing 40% or more of the taxable value of the property in the area proposed for annexation, in which
18 case the annexation must be disapproved.

19
20 **NEW SECTION. Section 17. Financing for authority -- consistency with authority plan required.**

21 (1) The governing body shall make assessments or impose fees for the operation of the authority based on a
22 budget proposed by the board pursuant to [section 10(3)]. Financing for the authority must be consistent with
23 the regional fire protection service authority plan adopted pursuant to [section 4] and approved by the electorate
24 as provided in [section 7].

25 (2) (a) Subject to 15-10-420 and subsections (2)(b) through (2)(d) of this section, the authority may be
26 financed through a tax levy, through benefit charges imposed as provided in [section 18], or through another
27 method of assessment allowed under the authority plan.

28 (b) Subject to subsection (2)(c), the fire authority may impose a mill levy sufficient to generate the

1 total amount of property taxes actually assessed by each former fire protection jurisdiction that becomes part of
2 the authority in the current year. The mill levy established in this subsection is subject to the provisions of 15-
3 10-420.

4 (c) If the electors of a former fire protection jurisdiction have approved mill levy authority for the district
5 in excess of the limit established in 15-10-420 pursuant to an election held under 15-10-425, the mill levy
6 authority applies to the regional fire protection service authority under the limitations established by the
7 electors.

8 (d) The fire authority is liable for any outstanding warrant and bonded indebtedness of each former
9 fire protection jurisdiction that becomes part of the authority.

10 (3) (a) If the voters approve an authority plan that includes financing for the purchase of volunteer
11 firefighters' disability income insurance or workers' compensation coverage in accordance with [section 4(2)(h)],
12 the governing body of the authority may establish a firefighters' disability income insurance account. The
13 governing body may hold money in the account for any time period considered appropriate by the governing
14 body. Money held in the account may not be considered as cash balance for the purpose of reducing mill
15 levies.

16 (b) Money may be expended from the account to purchase disability income insurance coverage or
17 for workers' compensation coverage for firefighters organized or deployed pursuant to any of the provisions of
18 [sections 1 through 19].

19 (c) Money in the account must be invested as provided by law. Interest and income from the
20 investment of money in the account must be credited to the account.

21
22 **NEW SECTION. Section 18. Benefit charges.** (1) For authority purposes authorized by law, the
23 governing board of an authority may by resolution, as authorized in the authority plan and approved by the
24 voters, fix and impose a benefit charge on improvements to real property located within the authority on the
25 date specified. Owners of property and improvements subject to the charge must benefit from the services
26 provided by the authority.

27 (2) A benefit charge may not be imposed on an improvement to real property that is:

28 (a) exempt from taxation under Title 15; or

1 (b) classified as forest land pursuant to 76-13-102.

2 (3) The aggregate amount of benefit charges in any one year may not exceed an amount equal to
3 60% of the operating budget for the year in which the benefit charges are to be collected. The governing body
4 of the county in which the authority is located shall make any necessary adjustments to ensure compliance with
5 this limitation and shall immediately notify the board of any changes.

6 (4) (a) An imposed benefit charge must be reasonably proportioned to the measurable benefits to
7 property resulting from the services afforded by the authority. It is acceptable to apportion the benefit charge to
8 the values of the properties as found by the county assessor or assessors modified generally in the proportion
9 that fire insurance rates are reduced or entitled to be reduced as the result of providing the services. Another
10 method that reasonably apportions the benefit charges to the actual benefits resulting from the degree of
11 protection, which may include but is not limited to the distance from regularly maintained fire protection
12 equipment, the level of fire prevention services provided to the properties, or the need of the properties for
13 specialized services, may be specified in the resolution and is subject to contest on the grounds of
14 unreasonable or capricious action or action in excess of the measurable benefits to the property resulting from
15 services afforded by the authority.

16 (b) The board may determine that certain properties or types or classes of properties are not receiving
17 measurable benefits based on criteria the board establishes by resolution.

18 (5) For administrative purposes, the benefit charges imposed on an individual property may be
19 compiled into a single charge, provided that the authority, on request of the property owner, provides an
20 itemized list of charges for each measurable benefit included in the compiled charge.

21
22 **NEW SECTION. Section 19. Dissolution of authority -- protest.** (1) The governing body may pass
23 a resolution of intention to dissolve an authority on request of the authority board or on receipt of a petition
24 signed by at least 10% of the qualified electors of the authority.

25 (2) (a) After passage of a resolution, the clerk of the local government shall publish a notice, as
26 provided in 7-1-2121 or 7-1-4127, of the intention to dissolve the authority.

27 (b) The notice must specify the boundaries of the authority, the date set for passage of the resolution
28 of intention to dissolve, and that the resolution will be passed unless the clerk of the local government receives

1 written protest in advance from qualified electors of the district who are assessed for at least 10% of the cost of
2 operating the authority.

3 (3) If the governing body receives the protest as described in subsection (2), further dissolution
4 proceedings may not be taken by the governing body for at least 12 months.

5 (4) If the authority is dissolved, the clerk of the local government shall immediately send written notice
6 to the secretary of state and to the department of revenue.

7 (5) The dissolution of an authority does not relieve the property owners from the assessment and
8 payment of a sufficient amount to liquidate all charges existing against the authority prior to the date of
9 dissolution.

10 (6) Any assets remaining after all debts and obligations of the authority have been paid, discharged,
11 or irrevocably settled must be:

12 (a) deposited in the general fund of the local government;

13 (b) in the case of multiple local governments, divided in accordance with their interlocal agreement
14 and deposited in the general fund of each local government; or

15 (c) transferred to a new authority that has been created to provide substantially the same service as
16 provided by the dissolved authority.

17 (7) If the remaining assets are derived from private grants or gifts that restrict the use of those funds,
18 the funds must be returned to the grantor or donor.

19
20 **Section 20.** Section 7-3-1345, MCA, is amended to read:

21 **"7-3-1345. Fire department.** (1) The fire department of the municipality is in the charge of a director,
22 who ~~shall be~~ is department chief thereof and who ~~shall manage and control~~ manages and controls the
23 department in the manner prescribed by the ordinances of the municipality.

24 (2) (a) Notwithstanding any other provision of law, the adoption of a consolidated county municipal
25 government ~~shall have no effect on~~ does not affect the existence, rights, or duties of any voluntary fire
26 department or fire district or regional fire protection service authority created and legally in existence pursuant
27 to the provisions of ~~parts 21 and 23 of chapter 33~~ Title 7, chapter 33, part 21, 23, or [sections 1 through 19].

28 (b) Nothing in this part or part 12 ~~shall be construed to prohibit~~ prohibits the creation of voluntary fire

1 departments or fire districts or regional fire protection service authorities pursuant to the provisions of ~~parts 24~~
2 ~~and 23 of chapter 33~~ Title 7, chapter 33, part 21, 23, or [sections 1 through 19], within consolidated county
3 municipalities.

4 (c) Voluntary fire departments or fire districts or regional fire protection service authorities within
5 consolidated county municipalities may only be organized, created, supported, financed, dissolved, and
6 managed and their boundaries may only be changed pursuant to the provisions of ~~parts 24 and 23 of chapter~~
7 ~~33~~ Title 7, chapter 33, part 21, 23, or [sections 1 through 19]. These organizations may enter mutual aid
8 agreements as provided by 7-33-2108."
9

10 **Section 21.** Section 7-4-2711, MCA, is amended to read:

11 **"7-4-2711. County attorney to be legal adviser of county and other subdivisions.** (1) The county
12 attorney is the legal adviser of the board of county commissioners. The county attorney shall attend their
13 meetings when required and shall attend and oppose all claims and accounts against the county that are unjust
14 or illegal. The county attorney shall defend all suits brought against the county.

15 (2) The county attorney shall:

16 (a) give, when required and without fee, an opinion in writing to the county, district, and township
17 officers on matters relating to the duties of their respective offices;

18 (b) act as counsel, without fee, for fire districts and fire service areas in unincorporated territories,
19 towns, or villages within the county, and for regional fire protection service authorities when requested or
20 otherwise specified in accordance with [section 10(2)(c)];

21 (c) when requested by a conservation district pursuant to 76-15-319, act as counsel, without fee;

22 (d) when requested by a weed district pursuant to 7-22-2109, act as counsel, without fee; and

23 (e) when requested by a county hospital board pursuant to 7-34-2115, act as counsel, without fee,
24 unless the legal action requested involves the county commissioners."
25

26 **Section 22.** Section 7-6-204, MCA, is amended to read:

27 **"7-6-204. Crediting of interest -- exceptions.** (1) Interest paid and collected on deposits or
28 investments must be credited to the general fund of the county, city, or town to whose credit the funds are

deposited unless otherwise provided:

- (a) by law;
- (b) by terms of a gift, grant, or donation; or
- (c) by subsections (2) and (3).

(2) Subject to subsection (1), interest paid and collected on the deposits or investments of the funds of a volunteer fire district or department organized in an unincorporated area under Title 7, chapter 33, part 21, ~~or 23, or [sections 1 through 19],~~ or of a fire service area or county fire department must be credited to the account of that fire district, service area, or department.

(3) Subject to subsection (1), interest paid and collected on the deposits or investments of any fund separately created and accounted for by a county, city, or town may be credited to the separately created fund proportionately to each fund's participation in the deposit or investment."

Section 23. Section 7-33-2108, MCA, is amended to read:

"7-33-2108. Mutual aid agreements -- request if no agreement exists -- definitions. (1) A mutual aid agreement is an agreement for protection against disasters, incidents, or emergencies.

(2) Fire district trustees may enter mutual aid agreements with the proper authority of:

- (a) other fire districts;
- (b) unincorporated municipalities;
- (c) incorporated municipalities;
- (d) state agencies;
- (e) private fire prevention agencies;
- (f) federal agencies;
- (g) fire service areas;
- (h) regional fire protection service authorities;

~~(h)(i)~~ governing bodies of other political subdivisions in Montana; and

~~(i)(i)~~ governing bodies of fire protection services, emergency medical care providers, and local government subdivisions of any other state or the United States pursuant to Title 10, chapter 3, part 11.

(3) If the fire district trustees have not concluded a mutual aid agreement, then the trustees, a

representative of the trustees, or an incident commander may request assistance pursuant to 10-3-209.

(4) As used in this section, "incidents", "disasters", and "emergencies" have the meanings provided in 10-3-103."

Section 24. Section 7-33-2110, MCA, is amended to read:

"7-33-2110. Volunteer fire districts or companies -- fire departments -- not affected by city-county consolidation. (1) Notwithstanding any other provision of law, the adoption of a city-county consolidated local government has no effect on the existence of a volunteer fire department, a volunteer fire company, a regional fire protection service authority, or a fire district created and legally in existence pursuant to the provisions of this part unless otherwise specifically provided by charter.

(2) A right or benefit of any member of a volunteer fire district, company, authority, or department created pursuant to the provisions of this part in a retirement or pension plan or payments provided under Title 19, chapter 17, may not be abrogated by the adoption of a city-county consolidated local government unless otherwise specifically provided by charter."

Section 25. Section 7-33-2202, MCA, is amended to read:

"7-33-2202. Functions of county governing body. (1) The county governing body, with respect to rural fire control, shall carry out the specific authorities and duties imposed in this section.

(2) The governing body shall provide for:

(a) ~~provide for~~ the organization of volunteer rural fire control crews; ~~and~~

(b) ~~provide for~~ the formation of county volunteer fire companies; and

(c) subject to [sections 1 through 19], regional fire protection service authorities.

(3) The governing body shall appoint a county rural fire chief and as many district rural fire chiefs, subject to the direction and supervision of the county rural fire chief, that it considers necessary.

(4) Pursuant to 76-13-105(3), the county governing body shall, within the limitations of 7-33-2205, 7-33-2206, 7-33-2208, and 7-33-2209, either:

(a) directly protect from fire land in the county that is not in a wildland fire protection district, as provided in 76-13-204, or under the protection of a municipality, state agency, or federal agency; or

(b) enter into an agreement for wildland fire protection with a recognized agency, as that term is defined in 76-13-102.

(5) The county governing body may enter into mutual aid agreements for itself and for county volunteer fire companies with:

(a) other fire districts;

(b) unincorporated municipalities;

(c) incorporated municipalities;

(d) state agencies;

(e) private fire prevention agencies;

(f) federal agencies;

(g) fire service areas;

(h) governing bodies of other political subdivisions in Montana, including governing bodies of regional fire protection service authorities established in accordance with [sections 1 through 19]; or

(i) governing bodies of fire protection services, emergency medical care providers, and local government subdivisions of any other state or the United States pursuant to Title 10, chapter 3, part 11.

(6) If the county governing body has not concluded a mutual aid agreement, the county governing body, a representative of the county governing body, or an incident commander may request assistance pursuant to 10-3-209."

Section 26. Section 7-33-2208, MCA, is amended to read:

"7-33-2208. Fire control powers -- liability. (1) Any county rural fire chief, district rural fire chief or deputy, regional fire protection service authority chief or deputy, or fire service area or fire company fire chief or deputy may enter private property or direct the entry of fire control crews for the purpose of suppressing fires.

(2) A chief or deputy and the county, rural district, fire company, regional fire protection service authority, or fire service area are immune from suit for injury to persons or property resulting from actions taken to suppress fires under 10-3-209 or this section. An entity or individual listed in this section is also immune from suit for injury to persons or property resulting from a determination not to provide assistance requested pursuant to 10-3-209.

(3) An owner of real property is not liable for damages or injury resulting from acts or omissions by a volunteer firefighter of a rural fire district, fire service area, regional fire protection service authority, or fire company while the firefighter is engaged in fire suppression activities on the owner's property."

Section 27. Section 7-33-2316, MCA, is amended to read:

"7-33-2316. Volunteer fire districts or companies -- fire departments -- not affected by city-county consolidation. (1) Notwithstanding any other provision of law, the adoption of a city-county consolidated local government has no effect on the existence of a volunteer fire department, a volunteer fire company, a regional fire protection service authority, or a fire district created and legally in existence pursuant to the provisions of this part unless otherwise specifically provided by charter.

(2) A right or benefit of any member of a volunteer fire district, company, or department created pursuant to the provisions of this part in a retirement or pension plan or payments provided under Title 19, chapter 17, may not be abrogated by the adoption of a city-county consolidated local government unless otherwise specifically provided by charter."

Section 28. Section 7-33-2405, MCA, is amended to read:

"7-33-2405. Mutual aid agreements -- request if no agreement exists -- definitions. (1) A mutual aid agreement is an agreement for protection against disasters, incidents, or emergencies.

(2) The governing body of a fire service area may enter mutual aid agreements with the proper authority of:

- (a) other fire service areas;
- (b) unincorporated municipalities;
- (c) incorporated municipalities;
- (d) state agencies;
- (e) private fire prevention agencies;
- (f) federal agencies;
- (g) fire districts;
- (h) regional fire protection service authorities;

1 ~~(h)~~ (i) governing bodies of other political subdivisions in Montana; and

2 ~~(i)~~ (j) governing bodies of fire protection services, emergency medical care providers, and local
3 government subdivisions of any other state or the United States pursuant to Title 10, chapter 3, part 11.

4 (3) If the governing body of a fire service area has not concluded a mutual aid agreement, the
5 governing body, a representative of the governing body, or an incident commander may request assistance
6 pursuant to 10-3-209.

7 (4) As used in this section, "incidents", "disasters", and "emergencies" have the meanings provided in
8 10-3-103."

9
10 **Section 29.** Section 7-33-4101, MCA, is amended to read:

11 **"7-33-4101. Fire protection services.** (1) Every city and town shall provide for fire protection in a
12 manner that is organized, managed, and controlled as provided in this chapter.

13 (2) (a) Except as provided in 7-33-4115(6), a first-class city or town shall provide fire protection
14 services either through a regional fire protection service authority as provided in [sections 1 through 19] or as
15 provided in this part.

16 (b) A second-class city or town may provide fire protection services ~~as provided in this part~~ through:

17 (i) ~~through~~ an interlocal agreement with another governmental fire protection provider under the
18 provisions of Title 7, chapter 11, part 1;

19 (ii) ~~through~~ a contract with another fire protection provider; ~~or~~

20 (iii) subject to 7-33-4115, annexing to a rural fire district established under Title 7, chapter 33, part 21;
21 or

22 (iv) a regional fire protection service authority as provided in [sections 1 through 19].

23 (c) A third-class city or town may provide fire protection through a contract for fire protection services,
24 consolidation of its fire department with another fire protection provider, inclusion in a regional fire protection
25 service authority as provided in [section 1 through 19], or inclusion in a rural fire district as provided in Title 7,
26 chapter 33, part 21."

27
28 **Section 30.** Section 7-33-4110, MCA, is amended to read:

1 **"7-33-4110. Volunteer companies not affected.** Nothing contained in 7-33-4101 through 7-33-4104,
2 7-33-4106 through 7-33-4108, 7-33-4112, 7-33-4113, 7-33-4122 through 7-33-4125, ~~and 7-33-4127, or~~
3 [sections 1 through 19] ~~may shall~~ be held or construed to affect any fire organization known as a volunteer fire
4 company."

5
6 **Section 31.** Section 7-33-4112, MCA, is amended to read:

7 **"7-33-4112. Mutual aid agreements -- request if no agreement exists -- definitions.** (1) A mutual
8 aid agreement is an agreement for protection against disasters, incidents, or emergencies.

9 (2) Councils or commissions of incorporated municipalities may enter mutual aid agreements with the
10 proper authority of:

11 (a) other incorporated municipalities;

12 (b) fire districts;

13 (c) unincorporated municipalities;

14 (d) state agencies;

15 (e) private fire prevention agencies;

16 (f) federal agencies;

17 (g) fire service areas;

18 (h) regional fire protection service authorities;

19 ~~(h)~~(i) the governing body of other political subdivisions; or

20 ~~(i)~~(j) governing bodies of fire protection services, emergency medical care providers, and local
21 government subdivisions of any other state or the United States pursuant to Title 10, chapter 3, part 11.

22 (3) If the council or commission has not concluded a mutual aid agreement, the council or
23 commission, a representative of the council or commission, or an incident commander may request assistance
24 pursuant to 10-3-209.

25 (4) As used in this section, the terms "disasters", "emergencies", or "incidents" have the meanings
26 provided in 10-3-103."

27
28 **Section 32.** Section 7-33-4510, MCA, is amended to read:

1 **"7-33-4510. Workers' compensation for volunteer firefighters -- notification if coverage not**
2 **provided -- definitions.** (1) An employer may provide workers' compensation coverage as provided in Title 39,
3 chapter 71, to any volunteer firefighter who is listed on a roster of service.

4 (2) An employer may purchase workers' compensation coverage from any entity authorized to provide
5 workers' compensation coverage under plan No. 1, 2, or 3 as provided in Title 39, chapter 71.

6 (3) If an employer provides workers' compensation coverage as provided in this section, the employer
7 may, upon payment of the filing fee provided for in 7-4-2631(1)(a), file a roster of service with the clerk and
8 recorder in the county in which the employer is located and update the roster of service monthly if necessary to
9 report changes in the number of volunteers on the roster of service. The clerk and recorder shall file the original
10 and replace it with updates whenever necessary. The employer shall maintain the roster of service with the
11 effective date of membership for each volunteer firefighter.

12 (4) If an employer does not provide workers' compensation coverage, the employer shall annually
13 notify the employer's volunteer firefighters that coverage is not provided.

14 (5) For the purposes of this section, the following definitions apply:

15 (a) (i) "Employer" means the governing body of a fire agency organized under Title 7, chapter 33,
16 including a rural fire district, a fire service area, a volunteer fire department, a volunteer fire company, ~~or a~~
17 volunteer rural fire control crew, or a regional fire protection service authority.

18 (ii) The term does not mean a governing body of a city of the first class or second class, including a
19 city to which 7-33-4109 applies, that provides workers' compensation coverage to employees as defined in 39-
20 71-118.

21 (b) "Roster of service" means the list of volunteer firefighters who have filled out a membership card
22 prior to performing services as a volunteer firefighter.

23 (c) (i) "Volunteer firefighter" means a volunteer who is on the employer's roster of service. A
24 volunteer firefighter may include a volunteer emergency care provider as defined in 50-6-202 who is on the
25 roster of service. A volunteer firefighter is not required to be an active member as defined in 19-17-102.

26 (ii) The term does not mean an individual who is not listed on a roster of service or a member of a
27 volunteer fire department provided for in 7-33-4109."
28

1 **Section 33.** Section 10-3-209, MCA, is amended to read:

2 **"10-3-209. Political subdivision requests for assistance -- application to fire districts, fire**
3 **service areas, fire authorities, and fire companies in unincorporated places -- immunity.** (1) If an incident,
4 emergency, or disaster occurs in a political subdivision that has not concluded a mutual aid agreement
5 pursuant to 10-3-202, the local or interjurisdictional agency, incident commander, or principal executive officer
6 of the political subdivision may request assistance from another public or private agency.

7 (2) (a) The following individuals or entities may request assistance with an incident, emergency, or
8 disaster if a mutual aid agreement has not been concluded for protection of the area within the jurisdiction of
9 these individuals or entities:

10 (i) the trustees of a rural fire district created pursuant to Title 7, chapter 33, part 21, a representative
11 of the trustees, or an incident commander for the district;

12 (ii) the chief of a rural fire company organized pursuant to 7-33-2311 or an incident commander for the
13 chief;

14 (iii) the governing body of a fire service area created pursuant to Title 7, chapter 33, part 24, a
15 representative of the governing body, or an incident commander for the area; and

16 (iv) the governing body of a regional fire protection service authority created pursuant to [sections 1
17 through 19].

18 (b) A request for assistance by an individual or entity under subsection (2)(a) may be made to any of
19 the following:

20 (i) a fire district;

21 (ii) an unincorporated municipality;

22 (iii) an incorporated municipality;

23 (iv) a state agency;

24 (v) a private fire prevention agency;

25 (vi) an agency of the federal government;

26 (vii) a fire service area;

27 (viii) a regional fire protection service authority;

28 ~~(viii)~~ (ix) the governing body of a political subdivision; or

1 ~~(ix)~~ (x) the governing bodies of fire protection services, emergency medical care providers, and local
2 government subdivisions of any other state or the United States pursuant to part 11 of this chapter.

3 (3) A public or private agency receiving a request pursuant to subsection (1) or (2) shall determine if it
4 will provide the requested assistance or if it will provide other assistance and shall inform the requesting local or
5 interjurisdictional agency, principal executive officer, incident commander, or other individual or entity making
6 the request, as soon as possible, of that determination. The nature and extent of assistance provided by a
7 public or private agency may be determined only by that public or private agency.

8 (4) The incident commander of the local or interjurisdictional agency making a request for assistance
9 has overall responsibility for command of the resources provided by a public or private agency responding to a
10 request. However, operational control of individual pieces of equipment and personnel furnished by the
11 responding public or private agency remains with that agency.

12 (5) This section does not waive an immunity or limitation on liability applicable to any of the following
13 entities or individuals requesting or receiving assistance pursuant to this section:

14 (a) a fire district;

15 (b) a fire service area;

16 (c) a fire company;

17 (d) a regional fire protection service authority;

18 ~~(d)~~(e) an unincorporated municipality, town, or village;

19 ~~(e)~~(f) a political subdivision; or

20 ~~(f)~~(g) an agent, employee, representative, or volunteer of an entity listed in this subsection."
21

22 **Section 34.** Section 19-17-102, MCA, is amended to read:

23 **"19-17-102. Definitions.** Unless the context requires otherwise, the following definitions apply in this
24 chapter:

25 (1) "Active member" means a volunteer firefighter credited with service under this chapter as provided
26 in 19-17-108 during the most recently reportable fiscal year.

27 (2) "Allowance" means a total monetary and gift amount that is available to a volunteer firefighter from
28 a fire company pursuant to 19-17-110.

(3) "Benefit" means the pension, disability, or survivorship benefit provided under this chapter.

(4) "Board" means the public employees' retirement board provided for in 2-15-1009.

(5) "Claim" means a request from a member, surviving spouse, or dependent child for payment of medical or funeral expenses.

(6) "Compensation" means remuneration for services rendered as a firefighter from the fire company requesting credit for that firefighter.

(7) "Dependent child" means a child who is unmarried, who is under 18 years of age, and who is the child of a deceased member.

(8) "Designated official" means a representative of a fire company appointed by the fire chief to perform specified actions and includes but is not limited to a fire company supervisor, a fire company secretary, and a fire company presiding officer as described in 7-33-2312.

(9) "Disability" or "permanent total disability" means a duty-related injury resulting in permanent total disability as defined in 39-71-116.

(10) "Fire company" means:

(a) an organization of volunteer firefighters created under the authority of a governing board or commission to serve an unincorporated area, town, or village; or

(b) a regional fire protection service authority, if the authority includes only volunteer firefighters and is established in accordance with [sections 1 through 19] to serve an unincorporated area, town, or village.

(11) "Fiscal year" means the 12-month period that begins on July 1 and ends on June 30 of the following year.

(12) "Inactive member" means a member not credited with service under this chapter as provided in 19-17-108 during the most recently reportable fiscal year.

(13) "Member" means a volunteer firefighter who has service credited under this chapter.

(14) "Pension benefit" means a full or partial payment for service earned as a volunteer firefighter and does not include payment for disability.

(15) "Pension trust fund" means the volunteer firefighters' pension trust fund established to pay claims and benefits under this chapter.

(16) "Reimbursed" means the return by a fire company of an equivalent amount of money expended

1 by a member for the benefit of the fire company.

2 (17) "Retiree" or "retired member" means a member who is receiving full or partial pension benefits or
3 disability benefits from the pension trust fund.

4 (18) "Supplemental insurance" means insurance that is carried by a fire company for the purposes of
5 providing disability or death benefits. Supplemental insurance does not include any insurance required by law,
6 such as workers' compensation insurance.

7 (19) "Surviving spouse" means the spouse married to a member when the member dies.

8 (20) "Survivorship benefit" means the monthly benefit paid to the surviving spouse or dependent child
9 of a deceased member.

10 (21) "Training" means instruction pertaining to firefighting that is supervised by the chief or a
11 designated official.

12 (22) "Volunteer firefighter" means a person who is a member of an eligible fire company and is not
13 compensated for services as a firefighter."
14

15 **NEW SECTION. Section 35. Notification to tribal governments.** The secretary of state shall send a
16 copy of [this act] to each federally recognized tribal government in Montana.
17

18 **NEW SECTION. Section 36. Saving clause.** [This act] does not affect rights and duties that
19 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].
20

21 **NEW SECTION. Section 37. Severability.** If a part of [this act] is invalid, all valid parts that are
22 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
23 the part remains in effect in all valid applications that are severable from the invalid applications.
24

25 **NEW SECTION. Section 38. Codification instruction.** [Sections 1 through 19] are intended to be
26 codified as an integral part of Title 7, chapter 33, and the provisions of Title 7, chapter 33, apply to [sections 1
27 through 19].
28

NEW SECTION. Section 40. **Effective date.** [This act] is effective on passage and approval.

- END -