

## SENATE BILL NO. 103

INTRODUCED BY G. LIND

BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LOCAL GOVERNMENT FIRE PROTECTION LAWS; ~~CHANGING THOSE WHO MAY PETITION FOR CREATION, ANNEXATION, DIVISION, AND DISSOLUTION OF RURAL FIRE DISTRICTS FROM FREEHOLDERS TO REGISTERED VOTERS AND CHANGING THE PERCENTAGE OF PETITIONERS REQUIRED;~~ ALLOWING CERTAIN CITIES AND TOWNS TO BE INCLUDED IN A RURAL FIRE DISTRICT; PROHIBITING SIGNATURES FROM BEING WITHDRAWN FROM A PETITION AFTER A CERTAIN TIME PERIOD; REVISING THE POWERS AND DUTIES OF RURAL FIRE DISTRICT TRUSTEES; REMOVING LIMITATIONS ON TRUSTEES' ABILITY TO ENTER INTO CONTRACTS FOR FIRE PROTECTION SERVICES; PROVIDING THAT TWO OR MORE RURAL FIRE DISTRICTS THAT CONSOLIDATE RESULT IN A NEW RURAL FIRE DISTRICT FOR MILL LEVY PURPOSES; REVISING HOW A RURAL FIRE DISTRICT MAY BE DIVIDED AND THE REQUIREMENTS FOR DIVISION; ALLOWING TERRITORY WITHIN ~~A CITY OR TOWN~~ CERTAIN CITIES AND TOWNS TO BE ANNEXED INTO A RURAL FIRE DISTRICT; REQUIRING A COUNTY GOVERNING BODY TO EITHER PROVIDE DIRECT FIRE PROTECTION TO COUNTY LAND OR TO ENTER INTO AN AGREEMENT FOR THAT PROTECTION; REMOVING THE PROHIBITION ON MORE THAN ONE FIRE COMPANY FOR CERTAIN LOCATIONS; REMOVING THE PROVISION THAT RURAL FIRE DISTRICT CHIEFS SERVE WITHOUT COMPENSATION; REMOVING THE PROVISION ALLOWING VOLUNTARY URBAN FIRE CREWS FOR USE IN RURAL AREAS; AMENDING SECTIONS 7-33-2101, 7-33-2102, 7-33-2103, 7-33-2104, 7-33-2105, 7-33-2106, 7-33-2107, 7-33-2109, 7-33-2120, 7-33-2121, 7-33-2123, 7-33-2124, 7-33-2125, 7-33-2126, 7-33-2127, 7-33-2128, 7-33-2202, 7-33-2205, 7-33-2206, 7-33-2210, 7-33-2311, 7-33-2313, AND 7-33-2401, MCA; AND REPEALING SECTIONS 7-33-2122, 7-33-2204, AND 7-33-2207, MCA."

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

**Section 1.** Section 7-33-2101, MCA, is amended to read:

**"7-33-2101. Rural fire districts authorized -- petition.** (1) The board of county commissioners is authorized to establish fire districts in any unincorporated territory or, subject to subsection (2), incorporated ~~THIRD-CLASS city or town~~ upon presentation of a petition in writing signed by ~~the owners of 50% 40% or more of~~

~~the area of the privately owned lands included within the proposed district who constitute a majority of the taxpayers who are freeholders of such area and whose names appear upon the last completed assessment roll registered voters residing in the proposed district~~ THE OWNERS OF MORE THAN 50% OF THE AREA OF THE PRIVATELY OWNED LANDS INCLUDED WITHIN THE PROPOSED DISTRICT WHO CONSTITUTE A MAJORITY OF THE REAL PROPERTY OWNERS OF THE AREA.

(2) (A) ~~Cities~~ THIRD-CLASS CITIES and towns may be included in the district upon approval by the city or town governing body.

(B) A THIRD-CLASS CITY OR TOWN MAY WITHDRAW FROM A DISTRICT 2 YEARS AFTER PROVIDING TO THE BOARD OF COUNTY COMMISSIONERS NOTICE OF INTENT TO WITHDRAW."

**Section 2.** Section 7-33-2102, MCA, is amended to read:

**"7-33-2102. Notice of hearing.** The board shall, within 10 days after the receipt of the petition, give notice of the hearing at least 10 days prior to the hearing:

(1) by mailing a copy of the notice as provided in 7-1-2122 or as provided in 7-1-4129 if the proposed district or a portion of the proposed district is in an incorporated THIRD-CLASS city or town to each ~~freeholder registered voter residing~~ REAL PROPERTY OWNER in the proposed district at the address shown in the assessment roll; and

(2) by publishing the notice as provided in 7-1-2121 or as provided in 7-1-4127 if the proposed district or portion of the proposed district is in an incorporated THIRD-CLASS city or town."

**Section 3.** Section 7-33-2103, MCA, is amended to read:

**"7-33-2103. Hearing on petition -- decision.** (1) ~~(a) The board shall proceed to hear the petition at the time set or at any time within 5 days thereafter to which the same is postponed or continued with due notice and may grant the same unless it is established thereat~~ (a) The board shall proceed to hear the petition at the time set or at any time within 5 days thereafter to which the same is postponed or continued with due notice and may grant the same unless it is established thereat of the time set if reasonable notice of the postponement is given. The board may establish the district unless it determines that the petition bears insufficient signatures as above required or, if originally sufficient, that by reason of written withdrawals thereof of signatures it has become insufficient.

(b) Signatures may not be withdrawn fewer than 20 days before the date set for adoption of the petition.

(2) The board may adjust the boundaries of the proposed district to reflect ~~any freeholder's~~ the written request of any registered voter who resides REAL PROPERTY OWNER in the proposed district ~~and who owns parcels of land in the proposed district~~ for subtraction or annexation of parcels of the ~~freeholder's~~ voter's OWNER'S land

adjacent to the boundary line of the proposed district. ~~Such~~ The written request must be submitted to the board prior to or on the date set for hearing on the petition.

(3) The board shall render its decision within 30 days after the hearing."

**Section 4.** Section 7-33-2104, MCA, is amended to read:

**"7-33-2104. Operation of fire districts.** ~~Whenever the~~ When a board of county commissioners ~~shall have established~~ establishes a fire district in any unincorporated territory; or incorporated THIRD-CLASS city or town, or village, said the commissioners:

(1) may contract with a city, town, ~~or~~ private fire company, or other public entity to furnish all fire protection services for property within ~~said the~~ district; or

(2) shall appoint five qualified trustees to govern and manage the ~~affairs of the~~ fire district."

**Section 5.** Section 7-33-2105, MCA, is amended to read:

**"7-33-2105. Powers and duties of trustees.** (1) The trustees:

(a) shall prepare and adopt suitable bylaws;

~~(2)(b)~~ The trustees have the authority to provide adequate and standard firefighting and emergency response apparatus, equipment, personnel, housing, and facilities, including real property and emergency medical services and equipment, for the protection of the district; ~~They shall~~

(c) may appoint and form fire companies that have the same duties, exemptions, and privileges as other fire companies for retirement purposes only;

~~(3)~~ The trustees (d) shall prepare annual budgets and request special levies for the budgets. The budget laws relating to county budgets must, as far as applicable, apply to fire districts.

(e) may enter into contracts as provided in 7-33-2107; and

(f) may pledge income to secure financing of the district as provided in 7-33-2109.

(2) All money received by the trustees must be deposited in the county treasurer's office and credited to the fire district."

**Section 6.** Section 7-33-2106, MCA, is amended to read:

**"7-33-2106. Details relating to board of trustees of fire district.** (1) (a) The five trustees initially appointed by the county commissioners hold staggered terms of office until their successors are elected or appointed and qualified as provided in this section.

(b) The initial trustees' terms of office must be drawn by lot and include:

- (i) 3 years for one trustee;
- (ii) 2 years for two trustees; and
- (iii) 1 year for two trustees.

(c) Upon expiration of the terms provided in subsection (1)(b), each trustee shall serve a 3-year term of office.

(2) Trustees must be elected as provided in 13-1-104(3), 13-1-401, and subsection (3) of this section or appointed as provided in subsection (4) of this section. The term of office is 3 years beginning at the first district meeting following their election or appointment and continuing until their successors are elected or appointed and qualified. Appointments to fill vacancies occurring during the term of office of a trustee must be made by the county governing body and appointees shall hold office until the next regular election. An elector, as defined in Title 13, who resides in the district or any holder of title to lands within the district who presents a proof of payment of taxes on the lands at the polling place is eligible to vote in the election.

(3) Candidates for the office of trustee of the fire district to be filled by election may be nominated by petition filed with the election administrator or deputy election administrator at least 75 days before the election day and signed by at least five electors of the district.

(4) If the number of candidates is equal to or less than the number of positions to be elected, the election administrator may cancel the election in accordance with 13-1-304. If an election is not held, the county governing body shall declare elected by acclamation each candidate who filed a nominating petition for a position. If a nomination is not made for one or more trustee offices, the county governing body shall appoint one or more trustees as necessary to fill those offices. A trustee taking office pursuant to this subsection serves the trustee term of office as if that trustee had been elected.

(5) The trustees shall organize by choosing a presiding officer officers and appointing one member to act as secretary."

**Section 7.** Section 7-33-2107, MCA, is amended to read:

**"7-33-2107. Contracts for fire protection services.** (1) The trustees of ~~such a~~ fire district, ~~provided that the owners of 10% of the taxable value of the property in any such fire district may elect to make such a contract:~~  
~~— (a) may contract with the council of any city or town or with the trustees of any other fire district established in any unincorporated territory, town, or village which has any boundary line lying within 5 straight-line miles of any boundary line of such district, whether the city or town or other fire district shall lie within the same~~

~~county or another county, for the extension of fire protection service by the city or town or by such other fire district to property included within such district; and~~

~~\_\_\_\_\_ (b) may agree to pay a reasonable consideration therefor.~~

~~\_\_\_\_\_ (2) Likewise, the trustees may contract to permit such fire district's equipment and facilities to be used by the cities, towns, or other fire districts which have any boundary lines lying within 5 straight-line miles of any boundary line of such district.~~

~~\_\_\_\_\_ (3) Likewise, the trustees may enter into contracts with public or private parties under which such district fire company may extend fire protection to public or private property lying outside of such district or any other district or city limits but within 5 straight-line miles of any boundary line of such district, whether such public or private property shall lie within the same county or another county. Such district fire company may use such fire district's equipment and facilities outside of such district in the performance of such contracts may enter into contracts for fire protection services.~~

~~(4)(2) All money received from such contracts shall must be deposited in the county treasurer's office and credited to the fire district fund holding such the contracts.~~

~~(5)(3) The relationship between the fire district and the city, town, or private fire service shall be entity with which the district has contracted is that of an independent contractor."~~

**Section 8.** Section 7-33-2109, MCA, is amended to read:

**"7-33-2109. Tax levy, debt incurrence, and bonds authorized.** (1) At the time of the annual levy of taxes, the board of county commissioners may, subject to 15-10-420, levy a special tax upon all property within a rural fire district for the purpose of buying or maintaining fire protection facilities, including real property, and apparatus, including emergency response apparatus, for the district or for the purpose of paying to a city, town, or private fire service the consideration provided for in any contract with the council of the city, town, or private fire service for the purpose of furnishing fire protection service to property within the district. The tax must be collected as are other taxes.

(2) The board of county commissioners or the trustees, if the district is governed by trustees, may pledge the income of the district, subject to the requirements and limitations of 7-33-2105(3)(1)(d), to secure financing necessary to procure equipment and buildings, including real property, to house the equipment.

(3) In addition to the levy authorized in subsection (1), a district may borrow money by the issuance of bonds to provide funds for the payment of all or part of the cost of buying or maintaining fire protection facilities, including real property, and apparatus, including emergency response apparatus, for the district.

(4) The amount of debt incurred pursuant to subsection (2) and the amount of bonds issued pursuant to subsection (3) and outstanding at any time may not exceed 1.1% of the total assessed value of taxable property, determined as provided in 15-8-111, within the district, as ascertained by the most recent assessment for state and county taxes prior to the incurrence of debt or the issuance of the bonds.

(5) The bonds must be authorized, sold, and issued and provisions must be made for their payment in the manner and subject to the conditions and limitations prescribed for the issuance of bonds by counties under Title 7, chapter 7, part 22."

**Section 9.** Section 7-33-2120, MCA, is amended to read:

**"7-33-2120. Consolidation of fire districts -- mill levy limitations.** (1) Two or more rural fire districts may consolidate to form a single rural fire district upon an affirmative vote of each rural fire district's board of trustees. At the time they vote to consolidate, the boards of trustees ~~must~~ shall also adopt a consolidation plan. The plan must contain:

(a) a timetable for consolidation, including the effective date of consolidation, which must be after the time allowed for protests to the creation of the consolidated rural fire district under subsection (3);

(b) the name of the new rural fire district;

(c) a boundary map of the new rural fire district; and

(d) the estimated financial impact of consolidation on the average taxpayer within the proposed district.

(2) Within 14 days of the date that the trustees vote to consolidate, notice of the consolidation must be published as provided in 7-1-2121 or as provided in 7-1-4127 if the district or part of the district is in an incorporated THIRD-CLASS city or town in each county in which any part of the consolidated fire district will be located. A public hearing on the consolidation must be held within 14 days of the first publication of notice. The hearing must be held before the joint boards of trustees at a time and place set forth in the publication of notice.

(3) ~~Property owners of Registered voters residing in~~ REAL PROPERTY OWNERS OF each affected rural fire district may submit written protests opposing consolidation to the trustees of their district. If within 21 days of the first publication of notice ~~more than 50% 40% or more~~ MORE THAN 50% of the ~~property owners registered voters~~ REAL PROPERTY OWNERS in an existing district protest the consolidation, it is void.

(4) After consolidation, the former rural fire districts constitute a single rural fire district governed under the provisions of 7-33-2104 through 7-33-2106.

(5) The consolidation of two or more rural fire districts pursuant to this section results in the creation of a new rural fire district for the purposes of determining mill levy limitations."

**Section 10.** Section 7-33-2121, MCA, is amended to read:

**"7-33-2121. Division of fire district authorized.** Fire districts may be divided as provided in ~~7-33-2122 through 7-33-2123, 7-33-2124, and [section 11].~~"

NEW SECTION. Section 11. Division of district -- petition -- plan for division. (1) (a) A fire district's board of trustees may vote to divide the district upon an affirmative vote of the board and upon receipt of a petition signed by ~~40% or more of the registered voters~~ MORE THAN 50% OF THE REAL PROPERTY OWNERS of an area proposed to be detracted from the original district.

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

(2) At the time it votes to divide, the board shall adopt a division plan that contains:

(a) a timetable for division, including the effective date, that must be after the time allowed for protests to the division;

(b) the names of the new rural fire districts;

(c) the boundary maps of the new districts;

(d) the estimated financial impact of the division on an owner of a home valued at \$100,000; and

(e) a method for the fair and equitable division of the assets and liabilities of the original district among the new districts.

(3) The board of trustees shall forward the plan to the board of county commissioners in the county where the districts are located.

(4) Within 21 days of receipt of the plan, the board of county commissioners shall set a date for a public hearing on the division and shall give notice of the hearing as provided in 7-1-2121 or as provided in 7-1-4127 if any part of the proposed detracted area is within the limits of an incorporated city or town.

**Section 12.** Section 7-33-2123, MCA, is amended to read:

**"7-33-2123. Decision on petition for division -- protest.** The petition ~~shall~~ must be granted and the original districts ~~shall thereupon~~ must be divided into separate districts unless at the time of the hearing on ~~such~~ the petition protests ~~shall be~~ are presented by ~~the owners of 50% 40% or more of the area of the privately owned lands included within the entire original district who constitute a majority of the taxpayers who are freeholders of registered voters residing in~~ THE OWNERS OF MORE THAN 50% OF THE REAL PROPERTY OF THE AREA OF PRIVATELY OWNED LANDS INCLUDED WITHIN THE ENTIRE ORIGINAL DISTRICT WHO CONSTITUTE A MAJORITY OF THE REAL PROPERTY

OWNERS IN the entire original district ~~and whose names appear upon the last-completed assessment roll.~~ If such ~~the~~ required ~~amount~~ number of protests are presented, the petition for division ~~shall be disallowed~~ may not be approved."

**Section 13.** Section 7-33-2124, MCA, is amended to read:

**"7-33-2124. Distribution of assets and liabilities following division.** (1) Upon the division of districts, ~~money on hand shall be apportioned between the divided areas according to their respective taxable valuations.~~ All other assets of the original district shall become the property of the remaining area, but a reasonable value shall be placed upon such other assets, and the remaining area shall become indebted to the detracted area for its proportionate share thereof, ~~based upon taxable valuations~~ the assets and liabilities of the original rural fire district must be distributed in accordance with the division plan as provided in [section 11].

(2) Any detracted area ~~shall remain~~ is liable for any existing warrant and bonded indebtedness of the original district."

**Section 14.** Section 7-33-2125, MCA, is amended to read:

**"7-33-2125. Annexation of adjacent territory not contained in a fire district.** (1) Adjacent territory within or outside of the limits of an incorporated THIRD-CLASS city or town that is not already a part of a fire district may be annexed in the following manner:

(a) A petition in writing by ~~the owners of 50% 40% or more of the area of privately owned lands of the adjacent area proposed to be annexed who constitute a majority of the taxpaying freeholders registered voters who reside~~ THE OWNERS OF MORE THAN 50% OF THE AREA OF PRIVATELY OWNED LANDS OF THE ADJACENT AREA PROPOSED TO BE ANNEXED WHO CONSTITUTE A MAJORITY OF THE REAL PROPERTY OWNERS within the proposed area to be annexed ~~and whose names appear upon the last-completed assessment roll~~ must be presented to the board of trustees of the district for approval. If the proposed annexation is approved by the board of trustees, the petition must be presented to the board of county commissioners.

(b) At the first regular meeting of the board of county commissioners after the presentation of the petition, the commissioners shall set a date to hold a hearing on the petition. The date of the hearing may not be less than 4 weeks after the date of the presentation of the petition to the board of county commissioners. The board of county commissioners shall publish notice of the hearing as provided in 7-1-2121 or as provided in 7-1-4127 if any part of the area proposed to be annexed is within an incorporated THIRD-CLASS city or town.

(2) On the date set for the hearing, the board of county commissioners shall consider the petition and



any objections to the annexation. The board shall approve the annexation unless a protest petition signed by a ~~majority of the landowners of at least 40% of the registered voters residing in~~ A MAJORITY OF THE REAL PROPERTY OWNERS OF the area proposed for annexation is presented at the hearing, in which case the annexation must be disapproved.

(3) The annexed territory is liable for any outstanding warrant and bonded indebtedness of the original district.

(4) (A) Territory that is within the limits of an incorporated THIRD-CLASS city or town may only be annexed upon the approval of the city or town governing body.

(B) A THIRD-CLASS CITY OR TOWN MAY WITHDRAW FROM THE DISTRICT TERRITORY THAT HAS BEEN ANNEXED UNDER THIS SECTION 2 YEARS AFTER PROVIDING TO THE BOARD OF COUNTY COMMISSIONERS NOTICE OF INTENT TO WITHDRAW."

**Section 15.** Section 7-33-2126, MCA, is amended to read:

**"7-33-2126. Annexation of adjacent territory contained in a fire district.** (1) Adjacent territory that is already a part of a fire district may withdraw from ~~such~~ the fire district and become annexed to another fire district in the following manner:

(a) A petition in writing by ~~the owners of 50% 40% or more of the privately owned lands of an area which is part of any organized fire district who constitute a majority of the taxpaying freeholders~~ registered voters residing THE OWNERS OF MORE THAN 50% OF THE PRIVATELY OWNED LANDS OF AN AREA THAT IS PART OF AN ORGANIZED FIRE DISTRICT WHO CONSTITUTE A MAJORITY OF REAL PROPERTY OWNERS within ~~such the~~ the area ~~according to the last-completed assessment roll shall~~ proposed to be transferred must be presented to the county commissioners, asking that ~~such the~~ the area be transferred to and included in any other organized fire district to which ~~said the~~ the area is adjacent. The petition must ~~set forth~~ describe the change of boundaries to be affected by ~~such the~~ the proposed transfer of area.

(b) The commissioners shall hold a hearing on the petition in accordance with the procedure outlined in ~~7-33-2122~~ [section 11]. The ~~withdrawal and annexation shall~~ transfer must be allowed unless protests are presented at the hearing by ~~the owners of 50% 40% or more of the area of the privately owned lands included within either district affected who constitute a majority of the taxpaying freeholders of~~ registered voters residing in THE OWNERS OF MORE THAN 50% OF THE AREA OF THE PRIVATELY OWNED LANDS INCLUDED WITHIN EITHER DISTRICT AFFECTED WHO CONSTITUTE A MAJORITY OF THE REAL PROPERTY OWNERS OF either district ~~according to the last-completed assessment roll.~~

(2) The ~~withdrawals and annexation shall~~ transfer may be allowed only upon a showing of more advantageous proximity and communications with the firefighting facilities of the other district."

**Section 16.** Section 7-33-2127, MCA, is amended to read:

**"7-33-2127. Withdrawal by owner of individual tract adjacent to municipality.** In lieu of the detracting procedure ~~set forth~~ provided in ~~7-33-2122 and~~ 7-33-2123 and [section 11], whenever a person owns land adjacent to a city or town and wishes to have only that land annexed to the city or town, the land may be detracted as follows:

(1) The owner shall mail notice to the chairman of the trustees of the fire district or, if none, to the board of county commissioners of ~~his~~ the owner's intention to request annexation.

(2) The owner shall attach a copy of this notice of intention to ~~his~~ the petition to the municipal governing body requesting annexation.

(3) Following adoption of the annexation order under 7-2-4714, the land is detracted from the fire district."

**Section 17.** Section 7-33-2128, MCA, is amended to read:

**"7-33-2128. Dissolution of fire district.** ~~Any~~ (1) Subject to subsection (2), a fire district organized under this part may be dissolved by the board of county commissioners upon presentation of a petition ~~therefor~~ for dissolution signed by ~~the owners of 50% 40% or more of the area of the privately owned lands included within such fire district who constitute a majority of the taxpayers who are freeholders of such~~ registered voters residing in the THE OWNERS OF MORE THAN 50% OF THE AREA OF THE PRIVATELY OWNED LANDS INCLUDED WITHIN THE FIRE DISTRICT WHO CONSTITUTE A MAJORITY OF REAL PROPERTY OWNERS OF THE area ~~and whose names appear upon the last-completed assessment roll.~~ The procedure and requirements ~~outlined~~ provided in 7-33-2101 through 7-33-2103 ~~shall~~ apply to ~~such~~ requests for dissolution of fire districts.

(2) A board of county commissioners may not dissolve a fire district that includes territory within the limits of an incorporated THIRD-CLASS city or town unless the dissolution is approved by the governing body of the city or town."

**Section 18.** 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:

- (a) provide for the organization of volunteer rural fire control crews; and
- (b) provide for the formation of county volunteer fire companies.

~~(2)~~(3) The governing body shall appoint a county rural fire chief and ~~such as many~~ district rural fire chiefs, subject to the direction and supervision of the county rural fire chief, as it considers necessary.

~~(3)~~(4) The county governing body shall, within the limitations of 7-33-2205, ~~through 7-33-2209~~ 7-33-2206, 7-33-2208, and 7-33-2209, either:

(a) directly protect the range, farm, and forest lands within the county from fire land in the county that is not in a forest 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 forest fire protection with a recognized agency, as that term is defined in 76-13-102.

~~(4)~~(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; or
- (h) governing bodies of other political subdivisions.

~~(5)~~(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 19.** Section 7-33-2205, MCA, is amended to read:

**"7-33-2205. Establishment of fire season -- permit requirements -- reimbursement of costs.** (1)

The county governing body may in its discretion establish fire seasons annually, during which a person may not ignite or set a ~~forest~~ fire, including a slash-burning fire, land-clearing fire, debris-burning fire, or open fire within the county protection area on any residential or commercial property, forest, range, or croplands subject to the provisions of this part without having obtained an official written permit or permission to ignite or set a fire from

the recognized protection agency for that protection area.

(2) A permit or permission is not needed for recreational fires measuring less than 48 inches in diameter that are surrounded by a nonflammable structure and for which a suitable source of extinguishing the fire is available.

(3) A person who purposely ignites a fire in violation of this section shall reimburse the county governing body or recognized protection agency for costs incurred for any fire suppression activities resulting from the illegal fire, as provided in 50-63-103."

**Section 20.** Section 7-33-2206, MCA, is amended to read:

**"7-33-2206. Violations.** A person who ignites or sets a forest fire, including a slash-burning fire, land-clearing fire, debris-burning fire, or open fire on any residential or commercial property, forest, range, or cropland subject to the provisions of this part without first having obtained a written permit or permission from the recognized protection agency for that protection area to ignite or set the fire is guilty of a misdemeanor."

**Section 21.** Section 7-33-2210, MCA, is amended to read:

**"7-33-2210. State to be reimbursed for forest fire suppression activities in noncooperating counties.** A county that has not entered into a cooperative or other written agreement with the state for forest protection shall reimburse the state for costs incurred by the state in connection with state fire suppression activities resulting from a forest fire emergency on land in that county that is not in a forest fire protection district, as provided in 76-13-204, or protected through an agreement with a recognized agency, as provided in 7-33-2202(4)(b)."

**Section 22.** Section 7-33-2311, MCA, is amended to read:

**"7-33-2311. Fire companies authorized.** (1) Fire companies in unincorporated towns and villages are organized by filing with the county clerk of the county in which they are located a certificate in writing, signed by the presiding officer and secretary, ~~setting forth~~ providing the date of organization, name, officers, and roll of active and honorary members or a copy of the certificate provided for in 19-17-402. The certificate and filing must be renewed annually on or before September 1.

~~(2) A town or village is not allowed more than one company for each 1,000 inhabitants, but one company must be allowed in a city, town, or village in which the population is less than 1,000.~~

~~—————(3)(2) A fire company is not allowed more than 28 certificate members."~~

**Section 23.** Section 7-33-2313, MCA, is amended to read:

**"7-33-2313. Powers and duties of chief -- request for assistance -- definitions.** (1) The chief of every fire department company shall inquire into the cause of every fire occurring in the town in which the chief serves as the chief and shall keep a record of every fire. The chief shall aid in the enforcement of all fire ordinances, examine buildings in the process of erection, report violations of ordinances relating to prevention or extinguishment of fires and, when directed by the proper authorities, institute prosecutions for the violation of those ordinances, and perform other duties as may be imposed upon the chief by proper authority. The chief's compensation, if any, must be fixed and paid by the city or town authorities. The chief shall attend all fires, with the chief's badge of office conspicuously displayed. The chief shall prevent injury to, take charge of, and preserve all property rescued from fires and return it to the owner on the payment of the expenses incurred in saving and keeping it. The amount of the expenses, when not agreed to, must be fixed by a justice of the peace.

(2) The chief shall devise and formulate or cause to be devised and formulated a course or plan of instruction or training program making available to each regular member of the chief's department company not less than 30 hours of instruction each year in matters pertaining to firefighting. The chief shall supervise the operation of the training plan or program and maintain training records for each current and former firefighter for the purposes of the public employees' retirement board provided for in 2-15-1009.

(3) If the county commissioners, trustees of a fire district, or governing body of a fire service area have not concluded a mutual aid agreement to protect an unincorporated town or village against natural incidents, emergencies, or disasters or incidents, emergencies, or disasters caused by persons, the chief may request assistance pursuant to 10-3-209.

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

**Section 24.** Section 7-33-2401, MCA, is amended to read:

**"7-33-2401. Fire service area -- establishment -- alteration -- dissolution.** (1) Upon receipt of a petition signed by at least 30 owners of real property in the proposed service area, or by a majority of the owners of real property if there are no more than 30 owners of real property in the proposed service area, the board of county commissioners may establish a fire service area within an unincorporated area not part of a rural fire district in the county to provide the services and equipment set forth in 7-33-2402.

(2) To establish a fire service area, the board shall:

(a) pass a resolution of intent to form the area, with public notice as provided in 7-1-2121 ~~and written~~

notice as provided in 7-1-2122;

- (b) hold a public hearing no earlier than 30 or later than 90 days after passage of the resolution of intent;
- (c) at the public hearing:
  - (i) accept written protests from property owners of the area of the proposed area; and
  - (ii) receive general protests and comments relating to the establishment of the fire service area and its boundaries, rates, kinds, types, or levels of service, or any other matter relating to the proposed fire service area;
- and
- (d) pass a resolution creating the fire service area. The area is created effective 60 days after passage of the resolution unless by that date more than 50% of the property owners of the proposed fire service area protest its creation.

(3) Based on testimony received in the public hearing, the board in the resolution creating the fire service area may establish different boundaries, establish a different fee schedule than proposed, change the kinds, types, or levels of service, or change the manner in which the area will provide services to its residents.

(4) The board of county commissioners may alter the boundaries or the kinds, types, or levels of service or dissolve a fire service area, using the procedures provided in subsection (2). The board of county commissioners shall alter the boundaries of a fire service area to exclude any area that is annexed by a city or town, using the procedures provided in subsection (2). Any existing indebtedness of a fire service area that is dissolved remains the responsibility of the owners of property within the area, and any assets remaining after all indebtedness has been satisfied must be returned to the owners of property within the area."

**NEW SECTION. Section 25. Repealer.** Sections 7-33-2122, 7-33-2204, and 7-33-2207, MCA, are repealed.

**COORDINATION SECTION. Section 26. Coordination instruction.** If [LC 422] and [this act] are both passed and approved, then 7-33-2202 must read as follows:

**"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:

(1)(2) The governing body shall:

- (a) provide for the organization of volunteer rural fire control crews; and
- (b) provide for the formation of county volunteer fire companies.

(2)(3) The governing body shall appoint a county rural fire chief and ~~such~~ as many district rural fire chiefs,

subject to the direction and supervision of the county rural fire chief, as it considers necessary.

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

(a) directly protect the range, farm, and forest lands within the county from fire land in the county that is not in a forest 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 forest fire protection with a recognized agency, as that term is defined in 76-13-102.

~~(4)~~(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; or
- (h) governing bodies of other political subdivisions.

~~(5)~~(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."

**NEW SECTION. Section 27. Codification instruction.** [Section 11] is intended to be codified as an integral part of Title 7, chapter 33, part 21, and the provisions of Title 7, chapter 33, part 21, apply to [section 11].

- END -

