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HOUSE BILL NO. 813

INTRODUCED BY T. BROCKMAN, D. FERN, R. FITZGERALD

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE CREATION OF REGIONAL FIRE PROTECTION AUTHORITIES; REQUIRING A REGIONAL FIRE PROTECTION AUTHORITY PLAN; REQUIRING A PUBLIC HEARING AND ELECTION TO ESTABLISH AN AUTHORITY; ESTABLISHING THE POWERS AND DUTIES OF AN AUTHORITY; ALLOWING CERTAIN AREAS TO BE ANNEXED, WITHDRAWN, OR DETRACTED FROM AN AUTHORITY; ALLOWING AN AUTHORITY TO MAKE ASSESSMENTS OR IMPOSE FEES FOR THE OPERATION OF THE AUTHORITY; LIMITING GOVERNMENTAL LIABILITY; AMENDING SECTIONS 2-7-501, 7-3-1345, 7-4-2711, 7-6-204, 7-11-1002, 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, 7-33-4510, 10-3-209, 13-37-206, 19-17-102, AND 50-63-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Purpose and authorization. Any two or more adjacent local

governments, rural fire districts, fire service areas, or fire companies are authorized to create a single regional fire protection authority as provided in [sections 1 through 2019] for the purpose of providing adequate and standard firefighting and emergency response apparatus, equipment, personnel, housing, and facilities, including the provision of real property and emergency medical services and equipment for protection of those areas within the fire protection authority.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 2019], unless context clearly

indicates otherwise, the following definitions apply:

- (1) "Board" means the governing board of a fire protection authority.
- (2) "Fire protection authority" means a regional fire protection authority established under [sections 1 through 2019].

1 (3) "Fire protection authority plan" or "fire authority plan" means a plan developed by a fire
2 protection authority planning committee in accordance with [section 3] and contains the required information as
3 provided in [section 4].

4 (4) "Fire protection jurisdiction" means a government fire entity organized under this chapter.

5 (5) "Governing body" means the governing body of a local government, fire company, rural fire
6 district, or fire service area.

7 (6) "Local government" means a city, town, county, or consolidated city-county government.

8
9 **NEW SECTION. Section 3. Fire protection authority plan -- planning committee.** (1) The
10 governing bodies proposing the creation of a fire protection authority shall convene an authority planning
11 committee to:

12 (a) adopt a regional fire protection authority plan;

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

15 (c) provide opportunities for public participation and public comment during the development of the
16 fire authority plan.

17 (2) The governing bodies participating in the creation of a fire protection authority shall designate
18 two elected or appointed trustees to the authority planning committee. Local governments shall designate one
19 member to serve on the planning committee.

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

23
24 **NEW SECTION. Section 4. Creation of fire authority plan -- plan contents.** (1) A fire protection
25 authority plan developed pursuant to [section 3] must include:

26 (a) the services that will be provided by the proposed fire protection authority;

27 (b) a timetable for the proposed fire protection authority, including the date of the creation of the
28 fire protection authority;

1 and at the same time. The provisions of 7-11-1010 apply to terms of board members if the election is combined.

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

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

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

8
9 **NEW SECTION. Section 7. Certificate of establishment.** (1) On receipt of the certificate referred to
10 in [section 6(4)], the secretary of state shall, within 10 days, issue a certificate reciting that the specified
11 authority has been established according to the laws of the state. A copy of the certificate must be transmitted
12 to and filed with the clerk and recorder of the county or counties in which the authority is situated.

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

15 (3) The provisions of 7-11-1014 apply to additional reporting requirements for a fire protection
16 authority.

17
18 **NEW SECTION. Section 8. Financing of authority.** (1) A fire protection authority may be financed
19 using the following methods:

20 (a) establishment of a mill levy as provided in subsection (2) and subject to the provisions of 15-
21 10-420; or

22 (b) through the imposition of fees as provided for in 7-33-2404.

23 (2) (a) When two or more fire protection jurisdictions with mill levy authority are dissolved and
24 transferred into a fire protection authority pursuant to [sections 1 through 2019], the fire protection authority
25 must be considered as a new taxing entity for the purposes of determining mill levy limitations.

26 (b) Subject to subsection (2)(c), the fire protection authority may impose a mill levy sufficient to
27 generate the total amount of property taxes actually assessed by each former fire protection jurisdiction that
28 becomes part of the fire protection authority in the current year. The mill levy established in this subsection is

1 subject to the provisions of 15-10-420.

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

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

7 (4) Subject to 15-10-425, the board of county commissioners may levy a tax upon all taxable
8 property within a fire protection authority for the purpose of purchasing disability income insurance coverage or
9 workers' compensation coverage for the volunteer firefighters of the fire protection authority as provided in 7-6-
10 621.

11 (5) The board of county commissioners or the trustees, if the fire protection authority is governed
12 by trustees, may pledge the income of the fire protection authority, subject to the requirements and limitations
13 of [section 10(1)(g)], to secure financing necessary to procure equipment and buildings, including real property,
14 to house the equipment.

15 (6) In addition to the levy authorized in subsection (2), a fire protection authority may borrow
16 money by the issuance of bonds to provide funds for the payment of all or part of the cost of buying or
17 maintaining fire protection facilities, including real property, and apparatus, including emergency response
18 apparatus, for the fire protection authority.

19 (7) The amount of debt incurred pursuant to subsection (5) and the amount of bonds issued
20 pursuant to subsection (6) and outstanding at any time may not exceed 1.1% of the total assessed value of
21 taxable property, determined as provided in 15-8-111, within the fire protection authority, as ascertained by the
22 most recent assessment for state and county taxes prior to the incurrence of debt or the issuance of the bonds.

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

26
27 **NEW SECTION. Section 9. Operation of fire authority.** (1) When a board of county commissioners
28 establishes a fire protection authority, the commissioners may:

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

3
4 **NEW SECTION. Section 14. Volunteer fire districts, companies, or authorities -- fire**
5 **departments -- not affected by city-county consolidation.** (1) Notwithstanding any other provision of law,
6 the adoption of a city-county consolidated local government has no effect on the existence of a volunteer fire
7 department, a volunteer fire company, a fire district, or fire protection authority created and legally in existence
8 pursuant to the provisions of [sections 1 through 2019] unless otherwise specifically provided by charter.

9 (2) A right or benefit of any member of a volunteer fire district, company, fire protection authority,
10 or department created pursuant to the provisions of [sections 1 through 2019] in a retirement or pension plan or
11 payments provided under Title 19, chapter 17, may not be abrogated by the adoption of a city-county
12 consolidated local government unless otherwise specifically provided by charter.

13
14 **NEW SECTION. Section 15. Fire authority capital improvement fund authorized.** The trustees of
15 a fire protection authority may establish a capital improvement fund in accordance with the provisions of Title 7,
16 chapter 6, part 6.

17
18 ~~**NEW SECTION. Section 16. Payment of partial salary to rural firefighters injured in**~~
19 ~~**performance of duty.** (1) A full-paid firefighter who is an employee of a fire protection authority and who is~~
20 ~~injured in the performance of the firefighter's duty must be paid by the fire protection authority the difference~~
21 ~~between the firefighter's net salary, following adjustments for income taxes and pension contributions, and the~~
22 ~~amount received from workers' compensation until the disability has ceased, as determined by workers'~~
23 ~~compensation, or for a period not to exceed 1 year, whichever occurs first.~~

24 ~~(2) To qualify for the partial salary payment provided for in subsection (1), the firefighter must~~
25 ~~require medical or other remedial treatment and must be incapable of performing the firefighter's duties as a~~
26 ~~result of the injury.~~

27 ~~(3) This section does not apply to a volunteer firefighter or a part-paid firefighter.~~

28

1 NEW SECTION. Section 16. Annexation of adjacent territory. (1) Subject to 7-33-4115, adjacent
2 territory within or outside of the limits of an incorporated second-class or third-class city or town that is not
3 already a part of an existing fire protection jurisdiction may be annexed in the following manner:

4 (a) A petition in writing by the owners of ~~40%~~60% or more of the real property within the proposed
5 area to be annexed and owners of property representing ~~40%~~60% or more of the taxable value of property
6 within the proposed area to be annexed must be presented to the board of trustees of the fire protection
7 authority for approval. If the proposed annexation is approved by the board of trustees, the petition must be
8 presented to the board of county commissioners.

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

15 (2) On the date set for the hearing, the board of county commissioners shall consider the petition
16 and any objections to the annexation. The board shall approve the annexation unless a protest petition signed
17 by at least 40% of the owners of real property in the area proposed for annexation and owners of property
18 representing 40% or more of the taxable value of the property in the area proposed for annexation is presented
19 at the hearing, in which case the annexation must be disapproved.

20 (3) (a) Subject to 7-33-4115, territory that is within the limits of an incorporated second-class or
21 third-class city or town may be annexed only upon the approval of the city or town governing body.

22 (b) A second-class or third-class city or town may withdraw from the fire protection authority that
23 has been annexed under this section 2 years after providing to the board of county commissioners and board of
24 trustees notice of intent to withdraw.

25
26 NEW SECTION. Section 17. Dissolution of fire authority. (1) Subject to ~~subsection-subsections~~ (2)
27 ~~and (3)~~, a fire protection authority organized under [sections 1 through ~~2019~~] may be dissolved by the board of
28 county commissioners upon presentation of a petition for dissolution signed by the owners of ~~40%~~60% or more

1 of the real property in the area and owners of property representing ~~40%~~60% or more of the taxable value of
2 property in the area. The procedure and requirements provided in 7-33-2101 through 7-33-2103 apply to
3 requests for dissolution of fire protection authorities.

4 (2) A board of county commissioners may not dissolve a fire protection authority that includes
5 territory within the limits of an incorporated second-class or third-class city or town unless the dissolution is
6 approved by the governing body of the city or town.

7 (3) Before a fire protection authority may be dissolved, a board of county commissioners shall
8 convene a dissolution planning committee meeting the requirements of [section 3(1)(b), (1)(c), and (2)] to
9 determine:

10 (a) a timetable for dissolving the fire protection authority;

11 (b) the jurisdictions that will be responsible for fire protection after the dissolution of the fire
12 protection authority;

13 (c) the boundaries of all jurisdictions who will be responsible for fire protection;

14 (d) how responsibilities will be transferred from the fire protection authority to other jurisdictions;

15 (e) the distribution or sale of all equipment, apparatus, and real and personal property of the fire
16 protection authority to be dissolved;

17 (f) if applicable, the transfer of employees; and

18 (g) how assets of the fire protection authority will be distributed or completed, including:

19 (i) existing contracts and obligations;

20 (ii) any warrant of bonded indebtedness to be assumed by other jurisdictions; and

21 (ii) any funds, credits, or other assets of the dissolving fire protection authority.

22
23 **NEW SECTION. Section 18. Annexation of fire authority property by municipality --**

24 **responsibility for debt.** (1) If a municipality annexes property from a fire protection authority, the annexed
25 property is liable for any bonded debt of the fire protection authority or for secured debt incurred by the fire
26 protection authority for the purchase of real or personal property existing as of the date the annexation
27 proceeding was commenced to the same extent as it would have been liable if not withdrawn.

28 (2) A municipality shall:

1 **Section 21.** Section 7-3-1345, MCA, is amended to read:

2 **"7-3-1345. Fire department.** (1) The fire department of the municipality is in the charge of a director,
3 who ~~shall be~~ is department chief thereof and who shall manage and control manages and controls the
4 department in the manner prescribed by the ordinances of the municipality.

5 (2) (a) Notwithstanding any other provision of law, the adoption of a consolidated county municipal
6 government ~~shall have no effect on~~ does not affect the existence, rights, or duties of any voluntary fire
7 department, ~~or fire district, or fire protection authority~~ created and legally in existence pursuant to the provisions
8 of ~~parts 21 and 23 of chapter 33~~ Title 7, chapter 33, part 21, 23, or [sections 1 through 2019].

9 (b) Nothing in ~~this part or part 12 shall be construed to prohibit~~ this part prohibits the creation of
10 voluntary fire departments, ~~or fire districts, or fire protection authorities~~ pursuant to the provisions of ~~parts 21~~
11 ~~and 23 of chapter 33~~ Title 7, chapter 33, part 21, 23, or [sections 1 through 2019] within consolidated county
12 municipalities.

13 (c) Voluntary fire departments, ~~or fire districts, or fire protection authorities~~ within consolidated
14 county municipalities may only be organized, created, supported, financed, dissolved, and managed and their
15 boundaries may only be changed pursuant to the provisions of ~~parts 21 and 23 of chapter 33~~ Title 7, chapter
16 33, part 21, 23, or [sections 1 through 2019]. These organizations may enter mutual aid agreements as
17 provided by 7-33-2108."

18

19 **Section 22.** Section 7-4-2711, MCA, is amended to read:

20 **"7-4-2711. County attorney to be legal adviser of county and other subdivisions.** (1) The county
21 attorney is the legal adviser of the board of county commissioners. The county attorney shall attend their
22 meetings when required and shall attend and oppose all claims and accounts against the county that are unjust
23 or illegal. The county attorney shall defend all suits brought against the county.

24 (2) The county attorney shall:

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

27 (b) act as counsel, without fee, for fire districts, ~~and fire service areas,~~ and fire protection
28 authorities in unincorporated territories, towns, or villages within the county;

- 1 (c) when requested by a conservation district pursuant to 76-15-319, act as counsel, without fee;
- 2 (d) when requested by a weed district pursuant to 7-22-2109, act as counsel, without fee; and
- 3 (e) when requested by a county hospital board pursuant to 7-34-2115, act as counsel, without fee,
- 4 unless the legal action requested involves the county commissioners."

5

6 **Section 23.** Section 7-6-204, MCA, is amended to read:

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

10 (a) by law;

11 (b) by terms of a gift, grant, or donation; or

12 (c) by subsections (2) and (3).

13 (2) Subject to subsection (1), interest paid and collected on the deposits or investments of the
14 funds of a volunteer fire district or department organized in an unincorporated area under Title 7, chapter 33,
15 part 21, ~~or 23,~~ or [sections 1 through 2019] or of a fire service area or county fire department must be credited
16 to the account of that fire district, service area, fire protection authority, or department.

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

20

21 **Section 24.** Section 7-11-1002, MCA, is amended to read:

22 **"7-11-1002. Definitions.** As used in this part, the following definitions apply:

23 (1) "Governing body" means the legislative authority of a local government.

24 (2) "Local government" means a city, town, county, or consolidated city-county government or any
25 combination of these acting jointly.

26 (3) (a) "Special district" means a unit of local government that is authorized by law to perform a
27 single function or a limited number of functions.

28 (b) The term includes but is not limited to cemetery districts, museum districts, park districts, fair

1 government subdivisions of any other state or the United States pursuant to Title 10, chapter 3, part 11.

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

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

7

8 **Section 31.** Section 7-33-4101, MCA, is amended to read:

9 **"7-33-4101. Fire protection services.** (1) Every city and town shall provide for fire protection in a
10 manner that is organized, managed, and controlled as provided in this chapter.

11 (2) (a) Except as provided in 7-33-4115(6), a first-class city or town shall provide fire protection
12 services either through a fire protection authority as provided in [sections 1 through 2019] or as provided in this
13 part.

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

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

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

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

21 (iv) a fire protection authority as established under [sections 1 through 2019].

22 (c) A third-class city or town may provide fire protection through a contract for fire protection
23 services, consolidation of its fire department with another fire protection provider, inclusion in a fire service
24 authority as provided in [sections 1 through 2019], or inclusion in a rural fire district as provided in Title 7,
25 chapter 33, part 21."

26

27 **Section 32.** Section 7-33-4110, MCA, is amended to read:

28 **"7-33-4110. Volunteer companies not affected.** Nothing contained in 7-33-4101 through 7-33-4104,

1 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
2 sections 1 through 2019 shall be held or construed to affect any fire organization known as a volunteer fire
3 company."

4

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

6 **"7-33-4112. Mutual aid agreements -- request if no agreement exists -- definitions.** (1) A mutual
7 aid agreement is an agreement for protection against disasters, incidents, or emergencies.

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

10 (a) other incorporated municipalities;

11 (b) fire districts;

12 (c) unincorporated municipalities;

13 (d) state agencies;

14 (e) private fire prevention agencies;

15 (f) federal agencies;

16 (g) fire service areas;

17 (h) fire protection authorities;

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

19 ~~(i)(j)~~ (j) governing bodies of fire protection services, emergency medical care providers, and local

20 government subdivisions of any other state or the United States pursuant to Title 10, chapter 3, part 11.

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

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

26

27 **Section 34.** Section 7-33-4510, MCA, is amended to read:

28 **"7-33-4510. Workers' compensation for volunteer firefighters -- notification if coverage not**

1 **provided -- definitions.** (1) An employer may provide workers' compensation coverage as provided in Title 39,
2 chapter 71, to any volunteer firefighter who is listed on a roster of service.

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

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

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

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

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

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

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

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

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

27

28 **Section 35.** Section 10-3-209, MCA, is amended to read:

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

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

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

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

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

15 (iv) the trustees of a fire protection authority created pursuant to [sections 1 through 2019].

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

18 (i) a fire district;

19 (ii) an unincorporated municipality;

20 (iii) an incorporated municipality;

21 (iv) a state agency;

22 (v) a private fire prevention agency;

23 (vi) an agency of the federal government;

24 (vii) a fire service area;

25 (viii) a fire protection authority;

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

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

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

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

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

- 12 (a) a fire district;
- 13 (b) a fire service area;
- 14 (c) a fire company;
- 15 (d) a fire protection authority;
- 16 ~~(d)~~(e) an unincorporated municipality, town, or village;
- 17 ~~(e)~~(f) a political subdivision; or
- 18 ~~(f)~~(g) an agent, employee, representative, or volunteer of an entity listed in this subsection."

19
20 **Section 36.** Section 13-37-206, MCA, is amended to read:

21 **"13-37-206. Exception for certain school districts and certain special districts.** (1) The
22 provisions of this part, except 13-37-216 and 13-37-217, do not apply to a candidate for the office of trustee of a
23 school district, the candidate's political campaign, or a political committee organized to support or oppose a
24 school district issue or a candidate when the school district is:

- 25 (a) a first-class district located in a county having a population of less than 15,000;
- 26 (b) a second- or third-class district; or
- 27 (c) a county high school district having a student enrollment of less than 2,000.

28 (2) The provisions of this part, except 13-37-216 and 13-37-217, do not apply to a candidate, the

1 candidate's political campaign, or a political committee organized to support or oppose an issue or a candidate
2 if the candidate is running for or the committee's issue involves a unit of local government authorized by law to
3 perform a single function or a limited number of functions, including but not limited to a conservation district, a
4 weed management district, a fire district, a fire protection authority, a community college district, a hospital
5 district, an irrigation district, a sewer district, a transportation district, a water district, any other special purpose
6 district, or any entity formed by interlocal agreement."

7

8 **Section 37.** Section 19-17-102, MCA, is amended to read:

9 **"19-17-102. Definitions.** Unless the context requires otherwise, the following definitions apply in this
10 chapter:

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

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

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

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

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

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

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

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

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

28 (10) "Fire company" means:

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

3 (b) a fire protection authority, if the authority includes only volunteer firefighters and is established
4 in accordance with [sections 1 through ~~29~~19] to serve an unincorporated area, town, or village.

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

7 (12) "Inactive member" means a member not credited with service under this chapter as provided in
8 19-17-108 during the most recently reportable fiscal year.

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

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

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

14 (16) "Reimbursed" means the return by a fire company of an equivalent amount of money expended
15 by a member for the benefit of the fire company.

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

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

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

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

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

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

28

1 **Section 38.** Section 50-63-202, MCA, is amended to read:

2 **"50-63-202. Fire chief or sheriff to conduct investigation.** If the fire occurs within a municipality,
3 organized fire district, fire protection authority, or fire service area, the chief of the governmental fire agency
4 organized under Title 7, chapter 33, having jurisdiction or the chief's designee shall conduct the investigation. If
5 the fire occurs outside a municipality, organized fire district, or fire service area, the county sheriff shall conduct
6 the investigation or ensure that an investigation is conducted."
7

8 NEW SECTION. Section 39. Notification to tribal governments. The secretary of state shall send a
9 copy of [this act] to each federally recognized tribal government in Montana.
10

11 NEW SECTION. Section 40. Saving clause. [This act] does not affect rights and duties that
12 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].
13

14 NEW SECTION. Section 41. Severability. If a part of [this act] is invalid, all valid parts that are
15 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
16 the part remains in effect in all valid applications that are severable from the invalid applications.
17

18 NEW SECTION. Section 42. Codification instruction. [Sections 1 through 2019] are intended to be
19 codified as an integral part of Title 7, chapter 33, and the provisions of Title 7, chapter 33, apply to [sections 1
20 through 2019].
21

22 NEW SECTION. Section 43. Two-thirds vote required. Because [sections 2928 and 3635] limit
23 governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the
24 members of each house of the legislature for passage.
25

26 NEW SECTION. Section 44. Effective date. [This act] is effective on passage and approval.
27

- END -