

March 2018

Local Government Interim Committee  
Leanne Kurtz

## SJR 21 STUDY OF EMERGENCY MEDICAL AND VOLUNTEER FIREFIGHTER SERVICE SYSTEMS: MID-INTERIM REVIEW

The preamble for Senate Joint Resolution No. 21 focuses on the importance of quality emergency medical and volunteer firefighter services in Montana and attributes personnel shortages in critical areas to factors including changing demographics, employers' resistance to allowing volunteers to serve, and lack of incentives to serve. Challenges facing rural communities and the emergency medical and volunteer firefighter systems that protect them include lack of funding, recruitment and retention, training, and adequate communication and fire protection equipment.

During its first two meetings of the 2017-2018 interim, the Local Government Interim Committee dedicated time on its agenda to assessing the current emergency medical care and volunteer fire protection systems in the state, understanding the statutory framework of these systems, discussing the 2017 fire season with fire chiefs and volunteer firefighters, hearing about specific challenges facing volunteer fire departments and emergency medical service providers, catching up with advancements and progress that has been made since a 2008 audit of the emergency medical services system, and reviewing work that has been completed and recommendations issued by previous legislative committees studying similar issues.

As has been the case with previous related studies, discussion frequently turns to personnel shortages and ways to provide incentives for people to serve in volunteer positions.

Following is a review of information that has been provided to the committee so far, as well as a compilation of proposals from previous studies to provide incentives to volunteering. The final portion of this paper recaps discussions surrounding workers' compensation for volunteer firefighters, one component of firefighter recruitment and retention that has been before legislative committees, either in the form of a study or proposed legislation, since the 2011-2012 interim.

### July 2017 Information and Discussions

Prior to their first meeting in July, committee members received several documents intended to provide background and context for the wide-ranging SJR 21 study. Advance information included the following documents.

- ❖ A report prepared in 2011 by Harold Blattie of the Montana Association of Counties that discusses the types of fire protection provided for in the Montana Code Annotated. The document's intended audience was a 2011-2012 subcommittee of the Economic Affairs Interim Committee assigned to identify means to provide workers' compensation for volunteer firefighters. The document provides statutory references for the various types of fire protection and discusses how the statutes have evolved over time. The types of fire protection covered in the report are rural fire districts, fire service areas, fire companies, and municipal fire departments, all of which are governed by the provisions of Title 7, chapter 33, of the Montana Code Annotated.

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- ❖ A report provided to the Education and Local Government Committee during the 2015-2016 interim by Jim DeTienne, supervisor of the Department of Public Health and Human Services EMS and Trauma Systems Section, detailing the structure of EMS service systems in the state, numbers of providers, coverage areas and response times, training and licensing, workforce, medical oversight, regionalized care, communications, and considerations for legislative action to improve the system.
- ❖ A portion of the 2007-08 Children, Families, Health, and Human Services Committee (CFHHS) report on its interim study of EMS services. Drafting instructions for SJR 21 were to use this study as the foundation.
- ❖ An excerpt from the 2008 Fire Suppression Committee final report. The FSC studied and made recommendations regarding numerous aspects of wildland fire suppression, including challenges facing volunteer fire departments.

Both CFHHS and FSC reports included proposals for providing incentives for volunteers. Descriptions of those proposals are included in this paper under the relevant heading.

Testimony from the Montana Fire Alliance at the July 2017 meeting indicated that some form of assistance to volunteer fire departments to provide workers' compensation for volunteer firefighters topped that organization's list of desired outcomes from the SJR 21 study. Leonard Lundby, speaking on behalf of the Fire Alliance, estimated that of approximately 7,500 volunteer firefighters working in the state, about 2,500 do not have workers' compensation coverage. House Bill No. 460, which died in the House Appropriations Committee late in the 2017 session, would have directed up to \$100,000 of the Fire Suppression Fund to this purpose.

Others providing testimony specific to emergency medical services commented that facilitating the provision of community paramedicine similar to what Senate Bill No. 104 (2017) would have accomplished would be most significant in helping emergency care providers offer necessary services to rural communities. SB 104 died in the House Human Services Committee toward the end of the 2017 session.

LGIC's work plan, adopted at the July meeting, envisioned more detailed discussions with volunteer firefighters from fire departments of different sizes and jurisdictions and with EMS providers to learn more about their experiences and needs. In addition, the committee requested information about the Emergency Medical Service grant program administered by the Department of Transportation and an update on the recommendations offered in a 2008 Legislative Audit Division report on EMS systems.

## November 2017 Information and Discussions

The November meeting's SJR 21 agenda items included an overview of the EMS grant program administered by the Department of Transportation, an update on recommendations made in a 2008 audit of DPHHS EMS and Trauma Systems, a report on the Department of Natural Resources and Conservation's County Cooperative Program, a report on numbers of volunteer firefighters, and discussions with fire chiefs from around the state on mutual aid, interagency cooperation, the 2017 wildland fire season, and the difficulties associated with longer and more extreme fire seasons.

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### EMS Grant Program

Acting on a recommendation by the 2007-2008 CFHHS committee, the 2009 Legislature established a temporary EMS grant program. The bill provided that the highway nonrestricted account be the source of the grant funds and that \$1 million each year of the biennium be awarded in grants to volunteer emergency medical service providers for purchase of vehicles and equipment. The 2013 Legislature made the grant program permanent. A representative of the Department of Transportation reported that over the course of the program \$9.8 million has been provided through 149 grant awards. A 10% match is required for a grant award and MDT usually receives two to three times more requests for funding that it can award. MDT believes the program is working as it was intended and that no modifications are warranted.

### EMS Audit Update

Since the release of the 2008 EMS audit, DPHHS has improved data systems and tracking, established a care committee that meets quarterly, and developed a strategic plan, among other activities to implement audit recommendations. Jim DeTienne discussed stresses in the system and identified four areas that need attention, some of which may require statutory solutions and others that do not. Improvements are needed in the management of volunteer entities, medical direction and technical support for volunteers, education and access to training, and removing barriers to community paramedicine. Regionalization may be one way to realize improvements to the system; another would be allowing for EMS personnel to conduct nonemergency calls in the community. Mr. DeTienne said this is being done in other states and to a certain extent in the Montana communities of Cut Bank and Red Lodge, but legislation similar to SB 104 (2017) would be necessary to clarify authority and responsibilities. The next anticipated step for the committee is to learn more about innovative programs in other states as well as in Montana and explore potential legislative solutions.

### DNRC County Cooperative Program

The Department of Natural Resources and Conservation provides direct wildland fire protection on roughly 5.2 million acres, 3.5 million of which is state and private land and 1.7 million is federal land. Forty-five million acres are protected through the County Cooperative Program, an arrangement between the state and local governments in which a network of 400 fire departments throughout the state, consisting of thousands of volunteers, agree to provide initial attack resources in exchange for state-provided equipment and training. Mike DeGrosky, the department's Fire and Aviation Bureau chief, described the program and its important role in Montana's wildland fire protection system. The purpose of the program is to build capacity at the local level so that nearby resources can be deployed as quickly as possible. Four thousand people receive training through the program each year. According to Mr. DeGrosky, the two primary threats to continued success of the program are dwindling numbers of volunteers and increasing reluctance of employers to allow employees time off to volunteer.

When a county signs a Cooperative Fire Control Agreement with DNRC, it agrees among other things to "provide or ensure Workers' Compensation Insurance Coverage on drivers, passengers or workers using or working with any equipment loaned under this agreement." As evidenced by the estimated number of volunteer firefighters who do not have workers' compensation coverage, this does not always occur.

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### Fire Entities by the Numbers

The exact number of volunteer firefighters is difficult to determine. There is no central registry or required tracking and volunteer participation fluctuates significantly. Many volunteers participate in the retirement system and may be counted that way, but not all do, and some receive benefits through fire department relief associations, which are operated by local trustees. Mr. Lundby, representing the Montana Fire Alliance, provided what he characterized as a best guess on the numbers, increased slightly from those provided to the committee in July. My Lundby also offered information on numbers of fire organizations operating in the state. All are listed below.

Volunteer Firefighters	8,000 (est.)
Volunteers with workers' compensation coverage	6,000 (est.)
Volunteers with workers' compensation coverage through Montana Municipal Interlocal Authority (MMIA)	2,000 (est.)
Volunteers with workers' compensation coverage through State Fund, Montana Association of Counties, or Victory	4,000 (est.)
Fire Service Areas	36
Rural Fire Districts	199
Volunteer Fire Companies	35
Volunteer Fire Departments	94

### 2017 Fire Season Review

The following recurring themes emerged as the LGIC took comment from local fire chiefs and the DNRC Central Land Office:

- Mutual aid worked well.
- Interagency cooperation worked well.
- Pre-season planning was valuable.

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- Longer fire seasons are exacerbating personnel shortages—many firefighters employed by state and federal agencies are college students who have to return to school and employers of volunteers are increasingly reluctant to continue to allow employees to leave for volunteer duty.
- Lack of workers' compensation coverage is a disincentive to volunteering.
- There aren't many incentives to volunteer and numbers are dwindling as fire seasons become longer and fires become more extreme.

## March 2018 Information

For its March meeting, the LGIC plans to explore potential solutions to some of the problems highlighted at the July and November meetings.

The list below is a compilation of legislation that has been proposed in the last 10 years aimed at providing incentives to volunteer.

## Legislative Proposals to Incentivize Volunteer EMT/Firefighter Service Since 2009

Bill	Description	Committee or Member	Year	Outcome
SB 63	Provide tax credits to volunteer EMTs based on amount of service; provide tax deductions for employers who allow employees to leave work to respond to emergency calls	Children, Families, Health, and Human Services	2009 Session	Died on Senate floor
SB 64	Create special license plate for volunteer EMTs who provided certain level of service; provide tax credit for the plate	Children, Families, Health, and Human Services	2009 Session	Died on Senate floor
SB 99	Allow leave for state employee volunteer firefighters for incident response	Fire Suppression Committee	2009 Session	Died in Senate committee
SB 105	Income tax credit for volunteer firefighters and their employers	Fire Suppression Committee	2009 Session	Died in Senate committee

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Bill	Description	Committee or Member	Year	Outcome
SB 106	Provide special license plates and tax credits for volunteer firefighters	Fire Suppression Committee	2009 Session	Died in Senate committee
SB 110	Volunteer firefighter participation in county health insurance pool	Fire Suppression Committee	2009 Session	Died in Senate committee
HB 552	Allow levies used to fund public safety volunteers' disability income insurance to be used alternatively for workers' compensation coverage; provide coverage for volunteer emergency medical service providers under certain conditions	Rep. Hale	2011 Session	Enacted
SB 54	Require workers' compensation coverage for volunteer firefighters funded by county permissive levy	Economic Affairs Interim Committee	2013 Session	Died on Senate floor
SB 386	Allow certain local governmental fire agencies to provide workers' compensation coverage for volunteer firefighters; revise premium and benefit provisions for volunteer firefighters and certain emergency workers	Sen. Facey	2013 Session	Enacted
LC1382	Provide cost-of-living adjustment to benefits provided in the Volunteer Firefighters Compensation Act	Rep. Lynch	2015 Session	Not introduced
HB 555	Increase allowance that may be paid to volunteer firefighters from \$300 per year to \$3,000 per year	Sen. Fitzpatrick	2015 Session	Enacted

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Bill	Description	Committee or Member	Year	Outcome
LC416	12% of Fire Insurance Premium Tax revenue to account for cost-share assistance to fire departments to purchase workers' compensation insurance for volunteer firefighters	Sen. Cohenour	2017 Session	Not introduced
HB 460	Allow use of fire suppression funds for workers' compensation assistance for volunteer fire departments	Rep. Fitzgerald	2017 Session	Died in House committee

## Workers' Compensation for Volunteer Firefighters

Workers' compensation coverage for volunteer firefighters has been at the center of discussions surrounding volunteer firefighter recruitment and retention. A timeline of studies and legislative proposals may be useful to LGIC in determining any next steps it wishes to take.

**2011** House Joint Resolution No. 38 requested a study of local fire protection.

**2011-2012** The Economic Affairs Interim Committee established a subcommittee to study the workers' compensation component of the HJR 38 study. The following is from EAIC's final report.

In requesting at the EAIC's first meeting in June 2011 that the EAIC consider working on HJR 38, a study of local fire protection, firefighters, and emergency medical technicians, Harold Blattie of the Montana Association of Counties told committee members that contracts being signed by counties for use of state-loaned firefighting equipment acknowledge that the firefighters, whether volunteer or not, have workers' compensation coverage. Given the variety of firefighting volunteer units in a county, not all of them funded by government or under government control, the signed acknowledgment in the contract may have been more hopeful than realistic. If a volunteer firefighter were to be injured and not have workers' compensation coverage, then the agreement might cause problems for both the counties and the Department of Natural Resources and Conservation (DNRC), which loaned out the firefighting equipment under the agreement. DNRC was similarly concerned that volunteer firefighting companies throughout the state might not get firefighting equipment if they failed to sign the agreement because they had no workers' compensation coverage, and that could increase the difficulty of speedily responding to wildfires.

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- 2013** As a result of its study, EAIC requested Senate Bill No. 54, which would have required workers' compensation coverage for volunteer firefighters funded by a county permissive levy for premium payments. SB 54 died on the Senate floor. Senate Bill No. 386, which passed, retained some of the benefit components of SB 54, but the provisions requiring coverage and a permissive levy were not included.
- 2015** Senate Joint Resolution No. 21 requested a study of local fire and emergency services.
- 2015-2016** The Education and Local Government Interim Committee conducted the assigned study, which did not result in committee-requested legislation.
- 2017** A member of the ELG committee requested a bill the committee had studied and reviewed, which would have directed 12% of the Fire Insurance Premium Tax to an account to provide for cost-share assistance to certain qualifying volunteer fire departments to purchase workers' compensation coverage for volunteer firefighters and would have required that coverage be provided for all volunteers. The bill failed in the 2017 Legislature.
- 2017** A bill was introduced to allow \$100,000 of the Fire Suppression Fund to be directed to an account to provide cost-share assistance to certain qualifying volunteer fire departments to purchase workers' compensation coverage. The bill failed in the 2017 Legislature.
- 2017** SJR 21 requested a study of emergency medical and volunteer firefighter systems.
- 2017-2018** The Local Government Interim Committee is conducting the study.

Legislators discussing whether or how to address this issue may wish to consider the following:

1. Should the state be involved in ensuring local volunteer firefighters have workers' compensation coverage or should this remain a local matter?
2. Would this help in recruitment and retention of volunteer firefighters?
3. What are potential funding sources? Those that have been discussed include the General Fund, the Fire Insurance Premium Tax, and the Fire Suppression Fund.
4. Which entity would administer the funds and what would the criteria be for awarding funds?
5. What would be the reporting requirements for fire departments receiving funds?
6. What about the local governments and fire departments that have already provided coverage? Should they receive a benefit from a state program?