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As of: June 25, 2018 (8:33pm)

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**** Bill No. ****

Introduced By *****

By Request of the *****

A Bill for an Act entitled: "An Act authorizing creation of regional fire protection service authorities; requiring a regional fire service authority plan; requiring a public hearing and election to establish an authority; establishing the powers and duties of an authority; allowing an authority to make assessments or impose fees for the operation of an authority; allowing for a benefit charge on personal property and improvements located in an authority; limiting the liability of a regional fire protection service authorities; amending sections 7-3-1345, 7-4-2711, 7-6-204, 7-33-2108, 7-33-2110, 7-33-2202, 7-33-2208, 7-33-2316, 7-33-2405, 7-33-4101, 7-33-4110, 7-33-4112, 7-33-4510, 10-3-209, and 19-17-102, MCA; and providing an immediate effective date."

Be it enacted by the Legislature of the State of Montana:

NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 15] is to allow for the creation and governance of regional fire protection service authorities.

NEW SECTION. **Section 2. Definitions.** As used in [sections 1 through 15], the following definitions apply:

(1) "Authority" means a regional fire protection service

authority established under [sections 1 through 15].

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

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

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

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

NEW SECTION. Section 3. Authorization to create authority

-- planning committee. (1) Any two or more adjacent fire protection jurisdictions may propose creation of an authority and convene an authority planning committee. A fire protection jurisdiction may not participate in more than one authority.

(2) The governing body of a fire protection jurisdiction participating in planning under [sections 1 through 15] shall designate two elected or appointed trustees to the authority planning committee. If the governing body of a participating fire protection jurisdiction is the board of county commissioners, then the board of county commissioners shall designate one member to serve on the planning committee.

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

(4) Unless it dissolves itself, the planning committee shall

create a regional fire protection service authority plan.

(5) At its first meeting, a regional fire protection service authority planning committee shall elect officers and provide for the adoption of rules and other operating procedures.

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

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

NEW SECTION. Section 4. Planning committee creation of service plan -- plan contents. (1) An authority planning committee shall:

(a) adopt a regional fire service authority plan providing for the design, financing, and development of fire protection and emergency services;

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

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

(2) The plan must include:

(a) the name of the proposed authority;

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

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

(d) proposed financing for the authority;

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

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

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

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

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

(3) Once a plan is adopted by the planning committee, it must be forwarded to the governing bodies of the local governments whose fire protection jurisdictions are participants in the planning committee.

NEW SECTION. Section 5. Determining authority boundaries.

(1) The boundaries of the authority must be mapped, clearly described, and made available to the public at the time of the publication of the notice of public hearing pursuant to [section 6].

(2) The planning committee shall consult with a professional land surveyor, as defined in 37-67-101, to prepare a legal description of the boundaries for the proposed authority.

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

NEW SECTION. Section 6. Service plan -- public hearing.

(1) Within 60 days of receipt of a regional fire service authority plan, the governing bodies of the local governments whose fire protection jurisdictions are part of the proposed authority shall hold at least one public hearing, noticed as provided in 7-1-2121 or 7-1-4127, on the creation of the proposed authority.

(2) Within 30 days of the public hearing, the governing body shall determine whether or not to order that the question of creation of an authority be submitted to the electorate.

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

(4) The governing body may request changes to the plan based on public comment and may schedule subsequent public hearings on those changes.

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

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

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

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

(b) is a resident of or owner of taxable real property in the area subject to the proposed special district.

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

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

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

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

(5) (a) If the plan calls for the authority to be

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

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

(6) If a majority of the electorate to which the question was submitted approves creation of the authority, the authority is created.

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

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

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

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

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

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

NEW SECTION. **Section 10. Governance -- powers and duties.** (1) An authority must be administered and operated by an elected or appointed board as determined by the regional fire protection service authority plan.

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

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

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

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

(3) The board shall:

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

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

(4) The board is responsible for the execution of the voter-approved plan.

(5) The board may:

(a) employ personnel for the operation of the authority and the execution of the plan;

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

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

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

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

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

(g) borrow money by the issuance of:

(i) general obligation bonds as authorized by the governing body pursuant to Title 7, chapter 6, part 40, and the appropriate provisions of Title 7, chapter 7, part 22 or 42; or

(ii) revenue bonds for the lease, purchase, and maintenance of land, facilities, and buildings and the funding of projects in the manner and subject to the appropriate provisions of Title 7, chapter 7, part 25 or 44.

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

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

(b) all reports, documents, surveys, books, records, files, papers, or written material in the possession of the participating fire protection jurisdiction pertaining to fire protection and emergency services powers, functions, and duties must be delivered to the authority;

(c) all real property and personal property, including cabinets, furniture, office equipment, motor vehicles, and other tangible property, employed by the participating fire protection jurisdiction in carrying out the fire protection and emergency

services powers, functions, and duties must be transferred to the authority; and

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

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

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

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

(5) (a) Subject to subsection (5) (b), all employees of the participating fire protection jurisdictions are transferred to

the jurisdiction of the authority on its creation date or, in the case of a fire protection jurisdiction, on the effective date that the fire protection jurisdiction is subsequently annexed into an authority. Upon transfer, unless an agreement for different terms of transfer is reached between the collective bargaining representatives of the transferring employees and the participating fire protection jurisdictions, an employee is entitled to the employee rights, benefits, and privileges to which the employee would have been entitled as an employee of a participating fire protection jurisdiction, including rights to:

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

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

(iii) promotion and service time accrual; and

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

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

NEW SECTION. Section 12. Withdrawal of territory -- reannexation. (1) A regional fire protection authority may

withdraw areas from its boundaries or reannex into the authority areas that previously had been withdrawn from the authority under this section.

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

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

(c) A withdrawal under this section is effective at the end of the day on December 31 in the year in which the governing body approval under subsection (2) (a) is granted, but for purposes of establishing boundaries for property tax purposes, the boundaries must be established immediately upon the approval of the governing body.

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

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

(b) A reannexation under this section is effective at the

end of the day on December 31 in the year in which the adoption of the resolution under subsection (3)(a) is granted, but for purposes of establishing boundaries for property tax purposes, the boundaries must be established immediately upon the approval of the governing body.

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

NEW SECTION. Section 13. Financing for authority -- consistency with plan required. (1) The governing body shall make assessments or impose fees for the operation of the authority based upon a budget proposed by the authority board pursuant to [section 10(3)]. Financing for the authority must be consistent with the service plan adopted pursuant to [section 4] and approved by the electorate under [section 7].

(2) (a) Subject to subsections (2)(b), (2)(c), and 15-10-420, the authority may be financed through a tax levy, through benefit charges imposed as provided in [section 14], or by other method of assessment allowed under the plan.

(b) Subject to subsection (2)(c), the mill levy authority under 15-10-420 for each former fire protection jurisdiction that becomes part of the regional fire protection service authority

must be aggregated to establish the base mill levy limit.

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

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

(b) Money may be expended from the account to purchase disability income insurance coverage or for workers' compensation coverage for firefighters organized or deployed pursuant to any of the provisions of [sections 1 through 15].

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

NEW SECTION. **Section 14. Benefit charges.** (1) The governing board of a regional fire protection service authority may by resolution, as authorized in the plan and approved by the

voters, for authority purposes authorized by law, fix and impose a benefit charge on personal property and improvements to real property located within the authority on the date specified and that have received or will receive the benefits provided by the authority, to be paid by the owners of the properties.

(2) A benefit charge may not be imposed on personal property and real property that is exempt from taxation under Title 15.

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

(4) (a) A benefit charge imposed must be reasonably proportioned to the measurable benefits to property resulting from the services afforded by the authority. It is acceptable to apportion the benefit charge to the values of the properties as found by the county assessor or assessors modified generally in the proportion that fire insurance rates are reduced or entitled to be reduced as the result of providing the services. Any other method that reasonably apportions the benefit charges to the actual benefits resulting from the degree of protection, which may include but is not limited to the distance from regularly maintained fire protection equipment, the level of fire prevention services provided to the properties, or the need of the properties for specialized services, may be specified in the

resolution and is subject to contest on the grounds of unreasonable or capricious action or action in excess of the measurable benefits to the property resulting from services afforded by the authority.

(b) The authority board may determine that certain properties or types or classes of properties are not receiving measurable benefits based on criteria they establish by resolution.

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

NEW SECTION. **Section 15. Dissolution of authority -- protest.** (1) The governing body may pass a resolution of intention to dissolve an authority upon the request of the authority board or upon receipt of a petition signed by at least XX??% of the qualified electors of the authority.

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

(3) The notice must specify the boundaries of the authority, the date set for passage of the resolution of intention to dissolve, and that the resolution will be passed unless the clerk of the local government receives written protest in advance from qualified electors of the district who are assessed for XX??% of

the cost of operating the authority.

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

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

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

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

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

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

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

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

Section 16. Section 7-3-1345, MCA, is amended to read:

"7-3-1345. Fire department. (1) The fire department of the

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municipality is in the charge of a director, who ~~shall be~~ is department chief thereof and who ~~shall manage and control~~ manages and controls the department in the manner prescribed by the ordinances of the municipality.

(2) (a) Notwithstanding any other provision of law, the adoption of a consolidated county municipal government ~~shall have no effect on~~ does not affect the existence, rights, or duties of any voluntary fire department or fire district or regional fire protection service authority created and legally in existence pursuant to the provisions of Title 7, chapter 33, parts 21, and 23, or [sections 1 through 15] ~~of chapter 33.~~

(b) Nothing in this part or part 12 ~~shall be construed to prohibit~~ prohibits the creation of voluntary fire departments or fire districts or regional fire protection service authorities pursuant to the provisions of Title 7, chapter 33, parts 21, and 23, or [sections 1 through 15] ~~of chapter 33~~ within consolidated county municipalities.

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

{*Internal References to 7-3-1345: None.*}

Section 17. Section 7-4-2711, MCA, is amended to read:

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

(2) The county attorney shall:

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

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

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

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

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

{*Internal References to 7-4-2711: None.*}

Section 18. Section 7-6-204, MCA, is amended to read:

"7-6-204. Crediting of interest -- exceptions. (1) Interest

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paid and collected on deposits or investments must be credited to the general fund of the county, city, or town to whose credit the funds are deposited unless otherwise provided:

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

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

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

{*Internal References to 7-6-204:*
7-6-2701x 7-7-2112x}

Section 19. Section 7-33-2108, MCA, is amended to read:

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

(2) Fire district trustees may enter mutual aid agreements

with the proper authority of:

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

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

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

(3) If the fire district trustees have not concluded a mutual aid agreement, then the trustees, a representative of the trustees, or an incident commander may request assistance pursuant to 10-3-209.

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

{*Internal References to 7-33-2108:*
7-3-1345a}

Section 20. Section 7-33-2110, MCA, is amended to read:

"7-33-2110. Volunteer fire districts or companies -- fire departments -- not affected by city-county consolidation. (1)

Notwithstanding any other provision of law, the adoption of a city-county consolidated local government has no effect on the existence of a volunteer fire department, a volunteer fire company, a regional fire protection service authority, or a fire district created and legally in existence pursuant to the provisions of this part unless otherwise specifically provided by charter.

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

{*Internal References to 7-33-2110: None.*}

Section 21. 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; and

(c) subject to [sections 1 through 15], provide for regional fire protection service authorities.

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

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

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

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

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

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

(h) governing bodies of other political subdivisions in Montana, including the governing bodies of regional fire service protection authorities established in accordance with [sections 1 through 15]; or

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

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

{*Internal References to 7-33-2202:*

7-33-2210x 76-13-105x 76-13-105x}

Section 22. Section 7-33-2208, MCA, is amended to read:

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

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

(3) An owner of real property is not liable for damages or

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injury resulting from acts or omissions by a volunteer firefighter of a rural fire district, fire service area, regional fire protection service authority, or fire company while the firefighter is engaged in fire suppression activities on the owner's property."

{*Internal References to 7-33-2208:
7-33-2202a*}

Section 23. Section 7-33-2316, MCA, is amended to read:

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

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

{*Internal References to 7-33-2316: None.*}

Section 24. Section 7-33-2405, MCA, is amended to read:

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

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

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

(h) regional fire protection service authorities;

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

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

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

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

{Internal References to 7-33-2405: None.}

Section 25. Section 7-33-4101, MCA, is amended to read:

"7-33-4101. ~~Fire department authorized and required protection services.~~ ~~In every (1) Every~~ city and town of this state there must be a fire department, which must be shall provide for fire protection in a manner that is organized, managed, and controlled as provided in this part ~~except that a third-class city or town may contract for fire protection services or consolidate its fire department with another fire protection provider created under this part~~ chapter.

(2) (a) A first-class city or town may provide fire protection services either through a regional fire protection service authority as provided in [sections 1 through 15] or as provided in this part.

(b) A second-class city or town may provide fire protection services through:

(i) a regional fire protection service authority as provided in [sections 1 through 15];

(ii) a fire department of its own;

(iii) an interlocal agreement with another governmental fire protection provider under the provisions of Title 7, chapter 11, part 1; or

(iv) a contract with another fire protection provider.

(c) A third-class city or town may provide fire protection through contract for fire protection services, consolidation of its fire department with another fire protection provider, inclusion in a rural fire district as provided in Title 7,

chapter 33, part 21, or inclusion in a regional fire protection service authority as provided in [sections 1 through 15]."

{Internal References to 7-33-4101:
7-33-4110 *a}

Section 26. Section 7-33-4110, MCA, is amended to read:

"7-33-4110. Volunteer companies not affected. Nothing contained in 7-33-4101 through 7-33-4104, 7-33-4106 through 7-33-4108, 7-33-4112, 7-33-4113, 7-33-4122 through 7-33-4125, and 7-33-4127, and [sections 1 through 15] ~~shall~~ may be held or construed to affect any fire organization known as a volunteer fire company."

{Internal References to 7-33-4110: None.}

Section 27. Section 7-33-4112, MCA, is amended to read:

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

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

- (a) other incorporated municipalities;
- (b) fire districts;
- (c) unincorporated municipalities;
- (d) state agencies;
- (e) private fire prevention agencies;
- (f) federal agencies;

(g) fire service areas;

(h) regional fire protection service authorities;

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

or

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

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

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

{*Internal References to 7-33-4112:
7-33-4110a*}

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

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

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

chapter 71.

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

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

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

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

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

(b) "Roster of service" means the list of volunteer firefighters who have filled out a membership card prior to

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performing services as a volunteer firefighter.

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

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

{*Internal References to 7-33-4510:*

7-6-621 39-71-118 39-71-118 39-71-745}

Section 29. Section 10-3-209, MCA, is amended to read:

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

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

(i) the trustees of a rural fire district created pursuant

to Title 7, chapter 33, part 21, a representative of the trustees, or an incident commander for the district;

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

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

(iv) the governing body of a regional fire protection service authority created pursuant to [sections 1 through 15].

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

(i) a fire district;

(ii) an unincorporated municipality;

(iii) an incorporated municipality;

(iv) a state agency;

(v) a private fire prevention agency;

(vi) an agency of the federal government;

(vii) a fire service area;

(viii) a regional fire protection service authority;

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

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

(3) A public or private agency receiving a request pursuant to subsection (1) or (2) shall determine if it will provide the requested assistance or if it will provide other assistance and

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shall inform the requesting local or interjurisdictional agency, principal executive officer, incident commander, or other individual or entity making the request, as soon as possible, of that determination. The nature and extent of assistance provided by a public or private agency may be determined only by that public or private agency.

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

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

(a) a fire district;

(b) a fire service area;

(c) a fire company;

(d) a regional fire protection service authority;

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

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

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

{*Internal References to 10-3-209:*

| | | | |
|------------|------------|------------|------------|
| 7-33-2108a | 7-33-2202a | 7-33-2208a | 7-33-2208a |
| 7-33-2405a | 7-33-4112a | 10-3-902x | 10-3-902x} |

Section 30. Section 19-17-102, MCA, is amended to read:

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

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

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

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

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

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

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

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

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

described in 7-33-2312.

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

(10) "Fire company" means:

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

(b) a regional fire protection service authority, if it only includes volunteer firefighters, and is established in accordance with [sections 1 through 15] to serve an unincorporated area, town, or village.

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

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

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

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

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

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

of the fire company.

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

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

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

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

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

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

{ *Internal References to 19-17-102:*

2-18-704 7-33-4510 19-12-102 19-17-110
33-22-136 }

NEW SECTION. **Section 31. {standard} Notification to tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

NEW SECTION. **Section 32. {standard} Saving clause.** [This

act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 33. {standard} Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. **Section 34. Two-thirds vote required.** Because [section 30] limits governmental liability, Article II, section 18, of the Montana constitution requires a vote of two-thirds of the members of each house of the legislature for passage.

NEW SECTION. **Section 35. {standard} Codification instruction.** [Sections 1 through 15] are intended to be codified as an integral part of Title 7, chapter 33, and the provisions of Title 7, chapter 33, apply to [sections 1 through 15].

NEW SECTION. **Section 36. {standard} Effective date.** [This act] is effective on passage and approval.

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