

1 SENATE BILL 458

2 **47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006**

3 INTRODUCED BY

4 Ben D. Altamirano

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9  
10 AN ACT

11 RELATING TO THE FIRE PROTECTION FUND; AMENDING THE FIRE  
12 PROTECTION FUND LAW TO INCREASE DISTRIBUTIONS TO MUNICIPAL AND  
13 COUNTY FIRE DISTRICTS, TO CREATE THE FIRE PROTECTION GRANT FUND  
14 AND THE FIRE PROTECTION GRANT COUNCIL FOR THE PURPOSE OF  
15 AWARDING GRANTS TO LOCAL FIRE DISTRICTS FOR CERTAIN PURPOSES  
16 AND TO PROVIDE FOR THE DISPOSITION OF EQUIPMENT UNDER CERTAIN  
17 CIRCUMSTANCES; MAKING AN APPROPRIATION.

18  
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

20 Section 1. Section 59A-53-4 NMSA 1978 (being Laws 1984,  
21 Chapter 127, Section 975, as amended) is amended to read:

22 "59A-53-4. CRITERIA FOR DETERMINATION OF NEEDS.--In  
23 making the determination of needs pursuant to Section 59A-53-3  
24 NMSA 1978, the marshal shall first determine that each  
25 incorporated municipality to be certified has maintained an

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1 official fire department created by and regulated in accordance  
2 with a duly enacted ordinance for a period of at least one year  
3 prior to the date of certification and possesses fire equipment  
4 and apparatus in serviceable condition to respond to a fire  
5 incident. The marshal shall also determine the number of fire  
6 stations and substations located in each municipality to be  
7 certified and shall certify to the state treasurer ~~[for]~~ the  
8 amount to be distributed to each municipality for the purpose  
9 of maintaining each fire station and each substation, if any,  
10 that meets the requirements of the marshal and the requirements  
11 of this section ~~[and in accordance with the class insurance~~  
12 ~~rating it maintains amounts for fiscal year 1999 not to~~  
13 ~~exceed]~~. Unless adjusted pursuant to Section 59A-53-5.1 NMSA  
14 1978, the amounts distributed in a fiscal year for a class  
15 insurance rating shall equal the following:

class	main station	substation
number 1	\$ <del>[58,245]</del> <u>82,592</u>	\$ <del>[21,584]</del> <u>30,606</u>
number 2	<del>[53,957]</del> <u>77,086</u>	<del>[20,145]</del> <u>28,780</u>
number 3	<del>[49,641]</del> <u>70,919</u>	<del>[18,705]</del> <u>26,724</u>
number 4	<del>[45,323]</del> <u>64,751</u>	<del>[17,266]</del> <u>24,667</u>
number 5	<del>[43,164]</del> <u>61,667</u>	<del>[15,827]</del> <u>22,612</u>
number 6	<del>[41,007]</del> <u>58,584</u>	<del>[14,388]</del> <u>20,555</u>
number 7	<del>[38,848]</del> <u>55,501</u>	<del>[13,670]</del> <u>19,530</u>
number 8	<del>[36,691]</del> <u>52,418</u>	<del>[12,950]</del> <u>18,502</u>
number 9	<del>[27,339]</del> <u>39,058</u>	<del>[10,797]</del> <u>15,425</u>

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1            number 10            ~~[24,460]~~ 34,944            none."

2            Section 2. Section 59A-53-5 NMSA 1978 (being Laws 1989,  
3 Chapter 312, Section 5, as amended) is amended to read:

4            "59A-53-5. ESTABLISHMENT OF COUNTY FIRE DISTRICTS.--

5            A. The county commissioners of any county may  
6 establish one or more county fire districts within the county  
7 but outside the corporate limits of any municipality. The  
8 marshal shall determine the number of fire stations and  
9 substations located in each county fire district to be  
10 certified and shall certify to the state treasurer ~~[for]~~ the  
11 amount to be distributed to each county fire district for the  
12 purpose of maintaining each fire station and each substation,  
13 if any, that meets the requirements of the marshal and the  
14 requirements of this section ~~[and in accordance with the class~~  
15 ~~insurance rating it maintains for fiscal year 1999, amounts not~~  
16 ~~to exceed]~~. Unless adjusted pursuant to Section 59A-53-5.1  
17 NMSA 1978, the amounts distributed in a fiscal year for a class  
18 insurance rating shall equal the following:

19	class	main station	substation
20	number 1	\$ <del>[58,245]</del> <u>82,592</u>	\$ <del>[21,584]</del> <u>30,606</u>
21	number 2	<del>[53,957]</del> <u>77,086</u>	<del>[20,145]</del> <u>28,780</u>
22	number 3	<del>[49,641]</del> <u>70,919</u>	<del>[18,705]</del> <u>26,724</u>
23	number 4	<del>[45,323]</del> <u>64,751</u>	<del>[17,266]</del> <u>24,667</u>
24	number 5	<del>[43,164]</del> <u>61,667</u>	<del>[15,827]</del> <u>22,612</u>
25	number 6	<del>[41,007]</del> <u>58,584</u>	<del>[14,388]</del> <u>20,555</u>

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1            number 7            [~~38,848~~] 55,501            [~~13,670~~] 19,530  
2            number 8            [~~36,691~~] 52,418            [~~12,950~~] 18,502  
3            number 9            [~~27,339~~] 39,058            [~~10,797~~] 15,425  
4            number 10            [~~24,460~~] 34,944            none.

5                    B. Additionally, prior to the disbursement of any  
6 funds, the following must be established to the satisfaction of  
7 the marshal:

8                            (1) the county fire district has maintained an  
9 official fire department for a period of at least one year,  
10 established and governed by appropriate resolution of the board  
11 of county commissioners of the county in which the county fire  
12 district is located, and possesses fire apparatus and equipment  
13 in serviceable condition to respond to a fire incident;

14                            (2) the geographic limits and boundaries of  
15 the county fire district have been clearly defined and  
16 established by the board of county commissioners of the county  
17 in which the county fire district is located, and a plat  
18 showing the geographic limits and boundaries has been accepted  
19 by the board of county commissioners and filed as part of the  
20 official record of proceedings of the board and a certified  
21 copy thereof filed with the marshal; and

22                            (3) there is available within the geographic  
23 limits and boundaries of the county fire district an adequate  
24 water supply to be used in connection with the firefighting  
25 facilities of the county fire district.

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1 C. The county commissioners of any county may  
2 permit a county fire district located in the county to service  
3 an area adjacent and contiguous to the district but within  
4 another county; provided that the county commissioners of the  
5 other county shall consent by resolution duly adopted to the  
6 service and to the boundaries of the other area serviced.  
7 Before commencement of service, a plat showing the geographic  
8 limits and boundaries of the county fire district and of the  
9 additional area to be serviced shall be filed with and approved  
10 by the marshal. The county commissioners of either the county  
11 in which the county fire district is located or of the county  
12 in which the area being serviced is located may terminate the  
13 service but only with the approval of the marshal."

14 Section 3. Section 59A-53-5.1 NMSA 1978 (being Laws 1998,  
15 Chapter 76, Section 3) is amended to read:

16 "59A-53-5.1. MAXIMUM AMOUNTS TO BE CERTIFIED.--

17 A. For fiscal year [2000] 2007 and each fiscal year  
18 thereafter, the marshal shall certify a total amount equal to  
19 the higher of the amount that would be certified pursuant to  
20 Sections 59A-53-4 and 59A-53-5 NMSA 1978 [~~not to exceed the~~  
21 ~~greater of the total distribution pursuant to those sections for~~  
22 ~~the previous fiscal year]~~ or an amount to be determined by  
23 adding:

24 (1) [~~one-half of~~] the total increase in the  
25 fire protection fund receipts in the previous fiscal year minus  
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1 [one-half of] the appropriations, from all sources, to the  
2 volunteer firefighters retirement fund in the current fiscal  
3 year; and

4 (2) the total distribution pursuant to  
5 Sections 59A-53-4 and 59A-53-5 NMSA 1978 for the previous fiscal  
6 year.

7 B. The marshal shall adjust the distributions for  
8 each class in proportion to the increase in the total  
9 distribution."

10 Section 4. Section 59A-53-14 NMSA 1978 (being Laws 1984,  
11 Chapter 127, Section 985, as amended) is amended to read:

12 "59A-53-14. CLOSURE OF FIRE DEPARTMENT.--

13 A. If any fire department operated by any  
14 incorporated city, town or village or by any county fire  
15 district should go out of existence or for any reason cease to  
16 operate and function for a period of ninety days, title to all  
17 fire-fighting equipment and apparatus paid for in whole with  
18 distributions from the fire protection fund and held by or for  
19 the benefit of the fire department shall vest in the marshal and  
20 all [~~funds~~] money distributed from the fire protection fund and  
21 held by or for the fire department shall revert to the fire  
22 protection fund. Any person having custody or control of any  
23 such fire-fighting equipment and apparatus shall forthwith  
24 deliver [~~same~~] it as directed by the marshal, and any person  
25 having custody or control of the [~~funds~~] money shall forthwith

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1 remit [~~the same~~] it to the state treasurer, who shall again  
2 deposit the [~~funds~~] money in the state treasury to the credit of  
3 the fire protection fund. An action to recover the possession  
4 and control of such fire-fighting equipment and apparatus, or  
5 the [~~amount of the funds~~] money, may be commenced by the  
6 attorney general or the district attorney in the county in which  
7 the equipment and apparatus or [~~funds~~] money are situate upon  
8 the filing with the officer of a verified statement of the  
9 circumstances.

10 B. Notwithstanding the provisions of Subsection A of  
11 this section, [~~funds~~] money distributed from the fire protection  
12 fund needed to pay debt service on bonds or other obligations  
13 issued by or on behalf of a fire department or fire district may  
14 be used to pay such debt service, and the marshal and the state  
15 treasurer [~~are authorized and~~] shall continue to make  
16 distributions from the fire protection fund for and on behalf of  
17 the fire department or fire district until [~~such~~] the bonds or  
18 other obligations are paid in full."

19 Section 5. Section 59A-53-15 NMSA 1978 (being Laws 1984,  
20 Chapter 127, Section 986, as amended) is amended to read:

21 "59A-53-15. APPROPRIATION FROM STATE TREASURY.--

22 A. Except as provided in Subsections C and D of this  
23 section, all money [~~which~~] that from time to time is deposited  
24 in the state treasury and credited to the fire protection fund  
25 is appropriated to the [~~corporation~~] commission for the use of

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1 the marshal for the purposes set out in [~~Chapter 59A, Article 53~~  
2 ~~NMSA 1978~~] the Fire Protection Fund Law and shall be distributed  
3 by the state treasurer and expended as provided in that  
4 [~~article. Hereafter, all sums in excess of one hundred thousand~~  
5 ~~dollars (\$100,000) for pro rata distribution plus seventy-five~~  
6 ~~percent of the approved state fire marshal budget for the~~  
7 ~~succeeding fiscal year plus the amount certified to be~~  
8 ~~distributed as provided in that article shall be credited to the~~  
9 ~~general fund on or before June 30 of each fiscal year] law.~~

10 B. As used in Subsections C and D of this section,  
11 "remaining balance in the fire protection fund" means the amount  
12 of money in the fire protection fund less the sum of:

13 (1) the total amount of appropriations from  
14 the fire protection fund for the current fiscal year; and

15 (2) the total amount certified to be  
16 distributed during the current fiscal year pursuant to Sections  
17 59A-53-4, 59A-53-5 and 59A-53-5.1 NMSA 1978.

18 C. On the following dates, the following percentage  
19 of the remaining balance in the fire protection fund shall be  
20 transferred from the fire protection fund to the fire protection  
21 grant fund:

22 (1) on July 1, 2006, ten percent;

23 (2) on July 1, 2007, twenty percent;

24 (3) on July 1, 2008, thirty percent;

25 (4) on July 1, 2009, forty percent;



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- 1                   (5) on July 1, 2010, fifty percent;
- 2                   (6) on July 1, 2011, sixty percent;
- 3                   (7) on July 1, 2012, seventy percent;
- 4                   (8) on July 1, 2013, eighty percent;
- 5                   (9) on July 1, 2014, ninety percent; and
- 6                   (10) on July 1, 2015 and each subsequent July
- 7 1, one hundred percent.

8                   D. On July 1 of each year, the remaining balance in  
9 the fire protection fund, less the amount to be transferred on  
10 that date pursuant to Subsection B of this section, shall be  
11 transferred to the general fund; provided that no transfer shall  
12 be made pursuant to this subsection after July 1, 2014."

13                   Section 6. Section 59A-53-17 NMSA 1978 (being Laws 1984,  
14 Chapter 127, Section 988) is amended to read:

15                   "59A-53-17. MUTUAL ASSISTANCE.--Notwithstanding the  
16 provisions of Sections [~~976 and 983 of this article~~] 59A-53-5  
17 and 59A-53-12 NMSA 1978, or any other provision of law to the  
18 contrary, [~~independent~~] fire districts may render assistance to  
19 other [~~independent~~] fire districts, and equipment of  
20 [~~independent~~] fire districts may be used outside the district,  
21 if [~~such~~] the use is authorized by the county fire marshal, and  
22 the county fire marshal before he authorizes [~~such~~] the use,  
23 provides for standby equipment or move-up equipment, so that the  
24 assisting district which goes to the aid of another district has  
25 equipment available from an adjacent district for use in the

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1 assisting district in the event of a fire in the assisting  
2 district."

3 Section 7. A new section of the Fire Protection Fund Law  
4 is enacted to read:

5 "[NEW MATERIAL] FIRE PROTECTION GRANT FUND--CREATED--  
6 USES.--The "fire protection grant fund" is created in the state  
7 treasury. The fund shall consist of transfers, distributions,  
8 appropriations, gifts, grants, donations and bequests made to  
9 the fund. Income from the fund shall be credited to the fund,  
10 and money in the fund shall not revert or be transferred to any  
11 other fund at the end of a fiscal year. Money in the fund is  
12 appropriated to the fire protection grant council for the  
13 purposes of making distributions approved by the council for the  
14 critical needs of municipal and county fire districts.  
15 Expenditures from the fund shall be made on warrant of the  
16 secretary of finance and administration pursuant to vouchers  
17 signed by the marshal."

18 Section 8. A new section of the Fire Protection Fund Law  
19 is enacted to read:

20 "[NEW MATERIAL] FIRE PROTECTION GRANT COUNCIL--DUTIES.--

21 A. The "fire protection grant council" is created,  
22 consisting of:

23 (1) a representative of the New Mexico  
24 municipal league;

25 (2) a representative of the New Mexico

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1 association of counties;

2 (3) two members appointed by the public  
3 regulation commission who shall serve at the pleasure of the  
4 commission;

5 (4) three members appointed by the governor  
6 who shall serve at the pleasure of the governor; and

7 (5) the marshal, who shall serve as a  
8 nonvoting advisory member.

9 B. The public members shall receive per diem and  
10 mileage as provided in the Per Diem and Mileage Act and shall  
11 receive no other compensation, perquisite or allowance.

12 C. The council shall develop criteria for assessing  
13 the critical needs of municipal and county fire districts for  
14 fire apparatus and equipment, communications equipment,  
15 equipment for wildfires, fire station construction or expansion  
16 or equipment for hazardous material response.

17 D. Applications for grant assistance from the fire  
18 protection grant fund shall be made by fire districts to the  
19 council in accordance with the requirements of the council.  
20 Using criteria developed by the council, the council shall  
21 evaluate applications and prioritize those applications most in  
22 need of grant assistance from the fund. To the extent that  
23 money in the fund is available, the council shall award grant  
24 assistance for those prioritized applications.

25 E. In awarding grant assistance, the council may

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1 require conditions and procedures necessary to ensure that the  
2 money is expended in the most prudent manner."

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