

AN ACT

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

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

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

"59A-53-4. CRITERIA FOR DETERMINATION OF NEEDS.--In making the determination of needs pursuant to Section 59A-53-3 NMSA 1978, the marshal shall first determine that each incorporated municipality to be certified has maintained an official fire department created by and regulated in accordance with a duly enacted ordinance for a period of at least one year prior to the date of certification and possesses fire equipment and apparatus in serviceable condition to respond to a fire incident. The marshal shall also determine the number of fire stations and substations located in each municipality to be certified and shall certify to the state treasurer the amount to be distributed to each municipality for the purpose of maintaining each fire station

and each substation, if any, that meets the requirements of the marshal and the requirements of this section. Unless adjusted pursuant to Section 59A-53-5.1 NMSA 1978, the amounts distributed in a fiscal year for a class insurance rating shall equal the following:

class	main station	substation
number 1	\$ 82,592	\$ 30,606
number 2	77,086	28,780
number 3	70,919	26,724
number 4	64,751	24,667
number 5	61,667	22,612
number 6	58,584	20,555
number 7	55,501	19,530
number 8	52,418	18,502
number 9	39,058	15,425
number 10	34,944	none."

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

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

A. The county commissioners of any county may establish one or more county fire districts within the county but outside the corporate limits of any municipality. The marshal shall determine the number of fire stations and substations located in each county fire district to be certified and shall certify to the state treasurer the amount

to be distributed to each county fire district for the purpose of maintaining each fire station and each substation, if any, that meets the requirements of the marshal and the requirements of this section. Unless adjusted pursuant to Section 59A-53-5.1 NMSA 1978, the amounts distributed in a fiscal year for a class insurance rating shall equal the following:

class	main station	substation
number 1	\$ 82,592	\$ 30,606
number 2	77,086	28,780
number 3	70,919	26,724
number 4	64,751	24,667
number 5	61,667	22,612
number 6	58,584	20,555
number 7	55,501	19,530
number 8	52,418	18,502
number 9	39,058	15,425
number 10	34,944	none.

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

(1) the county fire district has maintained an official fire department for a period of at least one year, established and governed by appropriate resolution of the board of county commissioners of the county in which the

county fire district is located, and possesses fire apparatus and equipment in serviceable condition to respond to a fire incident;

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

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

C. The county commissioners of any county may permit a county fire district located in the county to service an area adjacent and contiguous to the district but within another county; provided that the county commissioners of the other county shall consent by resolution duly adopted to the service and to the boundaries of the other area serviced. Before commencement of service, a plat showing the geographic limits and boundaries of the county fire district and of the additional area to be serviced shall be filed with and approved by the marshal. The county commissioners of either

the county in which the county fire district is located or of the county in which the area being serviced is located may terminate the service but only with the approval of the marshal."

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

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

A. For fiscal year 2007 and each fiscal year thereafter, the marshal shall certify a total amount equal to the higher of the amount that would be certified pursuant to Sections 59A-53-4 and 59A-53-5 NMSA 1978 or an amount to be determined by adding:

(1) the total increase in the fire protection fund receipts in the previous fiscal year minus the appropriations, from all sources, to the volunteer firefighters retirement fund in the current fiscal year; and

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

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

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

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

A. If any fire department operated by any incorporated city, town or village or by any county fire district should go out of existence or for any reason cease to operate and function for a period of ninety days, title to all fire-fighting equipment and apparatus paid for in whole with distributions from the fire protection fund and held by or for the benefit of the fire department shall vest in the marshal and all money distributed from the fire protection fund and held by or for the fire department shall revert to the fire protection fund. Any person having custody or control of any such fire-fighting equipment and apparatus shall forthwith deliver it as directed by the marshal, and any person having custody or control of the money shall forthwith remit it to the state treasurer, who shall again deposit the money in the state treasury to the credit of the fire protection fund. An action to recover the possession and control of such fire-fighting equipment and apparatus, or the money, may be commenced by the attorney general or the district attorney in the county in which the equipment and apparatus or money are situate upon the filing with the officer of a verified statement of the circumstances.

B. Notwithstanding the provisions of Subsection A of this section, money distributed from the fire protection fund needed to pay debt service on bonds or other obligations issued by or on behalf of a fire department or fire district

may be used to pay such debt service, and the marshal and the state treasurer shall continue to make distributions from the fire protection fund for and on behalf of the fire department or fire district until the bonds or other obligations are paid in full."

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

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

~~A. Except as provided in Subsections C and D of this section, all money that from time to time is deposited in the state treasury and credited to the fire protection fund is appropriated to the commission for the use of the marshal for the purposes set out in the Fire Protection Fund Law and shall be distributed by the state treasurer and expended as provided in that law.~~

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

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

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

~~C. On the following dates, the following percentage of the remaining balance in the fire protection~~

~~fund shall be transferred from the fire protection fund to the fire protection grant fund:~~

- ~~(1) on July 1, 2006, ten percent;~~
- ~~(2) on July 1, 2007, twenty percent;~~
- ~~(3) on July 1, 2008, thirty percent;~~
- ~~(4) on July 1, 2009, forty percent;~~
- ~~(5) on July 1, 2010, fifty percent;~~
- ~~(6) on July 1, 2011, sixty percent;~~
- ~~(7) on July 1, 2012, seventy percent;~~
- ~~(8) on July 1, 2013, eighty percent;~~
- ~~(9) on July 1, 2014, ninety percent; and~~
- ~~(10) on July 1, 2015 and each subsequent July 1, one hundred percent.~~

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

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

"59A-53-17. MUTUAL ASSISTANCE.--Notwithstanding the provisions of Sections 59A-53-5 and 59A-53-12 NMSA 1978, or any other provision of law to the contrary, fire districts may render assistance to other fire districts, and equipment of fire districts may be used outside the district, if the use is

authorized by the county fire marshal, and the county fire marshal before he authorizes the use, provides for standby equipment or move-up equipment, so that the assisting district which goes to the aid of another district has equipment available from an adjacent district for use in the assisting district in the event of a fire in the assisting district."

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

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

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

"FIRE PROTECTION GRANT COUNCIL--DUTIES.--

- A. The "fire protection grant council" is created. HB 497
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Subject to the requirements of Subsection B of this section, the council shall consist of:

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

(2) a representative of the New Mexico association of counties;

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

(4) three members, one from each congressional district, appointed by the governor who shall serve at the pleasure of the governor;

~~(5) one member appointed by the speaker of the house of representatives;~~

~~(6) one member appointed by the president pro tempore of the senate; and~~

(7) the marshal, who shall serve as a nonvoting advisory member. The council shall elect a chair and vice chair from its membership.

B. No appointee to the council shall be a member of the public regulation commission, the superintendent of insurance or any other employee of the commission or an active member of a municipal fire department or a county fire district.

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

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

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

F. In awarding grant assistance, the council may require conditions and procedures necessary to ensure that the money is expended in the most prudent manner." _____