

1 HB BILL NO. 124
 2 INTRODUCED BY Director Robbin Besten

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
 5 REVISION OF LAWS GOVERNING FIRE SERVICES IN MUNICIPALITIES
 6 AND COUNTIES; REPEALING SECTIONS 11-1901 THROUGH 11-1909,
 7 11-1931, 11-1932, 11-1932.1, AND 11-1933 THROUGH 11-1941,
 8 R.C.M. 1947."

9
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Purpose of fire protection and prevention
 12 services. The legislature provides for fire services in this
 13 chapter for the purpose of protecting life and property from
 14 injury by uncontrolled fire. Fire services are established
 15 both to assist in the prevention and suppression of fire.

16 Section 2. Provision of fire services to be governed
 17 by this chapter. Local governments providing fire services
 18 shall provide those services under the provisions of this
 19 act.

20 Section 3. Fire protection and prevention services to
 21 be provided. (1) Local government fire services shall
 22 provide for fire prevention and fire protection services.

23 (2) Fire prevention services include the enforcement
 24 of fire codes, investigation into and reporting of the
 25 causes of fires, and the conduct of fire safety inspections

1 as authorized by ordinance.

2 Section 4. How fire services to be provided. (1) A
 3 municipality shall provide a fire service directly or by
 4 contract. A municipal fire service shall be known as a fire
 5 department.

6 (2) A county may provide fire services directly, by
 7 contract, or through the formation of fire districts or fire
 8 companies.

9 Section 5. Mutual-aid agreements. (1) A mutual-aid
 10 agreement is an agreement for protection against natural or
 11 man-made disasters.

12 (2) Mutual-aid agreements may be made between and
 13 among municipalities, counties, fire districts, fire
 14 companies, private fire services, and state and federal
 15 agencies providing fire protection and prevention services.

16 Section 6. Authority of fire chief. (1) Subject to the
 17 approval of the governing body, the chief has full authority
 18 over the personnel, operations, and equipment of the fire
 19 service.

20 (2) The chief or such other person as may be
 21 established by ordinance or procedural rule of the fire
 22 service as commanding officer in charge of fire suppression
 23 or investigation operations has necessary and reasonable
 24 powers to prevent injury to persons and property. These
 25 powers include the power to:

INTRODUCED BILL

HB 124

1 (a) Direct and control all traffic at the scene of a
2 fire;

3 (b) enter upon property and into a building to
4 evacuate persons and property or conduct fire suppression
5 activities;

6 (c) destroy or remove property when considered
7 reasonably necessary to protect persons or property or to
8 prevent the spread of fire; and

9 (d) maintain control of an area involved in a fire or
10 explosion until investigation into the cause of the fire or
11 explosion has been concluded and the chief has determined
12 that the area is safe for occupancy.

13 Section 7. Duties of fire chief. (1) The duties of the
14 chief shall be prescribed by the governing body of a
15 municipality, by the board of trustees of a fire district,
16 or in the bylaws of a fire company. The chief shall perform
17 at least the duties prescribed in this section.

18 (2) The chief shall:

19 (a) establish procedures for control of the activities
20 of all persons at the scene of a fire;

21 (b) establish a training program to assure that every
22 active firefighter receives a minimum of 30 hours of
23 training annually in matters related to firefighting under a
24 program recognized by the Montana fire service training
25 school;

1 (c) establish an inspection and maintenance program to
2 assure the reasonable availability of all fire equipment for
3 use in the suppression of a fire;

4 (d) establish a program for the conduct of fire safety
5 inspections to assist in the enforcement of fire codes and
6 ordinances;

7 (e) investigate and report fires as required by
8 82-1209 and, upon determination that there is probable cause
9 to suspect that arson has been committed, notify the law
10 enforcement authority having jurisdiction and assist in the
11 continued investigation; and

12 (f) assure the accurate maintenance and timely
13 reporting of all personnel records and reports required to
14 establish privileges or rights of firefighters in the fire
15 service.

16 Section 8. Organization of municipal fire department.
17 (1) The governing body of a municipality shall provide the
18 fire department it finds necessary. The governing body may
19 establish rules not inconsistent with the provisions of this
20 act to govern the department.

21 (2) The administrator of the fire department is the
22 chief. The governing body shall provide for a chief and may
23 provide for as many assistant chiefs and firefighters as it
24 finds necessary. The governing body shall establish
25 procedures for the nomination and appointment of fire

1 department personnel.

2 (3) The chief shall appoint and remove volunteer
3 firefighters when a volunteer fire service is authorized by
4 the governing body.

5 (4) The governing body may provide such other
6 personnel as it considers necessary to provide the desired
7 level of fire protection and prevention services.

8 (5) Neither the chief nor the other employees of the
9 fire department are officers of the municipality.

10 Section 9. Municipal fire department -- rules
11 governing appointment of paid firefighters. (1) An
12 appointment of a paid firefighter is made for a probationary
13 period not to exceed 1 year after which the governing body
14 must confirm or reject the appointment.

15 (2) Once confirmed, a paid firefighter may retain the
16 appointment until discharged for cause or released as a
17 result of a reduction in force.

18 Section 10. Municipal fire department --
19 qualifications of firefighters. (1) At the time of original
20 appointment, a firefighter must:

21 (a) be 31 years of age or less;

22 (b) be physically able to perform the duties of a
23 firefighter as evidenced by a written report of a physical
24 examination performed by a licensed physician, filed with
25 the clerk of the governing body.

1 (2) The governing body may establish additional
2 minimum qualifications reasonably related to the ability of
3 a person to perform the duties of a firefighter.

4 Section 11. Municipal fire department -- suspension of
5 firefighters. (1) The governing body of a municipality shall
6 provide for the suspension of firefighters for neglect of
7 duty or violation of department rules. The chief may suspend
8 firefighters for cause.

9 (2) Whenever a firefighter is suspended from the fire
10 department, that firefighter shall be furnished a written
11 statement of the grounds for the suspension.

12 (3) The grounds for the suspension shall be presented
13 to the governing body at its next regular meeting and a
14 hearing shall be conducted concerning the suspension. The
15 suspended firefighter may appear before the governing body
16 to present a defense against the suspension, either in
17 person or through counsel.

18 (4) Based upon its findings, the governing body may
19 continue suspension for a specified period, remove the
20 firefighter from the department, or reinstate the
21 firefighter with pay for the time suspended. Should the
22 grounds for suspension not be presented at the first meeting
23 of the governing body following the suspension, the
24 firefighter must be reinstated.

25 Section 12. Municipal fire department -- reduction in

1 force. Should the governing body of a municipality reduce
 2 the number of paid firefighters in the fire department, the
 3 most recently appointed firefighter shall be separated
 4 first. A list of those firefighters separated as a result of
 5 a reduction in force shall be maintained. Should a vacancy
 6 occur for any reason, a firefighter so separated shall be
 7 called into service. The separated firefighter who has
 8 served the longest shall be selected first.

9 Section 13. Municipal fire service -- hours of work
 10 for paid fire service in municipalities having a population
 11 of over five thousand. A work week for paid firefighters in
 12 municipalities having a population of over 5,000 consists of
 13 a maximum of 40 hours in a 5-day week. The work week is
 14 subject to negotiation by the firefighter or a recognized
 15 bargaining agent. The provisions of this subsection do not
 16 apply in the event a fire or other emergency requires the
 17 services of a firefighter.

18 Section 14. Municipal fire department -- compensation
 19 to be fixed by ordinance. The compensation of fire
 20 department personnel is established by ordinance.

21 Section 15. Paid fire service -- minimum wage in
 22 first- and second-class cities. After July 1, 1976, the
 23 minimum base wage for confirmed firefighters in first- and
 24 second-class cities for the required hours of work is \$750
 25 per month for the first year of service and \$750 plus 1% of

1 \$750 per month for each additional year of service.

2 Section 16. Municipal fire department -- compensation
 3 of volunteers authorized. The governing body of a
 4 municipality with a volunteer fire service may provide for
 5 compensation of a volunteer firefighter for reporting to
 6 fight a fire and for time spent in connection with fighting
 7 the fire.

8 Section 17. Fire districts -- establishment --
 9 dissolution -- division -- annexation -- transfer of
 10 territory. (1) The governing body of a county may establish,
 11 dissolve, divide, annex territory to, or transfer territory
 12 between fire districts upon following the provisions for
 13 petition, notice, and hearing provided in this section.

14 (2) A petition to establish, dissolve, divide, annex
 15 territory to, or transfer territory between fire districts
 16 shall be presented in writing to the governing body. A
 17 petition must indicate the boundaries of a proposed district
 18 to be established or dissolved and any boundaries to be
 19 changed. The petition must be signed by the owners of 50%
 20 or more of the area of the privately owned lands and by a
 21 majority of the taxpayers who are freeholders within the
 22 area to be established or dissolved as a fire district or
 23 within the area proposed to be divided, annexed, or
 24 transferred.

25 (3) Upon receipt of a petition, the governing body

1 shall prepare a notice of hearing. The notice shall be
 2 publicized within 10 days of receipt of the petition and at
 3 least 10 days prior to the date of the hearing by:

4 (a) mailing a copy by first class mail to each
 5 freeholder in the district at the address shown on the
 6 assessment roll; and

7 (b) posting in at least three of the most public
 8 places within the district proposed to be established or
 9 dissolved or posting within the area to be changed and
 10 within the remaining area of the district in which the
 11 change would occur.

12 (4) The governing body shall hold a hearing at the
 13 time set in the notice or at a later time upon notice. The
 14 final decision of the governing body must be made within 30
 15 days of the hearing.

16 (5) A petition for division or annexation between
 17 districts must be granted unless protests are presented at
 18 the hearing by the owners of at least 50% or more of the
 19 area of the privately owned lands included within the entire
 20 original district and a majority of the taxpayers who are
 21 freeholders in the original district.

22 (6) A petition for transfer of territory between
 23 adjacent districts shall be granted if the governing body
 24 finds that proximity to and communications with the
 25 firefighting facilities of the other district are

1 advantageous, unless the transfer is protested at the
 2 hearing by the owners of 50% or more of the area of the
 3 privately owned lands included within either district
 4 affected and by a majority of the taxpayers who are
 5 freeholders within either district.

6 Section 18. Fire districts -- disposition of assets
 7 and liabilities when district dissolved, divided, or annexed
 8 or territory transferred. (1) Upon dissolution of a fire
 9 district, the governing body of the county shall dispose of
 10 the assets of the fire district at a fair market value and
 11 pay the liabilities of the district with the proceeds.
 12 Liabilities remaining shall be paid through the levy of a
 13 special tax until the liability has been paid. If a surplus
 14 of assets exists, it shall revert to the county general
 15 fund.

16 (2) Upon division of a fire district, moneys on hand
 17 shall be apportioned between the divided areas according to
 18 their respective taxable valuations. All remaining assets
 19 of the original district shall become property of the
 20 remaining area. A reasonable value shall be placed upon the
 21 remaining assets, and the remaining area shall become
 22 indebted to the detracted area for its proportionate share
 23 of those assets based upon taxable valuation. The detracted
 24 area remains liable for any existing warrant and bonded
 25 indebtedness of the existing district.

1 (3) Upon annexation all assets of the original
2 district become assets of the district as annexed. The
3 annexed territory becomes liable in proportion to its
4 taxable valuation for any outstanding warrant and bonded
5 indebtedness of the original district.

6 (4) Upon transfer of territory from one fire district
7 to another, the provisions of subsection (2) of this section
8 apply with respect to the district from which the area is
9 transferred and the provisions of subsection (3) of this
10 section apply with respect to the district to which the area
11 is transferred.

12 Section 19. Special levy for support of fire district
13 authorized. A county governing body may levy a special tax
14 upon all property within a fire district for the purpose of
15 supporting the fire services provided.

16 Section 20. Provision of services in a fire district.

17 (1) The governing body may provide fire services within a
18 fire district directly by contracting with a municipality or
19 private fire service for those services or may establish a
20 board of trustees to govern and manage the affairs of the
21 district.

22 (2) A fire district board of trustees may provide fire
23 services within the fire district by contracting with a
24 municipality or another fire district for those services,
25 establish fire companies to provide fire services, or

1 provide fire services by other means.

2 (3) A fire district board of trustees may contract
3 with another fire district to extend fire services to that
4 district.

5 (4) No fire district or municipality may contract to
6 extend services to a fire district whose nearest boundary
7 line lies in excess of 5 miles from the municipality or
8 district extending services.

9 Section 21. Fire district board of trustees. (1) A
10 fire district board of trustees consists of five members.

11 (2) To be eligible to serve on the board of trustees,
12 a person must be an eligible voter in the district.

13 (3) The term of a member of the board of trustees is 3
14 years.

15 (4) When a fire district is created, the county
16 governing body shall appoint five qualified trustees to
17 govern and manage the affairs of the district. The trustees
18 appointed shall serve until their successors are elected and
19 qualified. The election shall be conducted on the date of
20 the next regularly scheduled school election.

21 (5) The members who are elected at the first election
22 after creation of the district shall draw by lot to
23 determine their terms, which shall be two 3-year terms, two
24 2-year terms, and one 1-year term.

25 (6) Whenever a trustee position vacancy occurs due to

1 death, resignation, or loss of qualification to serve, the
 2 remaining members shall declare the position vacant and
 3 appoint a qualified person to fill the vacancy until the
 4 next regular fire district election.

5 (7) The trustees shall organize following each
 6 election by choosing a chairman and a secretary from among
 7 the members.

8 Section 22. Voter eligibility in fire district
 9 election. To be eligible to vote in a fire district trustee
 10 election, a person must be a registered voter registered at
 11 an address lying within the fire district 30 days prior to
 12 the date of the election.

13 Section 23. Nomination of fire district trustee
 14 candidates. Candidates for the position of fire district
 15 trustee may be nominated by presenting a petition of
 16 nomination to the secretary of the fire district not less
 17 than 20 days before the day of the election.

18 Section 24. Conduct of election in fire district. (1)
 19 Fire district trustee elections shall be conducted at the
 20 same time and under the same provisions as school elections
 21 as provided in Title 75, chapter 64, as amended, or in
 22 accordance with subsection (3) of this section. Where used
 23 in Title 75, chapter 64, all references to school districts
 24 include fire districts and school district trustees include
 25 fire district trustees for the purpose of this section.

1 (2) The ballot shall be substantially like that
 2 provided in 75-5915, as amended.

3 (3) A fire district trustee election may be conducted
 4 at an annual election meeting publicized throughout the
 5 district. The conduct of the meeting shall be governed by
 6 the bylaws of the fire district.

7 Section 25. Fire company -- creation and organization.

8 (1) A fire company may be created by filing a certificate of
 9 organization with the county clerk of the county in which
 10 the company is located. The certificate shall indicate the
 11 date the company is established, the name of the company,
 12 and the boundary of the area designated to be served by the
 13 company. A list of officers and a roll of active
 14 firefighters and any changes concerning information on the
 15 certificate of organization shall be filed with the county
 16 clerk every 3 months. All documents filed under this section
 17 shall be signed by the chief and secretary of the company.

18 (2) A fire company shall adopt bylaws for the
 19 operation of the company, which set forth the organization
 20 of the company and rules governing the membership. The
 21 bylaws shall prescribe rules for the election of a presiding
 22 officer who is the chief of the company, a secretary, and a
 23 treasurer. The bylaws may prescribe imposition of penalties
 24 not to exceed \$5 or expulsion from the company for each
 25 violation of the bylaws.

LC 0139/01

1 Section 26. Repealer. Sections 11-1931 through
2 11-1939, 11-1931, 11-1932, 11-1932.1, and 11-1933 through
3 11-1941, R.C.M. 1947, are repealed.

-End-

STATE OF MONTANA

REQUEST NO. 56-77

FISCAL NOTE

Form BD-15

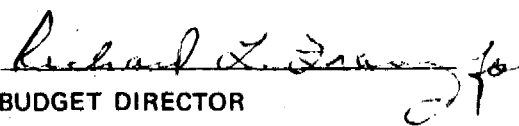
In compliance with a written request received January 12, 19 77, there is hereby submitted a Fiscal Note for House Bill 124 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly. Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

An act revising the laws governing fire services in municipalities and counties.

FISCAL IMPACT:

None.


BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 1-16-77

Approved by Comm.
on Local Government

HOUSE BILL NO. 124

INTRODUCED BY SIVERTSEN, ROBBINS, BERTELSEN

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL REVISION OF LAWS GOVERNING FIRE SERVICES IN MUNICIPALITIES AND COUNTIES; REPEALING SECTIONS 11-1901 THROUGH 11-1909, 11-1931, 11-1932, 11-1932.1, AND 11-1933 THROUGH 11-1941, R.C.M. 1947."

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

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Section 2. Provision of fire services to be governed by this chapter. Local governments providing fire services shall provide those services under the provisions of this act.

Section 3. Fire protection and prevention services to be provided. (1) Local government fire services shall provide for fire prevention and fire protection services.

(2) Fire prevention services include the enforcement of fire codes, investigation into and reporting of the causes of fires, and the conduct of fire safety inspections

as authorized by ordinance.

Section 4. How fire services to be provided. (1) A municipality shall provide a fire service directly or by contract. A LOCAL GOVERNMENT MAY NOT REDUCE THE AUTHORIZED NUMBER OF REGULAR PAID PROFESSIONAL FIREFIGHTERS THROUGH THE APPOINTMENT OR UTILIZATION OF VOLUNTEER FIREFIGHTERS. A municipal fire service shall be known as a fire department.

(2) A county may provide fire services directly, by contract, or through the formation of fire districts or fire companies.

Section 5. Mutual-aid agreements. (1) A mutual-aid agreement is an agreement for protection against natural or man-made disasters.

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Section 6. Authority of fire chief. (1) Subject to the approval of the governing body, the chief has full authority over the personnel, operations, and equipment of the fire service.

(2) The chief or such other person as may be established by ordinance or procedural rule of the fire service as commanding officer in charge of fire suppression or investigation operations has necessary and reasonable

1 powers to prevent injury to persons and property. These
2 powers include the power to:

3 (a) Direct and control all traffic at the scene of a
4 fire;

5 (b) enter upon property and into a building to
6 evacuate persons and property or conduct fire suppression
7 activities;

8 (c) destroy or remove property when considered
9 reasonably necessary to protect persons or property or to
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11 (d) maintain control of an area involved in a fire or
12 explosion until investigation into the cause of the fire or
13 explosion has been concluded and the chief has determined
14 that the area is safe for occupancy.

15 Section 7. Duties of fire chief. (1) The duties of the
16 chief shall be prescribed by the governing body of a
17 municipality, by the board of trustees of a fire district,
18 or in the bylaws of a fire company. The chief shall perform
19 at least the duties prescribed in this section.

20 (2) The chief shall:

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22 of all persons at the scene of a fire;

23 (b) establish a training program to assure that every
24 active firefighter receives a minimum of 30 hours of
25 training annually in matters related to firefighting under a

1 program recognized by the Montana fire service training
2 school;

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4 assure the reasonable availability of all fire equipment for
5 use in the suppression of a fire;

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7 inspections to assist in the enforcement of fire codes and
8 ordinances;

9 (e) investigate and report fires as required by
10 82-1209 and, upon determination that there is probable cause
11 to suspect that arson has been committed, notify the law
12 enforcement authority having jurisdiction and assist in the
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19 (1) The governing body of a municipality shall provide the
20 fire department it finds necessary. The governing body may
21 establish rules not inconsistent with the provisions of this
22 act to govern the department.

23 (2) The administrator of the fire department is the
24 chief. The governing body shall provide for a chief and may
25 provide for as many assistant chiefs and firefighters as it

1 finds necessary. The governing body shall establish
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 3 department personnel.

4 (3) The chief shall appoint and remove volunteer
 5 firefighters when a volunteer fire service is authorized by
 6 the governing body.

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 8 personnel as it considers necessary to provide the desired
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 11 fire department are officers of the municipality.

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 14 appointment of a paid firefighter is made for a probationary
 15 period not to exceed 1 year after which the governing body
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 18 appointment until discharged for cause or released as a
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 22 appointment, a firefighter must:

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 12 department, that firefighter shall be furnished a written
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 19 person or through counsel.

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 22 firefighter from the department, or reinstate the
 23 firefighter with pay for the time suspended. Should the
 24 grounds for suspension not be presented at the first meeting
 25 of the governing body following the suspension, the

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10 served the longest shall be selected first.

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13 of over five thousand. A work week for paid firefighters in
14 municipalities having a population of over 5,000 consists of
15 a maximum of 40 hours in a 5-day week. The work week is
16 subject to negotiation by the firefighter FIREFIGHTERS or a
17 recognized bargaining agent. The provisions of this
18 subsection do not apply in the event a fire or other
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15 petition, notice, and hearing provided in this section.

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17 territory to, or transfer territory between fire districts
18 shall be presented in writing to the governing body. A
19 petition must indicate the boundaries of a proposed district
20 to be established or dissolved and any boundaries to be
21 changed. The petition must be signed by the owners of 50%
22 or more of the area of the privately owned lands and by a
23 majority of the taxpayers who are freeholders within the
24 area to be established or dissolved as a fire district or
25 within the area proposed to be divided, annexed, or

1 transferred.

2 (3) Upon receipt of a petition, the governing body
3 shall prepare a notice of hearing. The notice shall be
4 publicized within 10 days of receipt of the petition and at
5 least 10 days prior to the date of the hearing by:

6 (a) mailing a copy by first class mail to each
7 freeholder in the district at the address shown on the
8 assessment roll; and

9 (b) posting in at least three of the most public
10 places within the district proposed to be established or
11 dissolved or posting within the area to be changed and
12 within the remaining area of the district in which the
13 change would occur.

14 (4) The governing body shall hold a hearing at the
15 time set in the notice or at a later time upon notice. The
16 final decision of the governing body must be made within 30
17 days of the hearing.

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19 districts must be granted unless protests are presented at
20 the hearing by the owners of at least 50% or more of the
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22 original district and a majority of the taxpayers who are
23 freeholders in the original district.

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15 special tax until the liability has been paid. If a surplus
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17 fund.

18 (2) Upon division of a fire district, moneys on hand
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20 their respective taxable valuations. All remaining assets
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22 remaining area. A reasonable value shall be placed upon the
23 remaining assets, and the remaining area shall become
24 indebted to the detracted area for its proportionate share
25 of those assets based upon taxable valuation. The detracted

1 area remains liable for any existing warrant and bonded
2 indebtedness of the existing district.

3 (3) Upon annexation all assets of the original
4 district become assets of the district as annexed. The
5 annexed territory becomes liable in proportion to its
6 taxable valuation for any outstanding warrant and bonded
7 indebtedness of the original district.

8 (4) Upon transfer of territory from one fire district
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13 is transferred.

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21 private fire service for those services or may establish a
22 board of trustees to govern and manage the affairs of the
23 district.

24 (2) A fire district board of trustees may provide fire
25 services within the fire district by contracting with a

1 municipality or another fire district for those services,
2 establish fire companies to provide fire services, or
3 provide fire services by other means.

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5 with another fire district to extend fire services to that
6 district.

7 (4) No fire district or municipality may contract to
8 extend services to a fire district whose nearest boundary
9 line lies in excess of 5 miles from the municipality or
10 district extending services.

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12 fire district board of trustees consists of five members.

13 (2) To be eligible to serve on the board of trustees,
14 a person must be an eligible voter in the district.

15 (3) The term of a member of the board of trustees is 3
16 years.

17 (4) When a fire district is created, the county
18 governing body shall appoint five qualified trustees to
19 govern and manage the affairs of the district. The trustees
20 appointed shall serve until their successors are elected and
21 qualified. The election shall be conducted on the date of
22 the next regularly scheduled school election.

23 (5) The members who are elected at the first election
24 after creation of the district shall draw by lot to
25 determine their terms, which shall be two 3-year terms, two

1 2-year terms, and one 1-year term.

2 (6) Whenever a trustee position vacancy occurs due to
3 death, resignation, or loss of qualification to serve, the
4 remaining members shall declare the position vacant and
5 appoint a qualified person to fill the vacancy until the
6 next regular fire district election.

7 (7) The trustees shall organize following each
8 election by choosing a chairman and a secretary from among
9 the members.

10 Section 22. Voter eligibility in fire district
11 election. To be eligible to vote in a fire district trustee
12 election, a person must be a registered voter registered at
13 an address lying within the fire district 30 days prior to
14 the date of the election.

15 Section 23. Nomination of fire district trustee
16 candidates. Candidates for the position of fire district
17 trustee may be nominated by presenting a petition of
18 nomination to the secretary of the fire district not less
19 than 20 days before the day of the election.

20 Section 24. Conduct of election in fire district. (1)
21 Fire district trustee elections shall be conducted at the
22 same time and under the same provisions as school elections
23 as provided in Title 75, chapter 64, as amended, or in
24 accordance with subsection (3) of this section. Where used
25 in Title 75, chapter 64, all references to school districts

1 include fire districts and school district trustees include
2 fire district trustees for the purpose of this section.

3 (2) The ballot shall be substantially like that
4 provided in 75-5915, as amended.

5 (3) A fire district trustee election may be conducted
6 at an annual election meeting publicized throughout the
7 district. The conduct of the meeting shall be governed by
8 the bylaws of the fire district.

9 Section 25. Fire company -- creation and organization.

10 (1) A fire company may be created by filing a certificate of
11 organization with the county clerk of the county in which
12 the company is located. The certificate shall indicate the
13 date the company is established, the name of the company,
14 and the boundary of the area designated to be served by the
15 company. A list of officers and a roll of active
16 firefighters and any changes concerning information on the
17 certificate of organization shall be filed with the county
18 clerk every 3 months. All documents filed under this section
19 shall be signed by the chief and secretary of the company.

20 (2) A fire company shall adopt bylaws for the
21 operation of the company, which set forth the organization
22 of the company and rules governing the membership. The
23 bylaws shall prescribe rules for the election of a presiding
24 officer who is the chief of the company, a secretary, and a
25 treasurer. The bylaws may prescribe imposition of penalties

1 not to exceed \$5 or expulsion from the company for each
2 violation of the bylaws.

3 Section 26. Repealer. Sections 11-1901 through
4 11-1909, 11-1931, 11-1932, 11-1932.1, and 11-1933 through
5 11-1941, R.C.M. 1947, are repealed.

-End-

1 HOUSE BILL NO. 124

2 INTRODUCED BY SIVERTSEN, ROBBINS, BERTELSEN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
5 REVISION OF LAWS GOVERNING FIRE SERVICES IN MUNICIPALITIES
6 AND COUNTIES; REPEALING SECTIONS 11-1901 THROUGH 11-1909,
7 11-1931, 11-1932, 11-1932.1, AND 11-1933 THROUGH 11-1941,
8 R.C.M. 1947."

9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Purpose of fire protection and prevention
12 services. The legislature provides for fire services in this
13 chapter for the purpose of protecting life and property from
14 injury by uncontrolled fire. Fire services are established
15 both to assist in the prevention and suppression of fire.

16 Section 2. Provision of fire services to be governed
17 by this chapter. Local governments providing fire services
18 shall provide those services under the provisions of this
19 act.

20 Section 3. Fire protection and prevention services to
21 be provided. (1) Local government fire services shall
22 provide for fire prevention and fire protection services.

23 (2) Fire prevention services include the enforcement
24 of fire codes, investigation into and reporting of the
25 causes of fires, and the conduct of fire safety inspections

1 as authorized by ordinance.

2 Section 4. How fire services to be provided. (1) A
3 municipality shall provide a fire service directly or by
4 contract. A LOCAL GOVERNMENT MAY NOT REDUCE THE AUTHORIZED
5 NUMBER OF REGULAR PAID PROFESSIONAL FIREFIGHTERS THROUGH THE
6 APPOINTMENT OR UTILIZATION OF VOLUNTEER FIREFIGHTERS. A
7 municipal fire service shall be known as a fire department.

8 (2) A county may provide fire services directly, by
9 contract, or through the formation of fire districts or fire
10 companies.

11 Section 5. Mutual-aid agreements. (1) A mutual-aid
12 agreement is an agreement for protection against natural or
13 man-made disasters.

14 (2) Mutual-aid agreements may be made between and
15 among municipalities, counties, fire districts, fire
16 companies, private fire services, and state and federal
17 agencies providing fire protection and prevention services.

18 Section 6. Authority of fire chief. (1) Subject to the
19 approval of the governing body, the chief has full authority
20 over the personnel, operations, and equipment of the fire
21 service.

22 (2) The chief or such other person as may be
23 established by ordinance or procedural rule of the fire
24 service as commanding officer in charge of fire suppression
25 or investigation operations has necessary and reasonable

1 powers to prevent injury to persons and property. These
2 powers include the power to:

3 (a) Direct and control all traffic at the scene of a
4 fire;

5 (b) enter upon property and into a building to
6 evacuate persons and property or conduct fire suppression
7 activities;

8 (c) destroy or remove property when considered
9 reasonably necessary to protect persons or property or to
10 prevent the spread of fire; and

11 (d) maintain control of an area involved in a fire or
12 explosion until investigation into the cause of the fire or
13 explosion has been concluded and the chief has determined
14 that the area is safe for occupancy.

15 Section 7. Duties of fire chief. (1) The duties of the
16 chief shall be prescribed by the governing body of a
17 municipality, by the board of trustees of a fire district,
18 or in the bylaws of a fire company. The chief shall perform
19 at least the duties prescribed in this section.

20 (2) The chief shall:

21 (a) establish procedures for control of the activities
22 of all persons at the scene of a fire;

23 (b) establish a training program to assure that every
24 active firefighter receives a minimum of 30 hours of
25 training annually in matters related to firefighting under a

1 program recognized by the Montana fire service training
2 school;

3 (c) establish an inspection and maintenance program to
4 assure the reasonable availability of all fire equipment for
5 use in the suppression of a fire;

6 (d) establish a program for the conduct of fire safety
7 inspections to assist in the enforcement of fire codes and
8 ordinances;

9 (e) investigate and report fires as required by
10 82-1209 and, upon determination that there is probable cause
11 to suspect that arson has been committed, notify the law
12 enforcement authority having jurisdiction and assist in the
13 continued investigation; and

14 (f) assure the accurate maintenance and timely
15 reporting of all personnel records and reports required to
16 establish privileges or rights of firefighters in the fire
17 service.

18 Section 8. Organization of municipal fire department.

19 (1) The governing body of a municipality shall provide the
20 fire department it finds necessary. The governing body may
21 establish rules not inconsistent with the provisions of this
22 act to govern the department.

23 (2) The administrator of the fire department is the
24 chief. The governing body shall provide for a chief and may
25 provide for as many assistant chiefs and firefighters as it

1 finds necessary. The governing body shall establish
2 procedures for the nomination and appointment of fire
3 department personnel.

4 (3) The chief shall appoint and remove volunteer
5 firefighters when a volunteer fire service is authorized by
6 the governing body.

7 (4) The governing body may provide such other
8 personnel as it considers necessary to provide the desired
9 level of fire protection and prevention services.

10 (5) Neither the chief nor the other employees of the
11 fire department are officers of the municipality.

12 Section 9. Municipal fire department -- rules
13 governing appointment of paid firefighters. (1) An
14 appointment of a paid firefighter is made for a probationary
15 period not to exceed 1 year after which the governing body
16 must confirm or reject the appointment.

17 (2) Once confirmed, a paid firefighter may retain the
18 appointment until discharged for cause or released as a
19 result of a reduction in force.

20 Section 10. Municipal fire department --
21 qualifications of firefighters. (1) At the time of original
22 appointment, a firefighter must:

- 23 (a) be 31 years of age or less;
24 (b) be physically able to perform the duties of a
25 firefighter as evidenced by a written report of a physical

1 examination performed by a licensed physician, filed with
2 the clerk of the governing body.

3 (2) The governing body may establish additional
4 minimum qualifications reasonably related to the ability of
5 a person to perform the duties of a firefighter.

6 Section 11. Municipal fire department -- suspension of
7 firefighters. (1) The governing body of a municipality shall
8 provide for the suspension of firefighters for neglect of
9 duty or violation of department rules. The chief may suspend
10 firefighters for cause.

11 (2) Whenever a firefighter is suspended from the fire
12 department, that firefighter shall be furnished a written
13 statement of the grounds for the suspension.

14 (3) The grounds for the suspension shall be presented
15 to the governing body at its next regular meeting and a
16 hearing shall be conducted concerning the suspension. The
17 suspended firefighter may appear before the governing body
18 to present a defense against the suspension, either in
19 person or through counsel.

20 (4) Based upon its findings, the governing body may
21 continue suspension for a specified period, remove the
22 firefighter from the department, or reinstate the
23 firefighter with pay for the time suspended. Should the
24 grounds for suspension not be presented at the first meeting
25 of the governing body following the suspension, the

1 firefighter must be reinstated.

2 Section 12. Municipal fire department -- reduction in
 3 force. Should the governing body of a municipality reduce
 4 the number of paid firefighters in the fire department, the
 5 most recently appointed firefighter shall be separated
 6 first. A list of those firefighters separated as a result of
 7 a reduction in force shall be maintained. Should a vacancy
 8 occur for any reason, a firefighter so separated shall be
 9 called into service. The separated firefighter who has
 10 served the longest shall be selected first.

11 Section 13. Municipal fire service -- hours of work
 12 for paid fire service in municipalities having a population
 13 of over five thousand. A work week for paid firefighters in
 14 municipalities having a population of over 5,000 consists of
 15 a maximum of 40 hours in a 5-day week. The work week is
 16 subject to negotiation by the firefighter FIREFIGHTERS or a
 17 recognized bargaining agent. The provisions of this
 18 subsection do not apply in the event a fire or other
 19 emergency requires the services of a firefighter.

20 Section 14. Municipal fire department -- compensation
 21 to be fixed by ordinance. The compensation of fire
 22 department personnel is established by ordinance.

23 Section 15. Paid fire service -- minimum wage in
 24 first- and second-class cities. After July 1, 1976, the
 25 minimum base wage for confirmed firefighters in first- and

1 second-class cities for the required hours of work is \$750
 2 per month for the first year of service and \$750 plus 1% of
 3 \$750 per month for each additional year of service.

4 Section 16. Municipal fire department -- compensation
 5 of volunteers authorized. The governing body of a
 6 municipality with a volunteer fire service may provide for
 7 compensation of a volunteer firefighter for reporting to
 8 fight a fire and for time spent in connection with fighting
 9 the fire.

10 Section 17. Fire districts -- establishment --
 11 dissolution -- division -- annexation -- transfer of
 12 territory. (1) The governing body of a county may establish,
 13 dissolve, divide, annex territory to, or transfer territory
 14 between fire districts upon following the provisions for
 15 petition, notice, and hearing provided in this section.

16 (2) A petition to establish, dissolve, divide, annex
 17 territory to, or transfer territory between fire districts
 18 shall be presented in writing to the governing body. A
 19 petition must indicate the boundaries of a proposed district
 20 to be established or dissolved and any boundaries to be
 21 changed. The petition must be signed by the owners of 50%
 22 or more of the area of the privately owned lands and by a
 23 majority of the taxpayers who are freeholders within the
 24 area to be established or dissolved as a fire district or
 25 within the area proposed to be divided, annexed, or

1 transferred.

2 (3) Upon receipt of a petition, the governing body
3 shall prepare a notice of hearing. The notice shall be
4 publicized within 10 days of receipt of the petition and at
5 least 10 days prior to the date of the hearing by:

6 (a) mailing a copy by first class mail to each
7 freeholder in the district at the address shown on the
8 assessment roll; and

9 (b) posting in at least three of the most public
10 places within the district proposed to be established or
11 dissolved or posting within the area to be changed and
12 within the remaining area of the district in which the
13 change would occur.

14 (4) The governing body shall hold a hearing at the
15 time set in the notice or at a later time upon notice. The
16 final decision of the governing body must be made within 30
17 days of the hearing.

18 (5) A petition for division or annexation between
19 districts must be granted unless protests are presented at
20 the hearing by the owners of at least 50% or more of the
21 area of the privately owned lands included within the entire
22 original district and a majority of the taxpayers who are
23 freeholders in the original district.

24 (6) A petition for transfer of territory between
25 adjacent districts shall be granted if the governing body

1 finds that proximity to and communications with the
2 firefighting facilities of the other district, are
3 advantageous, unless the transfer is protested at the
4 hearing by the owners of 50% or more of the area of the
5 privately owned lands included within either district
6 affected and by a majority of the taxpayers who are
7 freeholders within either district.

8 Section 18. Fire districts -- disposition of assets
9 and liabilities when district dissolved, divided, or annexed
10 or territory transferred. (1) Upon dissolution of a fire
11 district, the governing body of the county shall dispose of
12 the assets of the fire district at a fair market value and
13 pay the liabilities of the district with the proceeds.
14 Liabilities remaining shall be paid through the levy of a
15 special tax until the liability has been paid. If a surplus
16 of assets exists, it shall revert to the county general
17 fund.

18 (2) Upon division of a fire district, moneys on hand
19 shall be apportioned between the divided areas according to
20 their respective taxable valuations. All remaining assets
21 of the original district shall become property of the
22 remaining area. A reasonable value shall be placed upon the
23 remaining assets, and the remaining area shall become
24 indebted to the detracted area for its proportionate share
25 of those assets based upon taxable valuation. The detracted

1 area remains liable for any existing warrant and bonded
2 indebtedness of the existing district.

3 (3) Upon annexation all assets of the original
4 district become assets of the district as annexed. The
5 annexed territory becomes liable in proportion to its
6 taxable valuation for any outstanding warrant and bonded
7 indebtedness of the original district.

8 (4) Upon transfer of territory from one fire district
9 to another, the provisions of subsection (2) of this section
10 apply with respect to the district from which the area is
11 transferred and the provisions of subsection (3) of this
12 section apply with respect to the district to which the area
13 is transferred.

14 Section 19. Special levy for support of fire district
15 authorized. A county governing body may levy a special tax
16 upon all property within a fire district for the purpose of
17 supporting the fire services provided.

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20 fire district directly by contracting with a municipality or
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