

Senate Bill 465

In The Senate

February 13, 1981	Introduced and referred to Committee on Local Government.
February 21, 1981	Committee recommend bill do not pass. On motion Senate reconsider its action taken on Adverse Committee Report and order printed and placed on second reading. Motion adopted.
February 13, 1981	Bill printed and placed on members' desks.
February 24, 1981	Second reading do pass.
February 25, 1981	On motion rules suspended. Bill placed on Calendar for third reading this day. Third reading passed.

In The House

March 3, 1981	Introduced and referred to Committee on Local Government.
March 21, 1981	Committee recommend bill not concurred.

In The Senate

March 21, 1981	Returned from House not concurred.
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1 *Senate* BILL NO. *465*
 2 INTRODUCED BY *J. Clamen* *Justin* *Zuberba* *Archer*
 3 *Conover*

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO BE KNOWN AS THE
 5 "FIRE TERRITORY ACT OF 1981"; PROVIDING PROCEDURES FOR
 6 ORGANIZING AND ADMINISTERING FIRE PROTECTION IN
 7 UNINCORPORATED AREAS NOT IN A FIRE DISTRICT; AMENDING
 8 SECTION 7-33-4114 AND 19-12-401, MCA; AND PROVIDING AN
 9 IMMEDIATE EFFECTIVE DATE."

10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 NEW SECTION. Section 1. Short title. This act may be
 13 cited as "Fire Territory Act of 1981".

14 NEW SECTION. Section 2. Fire territory authorization.
 15 A fire territory may be organized in unincorporated areas of
 16 a county where a fire district has not been established
 17 under 7-33-2101.

18 NEW SECTION. Section 3. Petition -- publication of
 19 notice. (1) Upon presentation of a petition in writing
 20 signed by the president and secretary of a nonprofit
 21 corporation incorporated for the purpose of providing fire
 22 protection and that has formed or will form a fire company
 23 in possession of fire equipment valued at more than \$30,000,
 24 the board of county commissioners may contract with the
 25 nonprofit corporation and establish a fire territory, which

1 shall be described in the submitted petition and outlined on
 2 a map filed with the county clerk and recorder. A
 3 certificate authorizing the fire territory and a list of
 4 corporate members shall also be filed. All property owners
 5 within the fire territory, not members of the corporation,
 6 must be notified by the corporation by certified mail of the
 7 contract and must be given the opportunity to become members
 8 of the corporation. Any change in corporate membership must
 9 be certified by the president and secretary and filed with
 10 the county clerk and recorder.

11 (2) A description of the boundaries of the fire
 12 territory and the effective date of the contract shall be
 13 published by public notice either in a newspaper published
 14 in the county or, if there is no newspaper published in the
 15 county, by posting in three public places, one of which
 16 shall be the county courthouse. The notice shall first be
 17 published at least 7 days before the effective date and at
 18 least three additional times in the following 21 days.

19 NEW SECTION. Section 4. Withdrawal from fire
 20 territory -- notification. (1) A property owner may withdraw
 21 from a fire territory by petitioning in writing and
 22 appearing before the board of county commissioners within 30
 23 days after the first publication of the notice provided in
 24 [section 3]. Failure to petition to withdraw constitutes
 25 acceptance of liability for fire service by the property

1 owner.

2 (2) If a property owner withdraws from a fire
3 territory, the board of county commissioners shall notify
4 the corporation by sending the name of the property owner
5 and a description of his property. This information shall be
6 posted in the fire station, and the corporation thereafter
7 may not give fire protection service to the property but may
8 answer an alarm for the purpose of saving life. Until
9 notified by the board of county commissioners of a
10 withdrawal, the corporation shall serve the property in the
11 fire territory and shall be compensated for service to
12 nonmembers of the corporation from the fire territory
13 emergency fund.

14 (3) Within 60 days after the effective date of the
15 contract, the board of county commissioners shall send a
16 list of property owners and a description of their property
17 within the fire territory not covered by fire protection to
18 the insurance commissioner and the directors of the
19 corporation.

20 NEW SECTION. Section 5. Termination. (1) The contract
21 to establish a fire territory is terminated upon notice by
22 the corporation to the board of county commissioners. The
23 notice in writing, signed by the board of directors, must
24 contain the reasons for termination and must be presented in
25 person by the president to the board of county

1 commissioners. It shall then be filed with the county clerk
2 and recorder.

3 (2) The notice of termination shall be published four
4 times before the effective termination date, as provided in
5 subsection (3), in a newspaper published in the county or by
6 posting in three public places, one of which shall be the
7 county courthouse. Copies of the notice shall be sent before
8 the effective termination date to the insurance commissioner
9 and the department of administration.

10 (3) The fire territory's existence ceases 60 days
11 after the notice has been presented to the board of county
12 commissioners.

13 NEW SECTION. Section 6. Emergency fund -- withdrawals
14 -- recovery. (1) The board of county commissioners shall
15 appropriate from the general fund \$2,500 a year, until a
16 total of \$30,000 is reached, into a fire territory emergency
17 fund. If the general fund is budgeted to the full limit, the
18 board of county commissioners shall levy and assess a tax at
19 a rate that over a period of 12 years shall reach \$30,000.

20 (2) On receipt of a statement in writing signed by the
21 president and secretary of the corporation for service given
22 to a nonmember who owns property in the established fire
23 territory, the board of county commissioners at their next
24 regular meeting shall issue a warrant to be drawn from the
25 fire territory emergency fund for payment of fire service

1 charges incurred by the nonmember and shall instruct the
2 county attorney to take legal action to recover the amount
3 expended from the fund from the nonmember property owner.

4 (3) The fire territory emergency fund shall provide
5 payment of rent for the use of heavy mechanized equipment
6 and for wages in the suppression of a major fire; for the
7 purchase of material or equipment for protection of firemen
8 and for saving life and life rescue; and for purchase of
9 fire equipment damaged or destroyed in a major fire. A claim
10 authorized by a territory fire chief and approved by the
11 board of county commissioners shall be paid from the fire
12 territory emergency fund. Any person issuing a fraudulent
13 claim on a fire territory emergency fund is guilty of a
14 misdemeanor and is punishable as provided in 45-18-212.

15 (4) If the fire territory is terminated, the fire
16 territory emergency fund reverts to the county general fund.

17 NEW SECTION. Section 7. Advertisement of dues. The
18 current dues or assessments for membership in the
19 corporation and the rates for fire service to a nonmember of
20 the corporation in a fire territory shall be advertised in a
21 local newspaper or publication at least once in the first
22 week of each month. The mailing address of the secretary of
23 the corporation shall be included in the advertisement. If
24 no local publication is available, advertisement by public
25 notice shall be posted in the county courthouse on or before

1 March 1 each year or 10 days before the date of any change
2 in charges to nonmembers.

3 NEW SECTION. Section 8. Mutual aid agreements. A fire
4 territory may enter mutual aid agreements with other fire
5 territories, fire districts, unincorporated municipalities,
6 incorporated municipalities, state agencies that have fire
7 prevention services, private fire prevention agencies, and
8 federal agencies.

9 NEW SECTION. Section 9. Fire insurance
10 classification. A fire territory shall receive a rating for
11 fire insurance classification.

12 NEW SECTION. Section 10. Joining a fire district or
13 municipality. Property owners may withdraw from a fire
14 territory to establish a fire district or may be annexed by
15 a fire district or a municipality offering fire service, as
16 outlined in the laws of Montana.

17 NEW SECTION. Section 11. Fire company allowed. A fire
18 company may be formed by the corporation. Every year a
19 certificate signed by the president and secretary showing
20 the name of the fire company with a list of the directors
21 and officers and the roll of active and reserve volunteer
22 fire fighters and the number of hours of training or drill
23 credited to each volunteer firefighter shall be filed with
24 the county clerk and recorder.

25 NEW SECTION. Section 12. Volunteer firefighter's

1 benefits. A volunteer firefighter enrolled in a fire company
2 in a fire territory is entitled to all rights granted a
3 volunteer firefighter in Title 19, chapter 12, and is
4 qualified to receive credit for prior service for any
5 benefits under the Volunteer Firefighters' Compensation Act.

6 NEW SECTION. Section 13. Fire chief -- appointment --
7 authority. The fire chief in a fire territory is appointed
8 by the board of directors of the corporation and has the
9 same legal authority as a fire chief of a fire district and
10 is under the authority of the department of administration.

11 NEW SECTION. Section 14. Firefighter's exemption. The
12 fire chief, any volunteer firefighter, any paid firefighter,
13 or a firefighter deputized at the scene of a fire by a
14 firefighter in charge may enter private property in a fire
15 territory with or without the consent of the property holder
16 and is exempt from liability for damage resulting from
17 actions performed for the purpose of suppressing fire or
18 saving life.

19 Section 15. Section 7-33-4114, MCA, is amended to
20 read:

21 "7-33-4114. Limitation on liability for delays by
22 persons authorized to receive and transmit fire reports. No
23 person, corporation, partnership, or association which is
24 authorized by any city, town, village, or district fire
25 department, ~~fire territory, corporation operating a fire~~

1 ~~company in a fire territory,~~ or by any volunteer fire
2 company to receive any report of fire or which agrees to
3 receive and transmit such report to such fire department or
4 volunteer fire company shall be liable in any civil action
5 for damage to property or persons, including death, caused
6 by delay in reporting or failure to report such fire unless
7 such delay or failure is the result of the gross negligence
8 of such person, corporation, partnership, or association."

9 Section 16. Section 19-12-401, MCA, is amended to
10 read:

11 "19-12-401. Eligibility for pension benefits. In order
12 to qualify for participation in the volunteer firefighters'
13 pension plan under 19-12-404, a volunteer firefighter must
14 meet each of the following requirements:

15 (1) (a) To qualify for full participation, he must
16 have completed a total of at least 20 years' service as an
17 active volunteer firefighter and as an active member of a
18 qualified volunteer fire company.

19 (b) If a firefighter is prevented from completing at
20 least 20 years' service by dissolution or discontinuance of
21 his volunteer fire company, personal relocation due to
22 transfer or loss of employment, personal disability, or any
23 other factor beyond his reasonable control, he may qualify
24 for partial participation if he has completed at least 10
25 years' service. In that event, he is eligible for only a

1 proportion of the benefits specified in 19-12-404,
 2 determined by multiplying the benefits by a fraction, the
 3 numerator of which is the number of years of active service
 4 completed and the denominator of which is 20.

5 (c) The years of active service are cumulative and
 6 need not be continuous. The service need not be acquired
 7 with one single fire company but may be a total of separate
 8 periods of active service with different fire companies in
 9 different fire districts or fire territories.

10 (d) Effective March 1, 1965, the annual period of
 11 service for the purpose of this chapter is the fiscal year.
 12 No fractional part of any year may count toward the service
 13 requirement, and to receive credit for any particular year,
 14 a volunteer firefighter must serve with one particular
 15 volunteer fire company throughout that entire fiscal year.

16 (2) He must have attained the age of 55, but he need
 17 not be an active volunteer firefighter or an active member
 18 of any volunteer fire company when he reaches that age.

19 (3) During each of the years for which he claims
 20 credit under subsection (1), he must have completed a
 21 minimum of 30 hours of instruction in matters pertaining to
 22 firefighting under a program formulated and supervised by
 23 the chief or foreman of his volunteer fire company.

24 (4) Effective July 1, 1965, no volunteer firefighter
 25 may receive credit for any year of membership in a volunteer

1 fire company unless, throughout the year:

2 (a) the company maintained firefighting equipment in
 3 serviceable condition of a value of \$2,500 or more; and

4 (b) the company or the fire district served by it was
 5 rated in class 5, 6, 7, 8, 9, or 10 by the board of fire
 6 underwriters for the purpose of fire insurance premium
 7 rates.

8 (5) He must have ceased to be an active member of any
 9 volunteer fire company, and if he applies for and receives
 10 pension benefits hereunder, he will not thereafter be
 11 eligible to become an active member of any volunteer fire
 12 company."

13 Section 17. Effective date. This act is effective on
 14 passage and approval.

-End-

Approved by Comm.
on Local Government

1 *Senate* BILL NO. *465*
2 INTRODUCED BY *O. Chamer*
3 *Conover* *J. ...*

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21 corporation incorporated for the purpose of providing fire
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25 nonprofit corporation and establish a fire territory, which

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2 a map filed with the county clerk and recorder. A
3 certificate authorizing the fire territory and a list of
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14 (3) Within 60 days after the effective date of the
15 contract, the board of county commissioners shall send a
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 16 and is exempt from liability for damage resulting from
 17 actions performed for the purpose of suppressing fire or
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19 Section 15. Section 7-33-4114, MCA, is amended to
 20 read:

21 7-33-4114. Limitation on liability for delays by
 22 persons authorized to receive and transmit fire reports. No
 23 person, corporation, partnership, or association which is
 24 authorized by any city, town, village, or district fire
 25 departments, fire territory, corporation operating a fire

1 company in a fire territory, or by any volunteer fire
 2 company to receive any report of fire or which agrees to
 3 receive and transmit such report to such fire department or
 4 volunteer fire company shall be liable in any civil action
 5 for damage to property or persons, including death, caused
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 7 such delay or failure is the result of the gross negligence
 8 of such person, corporation, partnership, or association."

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 10 read:

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 12 to qualify for participation in the volunteer firefighters'
 13 pension plan under 19-12-404, a volunteer firefighter must
 14 meet each of the following requirements:

15 (1) (a) To qualify for full participation, he must
 16 have completed a total of at least 20 years' service as an
 17 active volunteer firefighter and as an active member of a
 18 qualified volunteer fire company.

15 (b) If a firefighter is prevented from completing at
 20 least 20 years' service by dissolution or discontinuance of
 21 his volunteer fire company, personal relocation due to
 22 transfer or loss of employment, personal disability, or any
 23 other factor beyond his reasonable control, he may qualify
 24 for partial participation if he has completed at least 10
 25 years' service. In that event, he is eligible for only a

1 proportion of the benefits specified in 19-12-404,
 2 determined by multiplying the benefits by a fraction, the
 3 numerator of which is the number of years of active service
 4 completed and the denominator of which is 20.

5 (c) The years of active service are cumulative and
 6 need not be continuous. The service need not be acquired
 7 with one single fire company but may be a total of separate
 8 periods of active service with different fire companies in
 9 different fire districts or fire territories.

10 (d) Effective March 1, 1965, the annual period of
 11 service for the purpose of this chapter is the fiscal year.
 12 No fractional part of any year may count toward the service
 13 requirement, and to receive credit for any particular year,
 14 a volunteer firefighter must serve with one particular
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16 (2) He must have attained the age of 55, but he need
 17 not be an active volunteer firefighter or an active member
 18 of any volunteer fire company when he reaches that age.

19 (3) During each of the years for which he claims
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 21 minimum of 30 hours of instruction in matters pertaining to
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 23 the chief or foreman of his volunteer fire company.

24 (4) Effective July 1, 1965, no volunteer firefighter
 25 may receive credit for any year of membership in a volunteer

1 fire company unless, throughout the year:

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 3 serviceable condition of a value of \$2,500 or more; and

4 (b) the company or the fire district served by it was
 5 rated in class 5, 6, 7, 8, 9, or 10 by the board of fire
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8 (5) He must have ceased to be an active member of any
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7 purchase of material or equipment for protection of firemen
8 and for saving life and life rescue; and for purchase of
9 fire equipment damaged or destroyed in a major fire. A claim
10 authorized by a territory fire chief and approved by the
11 board of county commissioners shall be paid from the fire
12 territory emergency fund. Any person issuing a fraudulent
13 claim on a fire territory emergency fund is guilty of a
14 misdemeanor and is punishable as provided in 46-18-212.

15 (4) If the fire territory is terminated, the fire
16 territory emergency fund reverts to the county general fund.

17 NEW SECTION. Section 7. Advertisement of dues. The
18 current dues or assessments for membership in the
19 corporation and the rates for fire service to a nonmember of
20 the corporation in a fire territory shall be advertised in a
21 local newspaper or publication at least once in the first
22 week of each month. The mailing address of the secretary of
23 the corporation shall be included in the advertisement. If
24 no local publication is available, advertisement by public
25 notice shall be posted in the county courthouse on or before

1 March 1 each year or 10 days before the date of any change
2 in charges to nonmembers.

3 NEW SECTION. Section 8. Mutual aid agreements. A fire
4 territory may enter mutual aid agreements with other fire
5 territories, fire districts, unincorporated municipalities,
6 incorporated municipalities, state agencies that have fire
7 prevention services, private fire prevention agencies, and
8 federal agencies.

9 NEW SECTION. Section 9. Fire insurance
10 classification. A fire territory shall receive a rating for
11 fire insurance classification.

12 NEW SECTION. Section 10. Joining a fire district or
13 municipality. Property owners may withdraw from a fire
14 territory to establish a fire district or may be annexed by
15 a fire district or a municipality offering fire service, as
16 outlined in the laws of Montana.

17 NEW SECTION. Section 11. Fire company allowed. A fire
18 company may be formed by the corporation. Every year a
19 certificate signed by the president and secretary showing
20 the name of the fire company with a list of the directors
21 and officers and the roll of active and reserve volunteer
22 fire fighters and the number of hours of training or drill
23 credited to each volunteer firefighter shall be filed with
24 the county clerk and recorder.

25 NEW SECTION. Section 12. Volunteer firefighter's

1 benefits. A volunteer firefighter enrolled in a fire company
2 in a fire territory is entitled to all rights granted a
3 volunteer firefighter in Title 19, chapter 12, and is
4 qualified to receive credit for prior service for any
5 benefits under the Volunteer Firefighters' Compensation Act.

6 NEW SECTION. Section 13. Fire chief -- appointment --
7 authority. The fire chief in a fire territory is appointed
8 by the board of directors of the corporation and has the
9 same legal authority as a fire chief of a fire district and
10 is under the authority of the department of administration.

11 NEW SECTION. Section 14. Firefighter's exemption. The
12 fire chief, any volunteer firefighter, any paid firefighter,
13 or a firefighter deputized at the scene of a fire by a
14 firefighter in charge may enter private property in a fire
15 territory with or without the consent of the property holder
16 and is exempt from liability for damage resulting from
17 actions performed for the purpose of suppressing fire or
18 saving life.

19 Section 15. Section 7-33-4114, MCA, is amended to
20 read:

21 "7-33-4114. Limitation on liability for delays by
22 persons authorized to receive and transmit fire reports. No
23 person, corporation, partnership, or association which is
24 authorized by any city, town, village, or district fire
25 department, fire territory, corporation operating a fire

1 company in a fire territory, or by any volunteer fire
2 company to receive any report of fire or which agrees to
3 receive and transmit such report to such fire department or
4 volunteer fire company shall be liable in any civil action
5 for damage to property or persons, including death, caused
6 by delay in reporting or failure to report such fire unless
7 such delay or failure is the result of the gross negligence
8 of such person, corporation, partnership, or association."

9 Section 16. Section 19-12-401, MCA, is amended to
10 read:

11 "19-12-401. Eligibility for pension benefits. In order
12 to qualify for participation in the volunteer firefighters'
13 pension plan under 19-12-404, a volunteer firefighter must
14 meet each of the following requirements:

15 (1) (a) To qualify for full participation, he must
16 have completed a total of at least 20 years' service as an
17 active volunteer firefighter and as an active member of a
18 qualified volunteer fire company.

19 (b) If a firefighter is prevented from completing at
20 least 20 years' service by dissolution or discontinuance of
21 his volunteer fire company, personal relocation due to
22 transfer or loss of employment, personal disability, or any
23 other factor beyond his reasonable control, he may qualify
24 for partial participation if he has completed at least 10
25 years' service. In that event, he is eligible for only a

1 proportion of the benefits specified in 19-12-404,
 2 determined by multiplying the benefits by a fraction, the
 3 numerator of which is the number of years of active service
 4 completed and the denominator of which is 20.

5 (c) The years of active service are cumulative and
 6 need not be continuous. The service need not be acquired
 7 with one single fire company but may be a total of separate
 8 periods of active service with different fire companies in
 9 different fire districts or fire territories.

10 (d) Effective March 1, 1965, the annual period of
 11 service for the purpose of this chapter is the fiscal year.
 12 No fractional part of any year may count toward the service
 13 requirement, and to receive credit for any particular year,
 14 a volunteer firefighter must serve with one particular
 15 volunteer fire company throughout that entire fiscal year.

16 (2) He must have attained the age of 55, but he need
 17 not be an active volunteer firefighter or an active member
 18 of any volunteer fire company when he reaches that age.

19 (3) During each of the years for which he claims
 20 credit under subsection (1), he must have completed a
 21 minimum of 30 hours of instruction in matters pertaining to
 22 firefighting under a program formulated and supervised by
 23 the chief or foreman of his volunteer fire company.

24 (4) Effective July 1, 1965, no volunteer firefighter
 25 may receive credit for any year of membership in a volunteer

1 fire company unless, throughout the year:

2 (a) the company maintained firefighting equipment in
 3 serviceable condition of a value of \$2,500 or more; and

4 (b) the company or the fire district served by it was
 5 rated in class 5, 6, 7, 8, 9, or 10 by the board of fire
 6 underwriters for the purpose of fire insurance premium
 7 rates.

8 (5) He must have ceased to be an active member of any
 9 volunteer fire company, and if he applies for and receives
 10 pension benefits hereunder, he will not thereafter be
 11 eligible to become an active member of any volunteer fire
 12 company."

13 Section 17. Effective date. This act is effective on
 14 passage and approval.

-End-