

1 SENATE BILL NO. 77

2 INTRODUCED BY JENKINS

3 BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR REQUESTS FOR ASSISTANCE WITH AN
6 INCIDENT, EMERGENCY, OR DISASTER BY POLITICAL SUBDIVISIONS, FIRE DISTRICTS, FIRE SERVICE
7 AREAS, OR FIRE COMPANIES IN UNINCORPORATED AREAS THAT HAVE NOT CONCLUDED MUTUAL AID
8 AGREEMENTS; ELIMINATING THE REQUIREMENT THAT REQUESTS FOR ASSISTANCE MAY ONLY BE
9 MADE TO STATE AGENCIES WITH FIRE PREVENTION SERVICES; REQUIRING THE DIVISION OF DISASTER
10 AND EMERGENCY SERVICES OF THE DEPARTMENT OF MILITARY AFFAIRS TO ENCOURAGE MUTUAL
11 AID AGREEMENTS FOR PURPOSES OF AND TO ASSIST IN INCIDENTS; PROVIDING FOR
12 INDEMNIFICATION OF FIRE DISTRICTS, FIRE SERVICES AREAS, OR FIRE COMPANIES PROVIDING
13 ASSISTANCE; AND AMENDING SECTIONS 7-33-2108, 7-33-2313, 7-33-2405, AND 10-3-202, MCA."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 **Section 1.** Section 7-33-2108, MCA, is amended to read:

18 **"7-33-2108. Mutual aid agreements -- request if no agreement exists.** (1) A mutual aid agreement
19 is an agreement for protection against natural ~~or man-made~~ disasters or disasters caused by persons.

20 (2) Fire district trustees may enter mutual aid agreements with the proper authority of:

- 21 (a) other fire districts;
22 (b) unincorporated municipalities;
23 (c) incorporated municipalities;
24 (d) state agencies ~~which have fire prevention services;~~
25 (e) private fire-prevention agencies;
26 (f) federal agencies; and
27 (g) fire service areas.

28 (3) If the fire district trustees have not concluded a mutual aid agreement, then the trustees, a
29 representative of the trustees, or an incident commander may request assistance pursuant to [section 5]."

1 **Section 2.** Section 7-33-2313, MCA, is amended to read:

2 **"7-33-2313. Duties Powers and duties of chief.** (1) The chief of every fire department ~~must shall~~
 3 inquire into the cause of every fire occurring in the town in which ~~he is~~ the chief serves as the chief and
 4 must keep a record thereof of every fire. ~~He~~ The chief must aid in the enforcement of all ~~duly enacted~~ fire
 5 ordinances, examine buildings in the process of erection, report violations of ordinances relating to
 6 prevention or extinguishment of fires and, when directed by the proper authorities, institute prosecutions
 7 ~~therefor for the violation of those ordinances,~~ and perform ~~such~~ other duties as may be imposed upon ~~him~~
 8 the chief by proper authority. ~~His~~ The chief's compensation, if any, must be fixed and paid by the city or
 9 town authorities. ~~He~~ The chief must attend all fires, with ~~his~~ the chief's badge of office conspicuously
 10 displayed. ~~He~~ The chief ~~must shall~~ prevent injury to, take charge of, and preserve all property rescued from
 11 fires and return it to the owner on the payment of the expenses incurred in saving and keeping it. The
 12 amount of the expenses, when not agreed to, ~~shall~~ must be fixed by a justice of the peace.

13 (2) ~~He must~~ The chief shall devise and formulate or cause to be devised and formulated a course
 14 or plan of instruction or training program making available to each regular member of ~~his~~ the chief's
 15 department not less than 30 hours of instruction per year in matters pertaining to firefighting, and ~~he must~~
 16 the chief shall supervise the operation of ~~such~~ the plan or program.

17 (3) If the county commissioners, trustees of a fire district, or governing body of a fire service area
 18 have not concluded a mutual aid agreement to protect an unincorporated town or village against natural
 19 incidents, emergencies, or disasters or incidents, emergencies, or disasters caused by persons, the chief
 20 may request assistance pursuant to [section 5]."

21

22 **Section 3.** Section 7-33-2405, MCA, is amended to read:

23 **"7-33-2405. Mutual aid agreements -- request if no agreement exists.** (1) A mutual aid agreement
 24 is an agreement for protection against natural ~~or manmade~~ disasters or disasters caused by persons.

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

- 27 (a) other fire service areas;
- 28 (b) unincorporated municipalities;
- 29 (c) incorporated municipalities;
- 30 (d) state agencies ~~that have fire prevention services;~~

1 (e) private fire-prevention agencies;

2 (f) federal agencies; and

3 (g) fire districts.

4 (3) If the governing body of a fire service area has not concluded a mutual aid agreement, the
 5 governing body, a representative of the governing body, or an incident commander may request assistance
 6 pursuant to [section 5]."

7

8 **Section 4.** Section 10-3-202, MCA, is amended to read:

9 **"10-3-202. Mutual aid -- cooperation.** (1) Political subdivisions ~~shall~~ must be encouraged and
 10 assisted by the division to conclude mutual aid arrangements with other public and private agencies within
 11 this state for reciprocal aid and assistance in coping with incidents, emergencies, and disasters.

12 (2) In reviewing disaster and emergency plans and programs of political subdivisions, the division
 13 shall consider whether they contain adequate provisions for the reciprocal mutual aid.

14 (3) Local and interjurisdictional disaster and emergency agencies may assist in negotiation of
 15 reciprocal mutual aid agreements between the governor and the adjoining states (including foreign states
 16 or provinces) or political subdivisions ~~thereof~~ of adjoining states and shall carry out arrangements of any
 17 ~~such~~ of the agreements relating to the local and political subdivision.

18 (4) In providing assistance under parts 1 through 4 of this chapter, state departments and agencies
 19 shall cooperate to the fullest extent possible with each other and with local governments and relief agencies
 20 such as the American national red cross, ~~but nothing contained in parts~~ Parts 1 through 4 of this chapter
 21 ~~lists do not list~~ or in any way ~~affects~~ affect the responsibilities of the American national red cross under
 22 the act approved January 5, 1905 (33 Stat. 559), as amended."

23

24 **NEW SECTION. Section 5. Political subdivision requests for assistance -- application to fire**
 25 **districts, fire service areas, and fire companies in unincorporated places -- indemnification required --**
 26 **immunity.** (1) If an incident, emergency, or disaster occurs in a political subdivision that has not concluded
 27 a mutual aid agreement pursuant to 10-3-202, the local or interjurisdictional agency, incident commander,
 28 or principal executive officer of the political subdivision may request assistance from another public or
 29 private agency.

30 (2)(a) The following individuals or entities may request assistance with an incident, emergency, or

1 disaster if a mutual aid agreement has not been concluded for protection of the area within the jurisdiction
2 of these individuals or entities:

3 (i) the trustees of a rural fire district created pursuant to Title 7, chapter 33, part 21, a
4 representative of the trustees, or an incident commander for the district;

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

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

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

11 (i) a fire district;

12 (ii) an unincorporated municipality;

13 (iii) an incorporated municipality;

14 (iv) a state agency;

15 (v) a private fire prevention agency;

16 (vi) an agency of the federal government; or

17 (vii) a fire service area.

18 (3) A public or private agency receiving a request pursuant to subsection (1) or (2) shall determine
19 if it will provide the requested assistance, or will provide other assistance, and shall inform the requesting
20 local or interjurisdictional agency, principal executive officer, incident commander, or other individual or
21 entity making the request, as soon as possible, of that determination. The nature and extent of assistance
22 provided by a public or private agency may be determined only by that public or private agency.

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

27 (5) The trustees of a fire district, the governing body of a fire service area, or the county
28 commissioners for the county in which an unincorporated town or village is located that is not part of a fire
29 district or fire service area receiving assistance pursuant to this section shall indemnify the public or private
30 agency providing assistance for loss or damage caused by that assistance.

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

3 (a) a fire district;

4 (b) a fire service area;

5 (c) a fire company;

6 (d) an unincorporated municipality, town, or village; or

7 (e) an agent, employee, representative, or volunteer of an entity listed in this subsection.

8

9 **NEW SECTION. Section 6. Codification instruction.** [Section 5] is intended to be codified as an
10 integral part of Title 10, chapter 3, part 2, and the provisions of Title 10, chapter 3, part 2, apply to
11 [section 5].

12

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0077, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

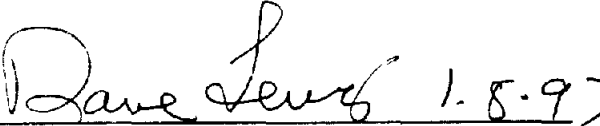
A bill to provide for requests for assistance with an incident, emergency, or disaster by political subdivisions, fire districts, fire service areas, or fire companies in unincorporated areas that have not concluded mutual aid agreements; eliminating the requirement that requests for assistance may only be made to state agencies with fire prevention services; requiring the Division of Disaster and Emergency Services, Department of Military Affairs, to encourage mutual aid agreements for assisting in incidents; providing for indemnification of fire districts, fire services areas, or fire companies providing assistance.

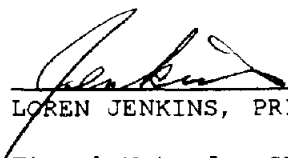
ASSUMPTIONS:

1. Political subdivisions, fire districts, fire service areas, and fire companies may request assistance from neighboring resources without a written agreement in place.
2. Fire districts, fire service areas, or fire companies providing assistance will be indemnified.

FISCAL IMPACT:

There is no fiscal impact to the state.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


LOREN JENKINS, PRIMARY SPONSOR DATE
(Fiscal Note for SB0077, as introduced)

SB 77

1 SENATE BILL NO. 77

2 INTRODUCED BY JENKINS

3 BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR REQUESTS FOR ASSISTANCE WITH AN
6 INCIDENT, EMERGENCY, OR DISASTER BY POLITICAL SUBDIVISIONS, FIRE DISTRICTS, FIRE SERVICE
7 AREAS, OR FIRE COMPANIES IN UNINCORPORATED AREAS THAT HAVE NOT CONCLUDED MUTUAL AID
8 AGREEMENTS; ELIMINATING THE REQUIREMENT THAT REQUESTS FOR ASSISTANCE MAY ONLY BE
9 MADE TO STATE AGENCIES WITH FIRE PREVENTION SERVICES; REQUIRING THE DIVISION OF DISASTER
10 AND EMERGENCY SERVICES OF THE DEPARTMENT OF MILITARY AFFAIRS TO ENCOURAGE MUTUAL
11 AID AGREEMENTS FOR PURPOSES OF AND TO ASSIST IN INCIDENTS; PROVIDING FOR
12 ~~INDEMNIFICATION~~ IMMUNITY OF FIRE DISTRICTS, FIRE SERVICES AREAS, OR FIRE COMPANIES
13 PROVIDING OR REFUSING TO PROVIDE ASSISTANCE; AND AMENDING SECTIONS 7-33-2108,
14 7-33-2202, 7-33-2208, 7-33-2313, 7-33-2405, 7-33-4112, AND 10-3-202, MCA."

15
16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
1718 **Section 1.** Section 7-33-2108, MCA, is amended to read:

19 **"7-33-2108. Mutual aid agreements -- request if no agreement exists -- DEFINITIONS.** (1) A mutual
20 aid agreement is an agreement for protection against natural ~~or manmade~~ disasters, INCIDENTS, OR
21 EMERGENCIES ~~or disasters, INCIDENTS, OR EMERGENCIES caused by persons.~~

22 (2) Fire district trustees may enter mutual aid agreements with the proper authority of:

- 23 (a) other fire districts;
- 24 (b) unincorporated municipalities;
- 25 (c) incorporated municipalities;
- 26 (d) state agencies ~~which have fire prevention services;~~
- 27 (e) private fire-prevention agencies;
- 28 (f) federal agencies; ~~and~~
- 29 (g) fire service areas; AND

30 (H) GOVERNING BODIES OF OTHER POLITICAL SUBDIVISIONS.

1 (3) If the fire district trustees have not concluded a mutual aid agreement, then the trustees, a
 2 representative of the trustees, or an incident commander may request assistance pursuant to [section 8].

3 (4) AS USED IN THIS SECTION, "INCIDENTS", "DISASTERS", OR "EMERGENCIES" HAS THE
 4 MEANING ASCRIBED TO THE TERM IN 10-3-103."

5
 6 **SECTION 2. SECTION 7-33-2202, MCA, IS AMENDED TO READ:**

7 **"7-33-2202. Functions of county governing body.** The county governing body, with respect to
 8 rural fire control, shall carry out the specific authorities and duties ~~hereinafter~~ imposed in this section:

9 (1) The governing body shall:

10 (a) provide for the organization of volunteer rural fire control crews; and

11 (b) provide for the formation of county volunteer fire companies.

12 (2) The governing body shall appoint a county rural fire chief and such district rural fire chiefs,
 13 subject to the direction and supervision of the county rural fire chief, as it considers necessary.

14 (3) The county governing body shall, within the limitations of 7-33-2205 through 7-33-2209,
 15 protect the range, farm, and forest lands within the county from fire.

16 (4) The county governing body may enter into mutual aid agreements for itself and for county
 17 volunteer fire companies with ~~federal, state, local, and other fire protection agencies, including governing~~
 18 ~~bodies of adjoining counties;~~

19 (a) other fire districts;

20 (b) unincorporated municipalities;

21 (c) incorporated municipalities;

22 (d) state agencies;

23 (e) private fire-prevention agencies;

24 (f) federal agencies;

25 (g) fire service areas; or

26 (h) governing bodies of other political subdivisions.

27 (5) If the county governing body has not concluded a mutual aid agreement, the county governing
 28 body, a representative of the county governing body, or an incident commander may request assistance
 29 pursuant to [section 8]."

30

1 **SECTION 3. SECTION 7-33-2208, MCA, IS AMENDED TO READ:**

2 **"7-33-2208. Fire control powers -- liability.** (1) Any county rural fire chief, district rural fire chief
3 or his deputy, or fire service area or fire company fire chief or ~~his~~ deputy may enter private property or
4 direct the entry of fire control crews for the purpose of suppressing fires.

5 (2) A chief or deputy and the county, rural district, fire company, or fire service area are immune
6 from suit for injury to persons or property resulting from actions taken to suppress fires under [section 8]
7 or this section. An entity or individual listed in this section is also immune from suit for injury to persons
8 or property resulting from a determination not to provide assistance requested pursuant to [section 8]."

9

10 **Section 4. Section 7-33-2313, MCA, is amended to read:**

11 **"7-33-2313. Duties Powers and duties of chief -- REQUEST FOR ASSISTANCE -- DEFINITIONS.**

12 (1) The chief of every fire department ~~must shall~~ inquire into the cause of every fire occurring in the town
13 in which ~~he is the~~ chief serves as the chief and must keep a record ~~thereof of every fire.~~ He The chief must
14 aid in the enforcement of all ~~duly-enacted~~ fire ordinances, examine buildings in the process of erection,
15 report violations of ordinances relating to prevention or extinguishment of fires and, when directed by the
16 proper authorities, institute prosecutions ~~therefor~~ for the violation of those ordinances, and perform ~~such~~
17 other duties as may be imposed upon ~~him~~ the chief by proper authority. ~~His~~ The chief's compensation, if
18 any, must be fixed and paid by the city or town authorities. ~~He~~ The chief must attend all fires, with ~~his~~ the
19 chief's badge of office conspicuously displayed. ~~He~~ The chief ~~must shall~~ prevent injury to, take charge of,
20 and preserve all property rescued from fires and return it to the owner on the payment of the expenses
21 incurred in saving and keeping it. The amount of the expenses, when not agreed to, ~~shall~~ must be fixed by
22 a justice of the peace.

23 (2) ~~He must~~ The chief shall devise and formulate or cause to be devised and formulated a course
24 or plan of instruction or training program making available to each regular member of ~~his~~ the chief's
25 department not less than 30 hours of instruction per year in matters pertaining to firefighting, and ~~he must~~
26 the chief shall supervise the operation of ~~such~~ the plan or program.

27 (3) If the county commissioners, trustees of a fire district, or governing body of a fire service area
28 have not concluded a mutual aid agreement to protect an unincorporated town or village against natural
29 incidents, emergencies, or disasters or incidents, emergencies, or disasters caused by persons, the chief
30 may request assistance pursuant to [section 5 8].

1 (4) AS USED IN THIS SECTION, "INCIDENTS", "DISASTERS", OR "EMERGENCIES" HAS THE
 2 MEANING ASCRIBED TO THE TERM IN 10-3-103."

3
 4 **Section 5.** Section 7-33-2405, MCA, is amended to read:

5 **"7-33-2405. Mutual aid agreements -- request if no agreement exists -- DEFINITIONS.** (1) A mutual
 6 aid agreement is an agreement for protection against natural ~~or manmade~~ disasters, INCIDENTS, OR
 7 EMERGENCIES or disasters, INCIDENTS, OR EMERGENCIES caused by persons.

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

- 10 (a) other fire service areas;
 11 (b) unincorporated municipalities;
 12 (c) incorporated municipalities;
 13 (d) state agencies ~~that have fire prevention services~~;
 14 (e) private fire-prevention agencies;
 15 (f) federal agencies; ~~and~~
 16 (g) fire districts; AND

17 (H) GOVERNING BODIES OF OTHER POLITICAL SUBDIVISIONS.

18 (3) If the governing body of a fire service area has not concluded a mutual aid agreement, the
 19 governing body, a representative of the governing body, or an incident commander may request assistance
 20 pursuant to [section 5 8].

21 (4) AS USED IN THIS SECTION, "INCIDENTS", "DISASTERS", OR "EMERGENCIES" HAS THE
 22 MEANING ASCRIBED TO THE TERM IN 10-3-103."

23
 24 **SECTION 6. SECTION 7-33-4112, MCA, IS AMENDED TO READ:**

25 **"7-33-4112. Mutual aid agreements -- request if no agreement exists -- definitions.** (1) A mutual
 26 aid agreement is an agreement for protection against natural disasters, incidents, or emergencies or
 27 ~~manmade~~ disasters, incidents, or emergencies caused by persons.

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

- 30 (a) other incorporated municipalities;

- 1 (b) fire districts;
 2 (c) unincorporated municipalities;
 3 (d) state agencies ~~which have fire protection services~~;
 4 (e) private fire-prevention agencies;
 5 (f) federal agencies; ~~and~~
 6 (g) fire service areas; or
 7 (h) the governing body of other political subdivisions.

8 (3) If the council or commission has not concluded a mutual aid agreement, the council or
 9 commission, a representative of the council or commission, or an incident commander may request
 10 assistance pursuant to [section 8].

11 (4) As used in this section, "incidents", "disasters", or "emergencies" has the meaning ascribed
 12 to the term in 10-3-103."

13
 14 **Section 7.** Section 10-3-202, MCA, is amended to read:

15 **"10-3-202. Mutual aid -- cooperation.** (1) Political subdivisions ~~shall~~, FIRE DISTRICTS, FIRE
 16 SERVICE AREAS, AND FIRE COMPANIES IN UNINCORPORATED PLACES must be encouraged and assisted
 17 by the division to conclude mutual aid arrangements with other public and private agencies within this state
 18 for reciprocal aid and assistance in coping with incidents, emergencies, and disasters.

19 (2) In reviewing disaster and emergency plans and programs of political subdivisions, the division
 20 shall consider whether they contain adequate provisions for the reciprocal mutual aid.

21 (3) Local and interjurisdictional disaster and emergency agencies may assist in negotiation of
 22 reciprocal mutual aid agreements between the governor and the adjoining states (including foreign states
 23 or provinces) or political subdivisions ~~thereof~~ of adjoining states and shall carry out arrangements of any
 24 ~~such of the~~ agreements relating to the local and political subdivision.

25 (4) In providing assistance under parts 1 through 4 of this chapter, state departments and agencies
 26 shall cooperate to the fullest extent possible with each other and with local governments and relief agencies
 27 such as the American national red cross, ~~but nothing contained in parts~~ Parts 1 through 4 of this chapter
 28 ~~lists do not list~~ or in any way ~~affects~~ affect the responsibilities of the American national red cross under
 29 the act approved January 5, 1905 (33 Stat. 559), as amended."
 30

1 **NEW SECTION. Section 8. Political subdivision requests for assistance -- application to fire**
 2 **districts, fire service areas, and fire companies in unincorporated places —~~indemnification required~~ --**
 3 **immunity.** (1) If an incident, emergency, or disaster occurs in a political subdivision that has not concluded
 4 a mutual aid agreement pursuant to 10-3-202, the local or interjurisdictional agency, incident commander,
 5 or principal executive officer of the political subdivision may request assistance from another public or
 6 private agency.

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

10 (i) the trustees of a rural fire district created pursuant to Title 7, chapter 33, part 21, a
 11 representative of the trustees, or an incident commander for the district;

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

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

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

18 (i) a fire district;

19 (ii) an unincorporated municipality;

20 (iii) an incorporated municipality;

21 (iv) a state agency;

22 (v) a private fire prevention agency;

23 (vi) an agency of the federal government; ~~or~~

24 (vii) a fire service area; OR

25 **(VIII) THE GOVERNING BODY OF A POLITICAL SUBDIVISION.**

26 (3) A public or private agency receiving a request pursuant to subsection (1) or (2) shall determine
 27 if it will provide the requested assistance, or will provide other assistance, and shall inform the requesting
 28 local or interjurisdictional agency, principal executive officer, incident commander, or other individual or
 29 entity making the request, as soon as possible, of that determination. The nature and extent of assistance
 30 provided by a public or private agency may be determined only by that public or private agency.

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

5 ~~(5) The trustees of a fire district, the governing body of a fire service area, or the county~~
 6 ~~commissioners for the county in which an unincorporated town or village is located that is not part of a fire~~
 7 ~~district or fire service area receiving assistance pursuant to this section shall indemnify the public or private~~
 8 ~~agency providing assistance for loss or damage caused by that assistance.~~

9 ~~(6)~~(5) This section does not waive an immunity or limitation on liability applicable to any of the
 10 following entities or individuals requesting or receiving assistance pursuant to this section:

- 11 (a) a fire district;
- 12 (b) a fire service area;
- 13 (c) a fire company;
- 14 (d) an unincorporated municipality, town, or village; or
- 15 (E) A POLITICAL SUBDIVISION; OR

16 ~~(F)~~ an agent, employee, representative, or volunteer of an entity listed in this subsection.

17

18 NEW SECTION. SECTION 9. TWO-THIRDS VOTE REQUIRED. BECAUSE [SECTION 3] LIMITS
 19 GOVERNMENTAL LIABILITY, ARTICLE II, SECTION 18, OF THE MONTANA CONSTITUTION REQUIRES A
 20 VOTE OF TWO-THIRDS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE FOR PASSAGE.

21

22 NEW SECTION. Section 10. Codification instruction. [Section ~~5~~ 8] is intended to be codified as
 23 an integral part of Title 10, chapter 3, part 2, and the provisions of Title 10, chapter 3, part 2, apply to
 24 [section ~~5~~ 8].

25

-END-

1 SENATE BILL NO. 77

2 INTRODUCED BY JENKINS

3 BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR REQUESTS FOR ASSISTANCE WITH AN
6 INCIDENT, EMERGENCY, OR DISASTER BY POLITICAL SUBDIVISIONS, FIRE DISTRICTS, FIRE SERVICE
7 AREAS, OR FIRE COMPANIES IN UNINCORPORATED AREAS THAT HAVE NOT CONCLUDED MUTUAL AID
8 AGREEMENTS; ELIMINATING THE REQUIREMENT THAT REQUESTS FOR ASSISTANCE MAY ONLY BE
9 MADE TO STATE AGENCIES WITH FIRE PREVENTION SERVICES; REQUIRING THE DIVISION OF DISASTER
10 AND EMERGENCY SERVICES OF THE DEPARTMENT OF MILITARY AFFAIRS TO ENCOURAGE MUTUAL
11 AID AGREEMENTS FOR PURPOSES OF AND TO ASSIST IN INCIDENTS; PROVIDING FOR
12 ~~INDEMNIFICATION~~ IMMUNITY OF FIRE DISTRICTS, FIRE SERVICES AREAS, OR FIRE COMPANIES
13 PROVIDING OR REFUSING TO PROVIDE ASSISTANCE; AND AMENDING SECTIONS 7-33-2108,
14 7-33-2202, 7-33-2208, 7-33-2313, 7-33-2405, 7-33-4112, AND 10-3-202, MCA."

15

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

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO SECOND READING COPY
(YELLOW) FOR COMPLETE TEXT.**

APPROVED BY COM ON
LOCAL GOVERNMENT

1 SENATE BILL NO. 77

2 INTRODUCED BY JENKINS

3 BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR REQUESTS FOR ASSISTANCE WITH AN
6 INCIDENT, EMERGENCY, OR DISASTER BY POLITICAL SUBDIVISIONS, FIRE DISTRICTS, FIRE SERVICE
7 AREAS, OR FIRE COMPANIES IN UNINCORPORATED AREAS THAT HAVE NOT CONCLUDED MUTUAL AID
8 AGREEMENTS; ELIMINATING THE REQUIREMENT THAT REQUESTS FOR ASSISTANCE MAY ONLY BE
9 MADE TO STATE AGENCIES WITH FIRE PREVENTION SERVICES; REQUIRING THE DIVISION OF DISASTER
10 AND EMERGENCY SERVICES OF THE DEPARTMENT OF MILITARY AFFAIRS TO ENCOURAGE MUTUAL
11 AID AGREEMENTS FOR PURPOSES OF AND TO ASSIST IN INCIDENTS; PROVIDING FOR
12 ~~INDEMNIFICATION~~ IMMUNITY OF FIRE DISTRICTS, FIRE SERVICES AREAS, OR FIRE COMPANIES
13 PROVIDING OR REFUSING TO PROVIDE ASSISTANCE; AND AMENDING SECTIONS 7-33-2108,
14 7-33-2202, 7-33-2208, 7-33-2313, 7-33-2405, 7-33-4112, AND 10-3-202, MCA."

15

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

**THERE ARE NO CHANGES IN THIS BILL AND IT WILL NOT BE
REPRINTED. PLEASE REFER TO THIRD READING COPY
(BLUE) FOR COMPLETE TEXT.**

1 SENATE BILL NO. 77

2 INTRODUCED BY JENKINS

3 BY REQUEST OF THE DEPARTMENT OF MILITARY AFFAIRS

4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR REQUESTS FOR ASSISTANCE WITH AN
 6 INCIDENT, EMERGENCY, OR DISASTER BY POLITICAL SUBDIVISIONS, FIRE DISTRICTS, FIRE SERVICE
 7 AREAS, OR FIRE COMPANIES IN UNINCORPORATED AREAS THAT HAVE NOT CONCLUDED MUTUAL AID
 8 AGREEMENTS; ELIMINATING THE REQUIREMENT THAT REQUESTS FOR ASSISTANCE MAY ONLY BE
 9 MADE TO STATE AGENCIES WITH FIRE PREVENTION SERVICES; REQUIRING THE DIVISION OF DISASTER
 10 AND EMERGENCY SERVICES OF THE DEPARTMENT OF MILITARY AFFAIRS TO ENCOURAGE MUTUAL
 11 AID AGREEMENTS FOR PURPOSES OF AND TO ASSIST IN INCIDENTS; PROVIDING FOR
 12 ~~INDEMNIFICATION~~ IMMUNITY OF FIRE DISTRICTS, FIRE SERVICES AREAS, OR FIRE COMPANIES
 13 PROVIDING OR REFUSING TO PROVIDE ASSISTANCE; AND AMENDING SECTIONS 7-33-2108,
 14 7-33-2202, 7-33-2208, 7-33-2313, 7-33-2405, 7-33-4112, AND 10-3-202, MCA."

15
 16 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

17
 18 Section 1. Section 7-33-2108, MCA, is amended to read:

19 "7-33-2108. ~~Mutual aid agreements -- request if no agreement exists --~~ DEFINITIONS. (1) A mutual
 20 aid agreement is an agreement for protection against natural ~~or man-made~~ disasters, INCIDENTS, OR
 21 EMERGENCIES ~~or disasters, INCIDENTS, OR EMERGENCIES~~ caused by persons.

22 (2) Fire district trustees may enter mutual aid agreements with the proper authority of:

- 23 (a) other fire districts;
 24 (b) unincorporated municipalities;
 25 (c) incorporated municipalities;
 26 (d) state agencies ~~which have fire prevention services;~~
 27 (e) private fire-prevention agencies;
 28 (f) federal agencies; ~~and~~
 29 (g) fire service areas; AND
 30 (H) GOVERNING BODIES OF OTHER POLITICAL SUBDIVISIONS.

1 (3) If the fire district trustees have not concluded a mutual aid agreement, then the trustees, a
 2 representative of the trustees, or an incident commander may request assistance pursuant to [section 5 8].

3 (4) AS USED IN THIS SECTION, "INCIDENTS", "DISASTERS", OR "EMERGENCIES" HAS THE
 4 MEANING ASCRIBED TO THE TERM IN 10-3-103."

5
 6 **SECTION 2. SECTION 7-33-2202, MCA, IS AMENDED TO READ:**

7 **"7-33-2202. Functions of county governing body.** The county governing body, with respect to
 8 rural fire control, shall carry out the specific authorities and duties ~~hereinafter~~ imposed in this section:

9 (1) The governing body shall:

10 (a) provide for the organization of volunteer rural fire control crews; and

11 (b) provide for the formation of county volunteer fire companies.

12 (2) The governing body shall appoint a county rural fire chief and such district rural fire chiefs,
 13 subject to the direction and supervision of the county rural fire chief, as it considers necessary.

14 (3) The county governing body shall, within the limitations of 7-33-2205 through 7-33-2209,
 15 protect the range, farm, and forest lands within the county from fire.

16 (4) The county governing body may enter into mutual aid agreements for itself and for county
 17 volunteer fire companies with ~~federal, state, local, and other fire protection agencies, including governing~~
 18 ~~bodies of adjoining counties;~~

19 (a) other fire districts;

20 (b) unincorporated municipalities;

21 (c) incorporated municipalities;

22 (d) state agencies;

23 (e) private fire-prevention agencies;

24 (f) federal agencies;

25 (g) fire service areas; or

26 (h) governing bodies of other political subdivisions.

27 (5) If the county governing body has not concluded a mutual aid agreement, the county governing
 28 body, a representative of the county governing body, or an incident commander may request assistance
 29 pursuant to [section 8]."

30

1 **SECTION 3. SECTION 7-33-2208, MCA, IS AMENDED TO READ:**

2 **"7-33-2208. Fire control powers -- liability.** (1) Any county rural fire chief, district rural fire chief
3 or ~~his~~ deputy, or fire service area or fire company fire chief or ~~his~~ deputy may enter private property or
4 direct the entry of fire control crews for the purpose of suppressing fires.

5 (2) A chief or deputy and the county, rural district, fire company, or fire service area are immune
6 from suit for injury to persons or property resulting from actions taken to suppress fires under [section 8]
7 or this section. An entity or individual listed in this section is also immune from suit for injury to persons
8 or property resulting from a determination not to provide assistance requested pursuant to [section 8]."

9
10 **Section 4. Section 7-33-2313, MCA, is amended to read:**

11 **"7-33-2313. ~~Duties~~ Powers and duties of chief -- REQUEST FOR ASSISTANCE -- DEFINITIONS.**

12 (1) The chief of every fire department ~~must~~ shall inquire into the cause of every fire occurring in the town
13 in which ~~he is the chief~~ serves as the chief and must keep a record ~~thereof of every fire.~~ He The chief must
14 aid in the enforcement of all ~~duly enacted~~ fire ordinances, examine buildings in the process of erection,
15 report violations of ordinances relating to prevention or extinguishment of fires and, when directed by the
16 proper authorities, institute prosecutions ~~therefor~~ for the violation of those ordinances, and perform ~~each~~
17 other duties as may be imposed upon ~~him~~ the chief by proper authority. ~~His~~ The chief's compensation, if
18 any, must be fixed and paid by the city or town authorities. ~~He~~ The chief must attend all fires, with ~~his~~ the
19 chief's badge of office conspicuously displayed. ~~He~~ The chief ~~must~~ shall prevent injury to, take charge of,
20 and preserve all property rescued from fires and return it to the owner on the payment of the expenses
21 incurred in saving and keeping it. The amount of the expenses, when not agreed to, ~~shall~~ must be fixed by
22 a justice of the peace.

23 (2) ~~He must~~ The chief shall devise and formulate or cause to be devised and formulated a course
24 or plan of instruction or training program making available to each regular member of ~~his~~ the chief's
25 department not less than 30 hours of instruction per year in matters pertaining to firefighting, and ~~he must~~
26 the chief shall supervise the operation of ~~each~~ the plan or program.

27 (3) If the county commissioners, trustees of a fire district, or governing body of a fire service area
28 have not concluded a mutual aid agreement to protect an unincorporated town or village against natural
29 incidents, emergencies, or disasters or incidents, emergencies, or disasters caused by persons, the chief
30 may request assistance pursuant to [section 5 8].

1 (4) AS USED IN THIS SECTION, "INCIDENTS", "DISASTERS", OR "EMERGENCIES" HAS THE
 2 MEANING ASCRIBED TO THE TERM IN 10-3-103."

3
 4 **Section 5.** Section 7-33-2405, MCA, is amended to read:

5 **"7-33-2405. Mutual aid agreements -- request if no agreement exists -- DEFINITIONS.** (1) A mutual
 6 aid agreement is an agreement for protection against natural ~~or manmade~~ disasters, INCIDENTS, OR
 7 EMERGENCIES or disasters, INCIDENTS, OR EMERGENCIES caused by persons.

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

- 10 (a) other fire service areas;
 11 (b) unincorporated municipalities;
 12 (c) incorporated municipalities;
 13 (d) state agencies ~~that have fire prevention services~~;
 14 (e) private fire-prevention agencies;
 15 (f) federal agencies; ~~and~~
 16 (g) fire districts; AND

17 (H) GOVERNING BODIES OF OTHER POLITICAL SUBDIVISIONS.

18 (3) If the governing body of a fire service area has not concluded a mutual aid agreement, the
 19 governing body, a representative of the governing body, or an incident commander may request assistance
 20 pursuant to [section 5 8].

21 (4) AS USED IN THIS SECTION, "INCIDENTS", "DISASTERS", OR "EMERGENCIES" HAS THE
 22 MEANING ASCRIBED TO THE TERM IN 10-3-103."

23
 24 **SECTION 6. SECTION 7-33-4112, MCA, IS AMENDED TO READ:**

25 **"7-33-4112. Mutual aid agreements -- request if no agreement exists -- definitions.** (1) A mutual
 26 aid agreement is an agreement for protection against natural disasters, incidents, or emergencies or
 27 ~~manmade~~ disasters, incidents, or emergencies caused by persons.

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

- 30 (a) other incorporated municipalities;

- 1 (b) fire districts;
- 2 (c) unincorporated municipalities;
- 3 (d) state agencies ~~which have fire protection services;~~
- 4 (e) private fire-prevention agencies;
- 5 (f) federal agencies; ~~and~~
- 6 (g) fire service areas; or
- 7 (h) the governing body of other political subdivisions.

8 (3) If the council or commission has not concluded a mutual aid agreement, the council or
 9 commission, a representative of the council or commission, or an incident commander may request
 10 assistance pursuant to [section 8].

11 (4) As used in this section, "incidents", "disasters", or "emergencies" has the meaning ascribed
 12 to the term in 10-3-103."

13

14 **Section 7.** Section 10-3-202, MCA, is amended to read:

15 **"10-3-202. Mutual aid -- cooperation.** (1) Political subdivisions ~~shall~~, FIRE DISTRICTS, FIRE
 16 SERVICE AREAS, AND FIRE COMPANIES IN UNINCORPORATED PLACES must be encouraged and assisted
 17 by the division to conclude mutual aid arrangements with other public and private agencies within this state
 18 for reciprocal aid and assistance in coping with incidents, emergencies, and disasters.

19 (2) In reviewing disaster and emergency plans and programs of political subdivisions, the division
 20 shall consider whether they contain adequate provisions for the reciprocal mutual aid.

21 (3) Local and interjurisdictional disaster and emergency agencies may assist in negotiation of
 22 reciprocal mutual aid agreements between the governor and the adjoining states (including foreign states
 23 or provinces) or political subdivisions ~~thereof~~ of adjoining states and shall carry out arrangements of any
 24 ~~such~~ of the agreements relating to the local and political subdivision.

25 (4) In providing assistance under parts 1 through 4 of this chapter, state departments and agencies
 26 shall cooperate to the fullest extent possible with each other and with local governments and relief agencies
 27 such as the American national red cross, ~~but nothing contained in parts~~ Parts 1 through 4 of this chapter
 28 ~~here do not list~~ or in any way ~~affects~~ affect the responsibilities of the American national red cross under
 29 the act approved January 5, 1905 (33 Stat. 559), as amended."

30

1 **NEW SECTION. Section 8. Political subdivision requests for assistance -- application to fire**
 2 **districts, fire service areas, and fire companies in unincorporated places —~~indemnification required~~ --**
 3 **immunity.** (1) If an incident, emergency, or disaster occurs in a political subdivision that has not concluded
 4 a mutual aid agreement pursuant to 10-3-202, the local or interjurisdictional agency, incident commander,
 5 or principal executive officer of the political subdivision may request assistance from another public or
 6 private agency.

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

10 (i) the trustees of a rural fire district created pursuant to Title 7, chapter 33, part 21, a
 11 representative of the trustees, or an incident commander for the district;

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

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

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

18 (i) a fire district;

19 (ii) an unincorporated municipality;

20 (iii) an incorporated municipality;

21 (iv) a state agency;

22 (v) a private fire prevention agency;

23 (vi) an agency of the federal government; ~~or~~

24 (vii) a fire service area; OR

25 **(VIII) THE GOVERNING BODY OF A POLITICAL SUBDIVISION.**

26 (3) A public or private agency receiving a request pursuant to subsection (1) or (2) shall determine
 27 if it will provide the requested assistance, or will provide other assistance, and shall inform the requesting
 28 local or interjurisdictional agency, principal executive officer, incident commander, or other individual or
 29 entity making the request, as soon as possible, of that determination. The nature and extent of assistance
 30 provided by a public or private agency may be determined only by that public or private agency.

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

5 ~~(5) The trustees of a fire district, the governing body of a fire service area, or the county~~
 6 ~~commissioners for the county in which an unincorporated town or village is located that is not part of a fire~~
 7 ~~district or fire service area receiving assistance pursuant to this section shall indemnify the public or private~~
 8 ~~agency providing assistance for loss or damage caused by that assistance.~~

9 ~~(6)~~(5) This section does not waive an immunity or limitation on liability applicable to any of the
 10 following entities or individuals requesting or receiving assistance pursuant to this section:

11 (a) a fire district;

12 (b) a fire service area;

13 (c) a fire company;

14 (d) an unincorporated municipality, town, or village; or

15 (E) A POLITICAL SUBDIVISION; OR

16 ~~(e)~~(F) an agent, employee, representative, or volunteer of an entity listed in this subsection.

17
 18 NEW SECTION. SECTION 9. TWO-THIRDS VOTE REQUIRED. BECAUSE [SECTION 3] LIMITS
 19 GOVERNMENTAL LIABILITY, ARTICLE II, SECTION 18, OF THE MONTANA CONSTITUTION REQUIRES A
 20 VOTE OF TWO-THIRDS OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE FOR PASSAGE.

21
 22 NEW SECTION. Section 10. Codification instruction. [Section ~~5~~ 8] is intended to be codified as
 23 an integral part of Title 10, chapter 3, part 2, and the provisions of Title 10, chapter 3, part 2, apply to
 24 [section ~~5~~ 8].

25 -END-