

By: Senator(s) Kirby

To: Insurance

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2394

1 AN ACT TO AMEND SECTION 83-1-39, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT INSURANCE REBATE MONIES NOT EXPENDED FOR FIRE  
3 PROTECTION PURPOSES SHALL BE PLACED IN A SPECIAL FUND WITH A  
4 WRITTEN PLAN APPROVED BY THE COMMISSIONER OF INSURANCE FOR  
5 DISPOSITION AND EXPENDITURE; TO REQUIRE THE COMMISSIONER OF  
6 INSURANCE TO REQUEST AN INVESTIGATION BY THE STATE AUDITOR OF  
7 COUNTIES THAT USE INSURANCE REBATE MONIES IN A MANNER NOT  
8 CONSISTENT WITH STATE LAW; AND FOR RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1.** Section 83-1-39, Mississippi Code of 1972, is  
11 amended as follows:

12 83-1-39. (1) The State Tax Commission shall pay over to the  
13 State Treasurer, to be credited to a fund entitled "County  
14 Volunteer Fire Department Fund," the sum of Four Million Six  
15 Hundred Thousand Dollars (\$4,600,000.00) annually out of the  
16 insurance premium tax in addition to the amount collected by it  
17 under the provisions of Section 27-15-103 et seq. Such funds,  
18 hereinafter referred to as insurance rebate monies, are hereby  
19 earmarked for payment to the various counties of the state and  
20 shall be paid over to the counties by the Department of Insurance  
21 on the basis of the population of each county as it compares to  
22 the population of participating counties, not counting residents  
23 of any municipality. Such insurance rebate monies shall only be  
24 distributed to those counties which are in compliance with  
25 subsections (5) and (6) of this section.

26 (2) Using 2000 as a base year, the State Tax Commission  
27 shall pay to the State Treasurer, to be credited to the "County  
28 Volunteer Fire Department Fund," an amount representing one-half  
29 of ten percent (1/2 of 10%) of any growth after 2000 of the  
30 insurance premium tax collected annually from the taxes levied on

31 the gross premium on fire insurance policies written on properties  
32 in this state, in addition to the amount collected by it under  
33 Section 27-15-103 et seq.

34 (3) Insurance rebate monies shall be expended by the board  
35 of supervisors for fire protection purposes of each county as  
36 follows:

37 (a) For training expenses;

38 (b) Purchase of equipment, purchase of fire trucks,  
39 repair and refurbishing of fire trucks and fire fighting  
40 equipment, and capital construction anywhere in the county or  
41 pledging as security for a period of not more than ten (10) years  
42 for such purchases;

43 (c) Purchase of insurance on county-owned fire fighting  
44 equipment;

45 (d) Fire protection service contracts (including, but  
46 not limited to, municipalities, legal fire protection districts,  
47 and nonprofit corporations providing or coordinating fire service  
48 in or out of the county); or

49 (e) Appropriations to legal fire protection districts  
50 located in counties subject to all restrictions applicable to the  
51 use of insurance rebate monies.

52 Any county-owned equipment or other property, at the option of the  
53 board of supervisors, may be used by any legally created fire  
54 department.

55 (4) Insurance rebate monies not expended in a given fiscal  
56 year for fire protection purposes shall be placed in a special  
57 fund with a written plan approved by the Commissioner of Insurance  
58 for disposition and expenditure of such monies. After the  
59 contracts for fire protection services have been approved and  
60 accepted by the board of supervisors, the monies shall be released  
61 to be expended in such manner as provided by this section.

62 (5) No county shall receive payments pursuant to this  
63 section after July 1, 1988, unless such county:

64 (a) Designates a county fire service coordinator who is  
65 responsible for seeing that standard guidelines established by the  
66 Commissioner of Insurance pursuant to Section 45-11-7(9),  
67 Mississippi Code of 1972, are followed. The county fire  
68 coordinator must demonstrate that he possesses fire-related  
69 knowledge and experience;

70 (b) Designates one (1) member of the sheriff's  
71 department to be the county arson investigator and requires the  
72 designated member of the sheriff's department to attend any  
73 mandatory arson investigation training offered by the State Fire  
74 Marshal's office;

75 (c) Adheres to the standard guidelines established by  
76 the Commissioner of Insurance pursuant to Section 45-11-7(9); and

77 (d) Counties shall levy a tax of not less than  
78 one-fourth (1/4) mill on all property of the county or appropriate  
79 avails of not less than one-fourth (1/4) mill from the county's  
80 general fund for fire protection purposes. Municipalities making  
81 a written declaration to the county that they fund and provide  
82 their own fire services shall be exempted from this levy. This  
83 levy shall be used for fire protection purposes which include, but  
84 are not limited to, contracting with any provider of fire  
85 protection services.

86 (6) (a) No funds shall be paid by the county to any  
87 provider of fire protection services except in accordance with a  
88 written contract entered into in accordance with guidelines  
89 established by the Commissioner of Insurance and properly approved  
90 by the board of supervisors and Commissioner of Insurance. No  
91 county shall distribute funds to any fire service provider which  
92 has not met the reporting requirements required by the  
93 Commissioner of Insurance. At such time that a fire protection  
94 services provider, particularly a county volunteer fire  
95 department, a municipality or a fire protection district, has  
96 fulfilled the obligations of the written contract and has met the

97 reporting requirements provided for in this subsection and the  
98 board of supervisors has received the insurance rebate monies, the  
99 board of supervisors shall disburse the appropriate amount to the  
100 fire protection services provider within a reasonable time, not to  
101 exceed six (6) weeks, from the time such requirements are met.  
102 Insurance rebate monies used for the purposes of contracting shall  
103 be expended by the fire service provider for capital construction,  
104 training expenses, purchase of fire fighting equipment, including  
105 payments on any loans made for the purpose of purchasing fire  
106 fighting equipment, and purchase of insurance for any fire  
107 equipment owned or operated by the provider.

108 (b) If the Commissioner of Insurance believes that a  
109 county is using the funds in a manner not consistent with  
110 subsections (5) and (6) of this section, the commissioner shall  
111 request the State Auditor to conduct an investigation pursuant to  
112 Section 7-7-211(e).

113 (7) The board of supervisors of any county may contribute  
114 funds directly to any provider of fire protection services serving  
115 such county. Such contributions must be used for fire protection  
116 purposes as may be reasonably established by the Commissioner of  
117 Insurance.

118 (8) Any municipal, county or local water association or  
119 other utility district supplying water may, upon adoption of a  
120 resolution authorizing such action, contribute free of charge to a  
121 volunteer fire department or fire protection district serving such  
122 local government, political subdivision or utility district such  
123 water as is necessary for fire fighting or training activities of  
124 such volunteer fire department or fire protection district.

125 (9) The board of supervisors of any county may, in its  
126 discretion, grade, gravel, shell and/or maintain real property of  
127 a county volunteer fire department, including roads or driveways  
128 thereof, as necessary for the effective and safe operation of such  
129 county volunteer fire department. Any action taken by the board

130 of supervisors under the authority of this subsection shall be  
131 spread upon the minutes of the board of supervisors when the work  
132 is authorized.

133 (10) For the purpose of this section, "fire protection  
134 district" means a district organized under Section 19-5-151 et  
135 seq., or pursuant to any other code section or by any local and  
136 private act authorizing the establishment of a fire protection  
137 district, unless the context clearly requires otherwise.

138 **SECTION 2.** This act shall take effect and be in force from  
139 and after July 1, 2004.