

By: Senator(s) Kirby

To: Insurance

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 1990 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 1990 of the
30 insurance premium tax collected annually from the taxes levied on

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

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

(a) For training expenses;

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

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

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

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

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

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

(5) No county shall receive payments pursuant to this 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

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

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

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

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

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