

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2394
(As Sent to Governor)

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

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.