

## ASSISTANCE FOR VOLUNTEER FIREFIGHTERS: WORKERS' COMPENSATION AND PENSIONS

### LEGISLATOR NOTICE

The Legislative Services Division is required to offer a brief history on the subject matter of a bill draft request prior to drafting (5-4-105, MCA; [Chapter 309, Laws of 2017](#)). The history must include related legislation introduced over the last five sessions and hyperlinks to the bill, hearing information, and fiscal notes. The legislation links below open to the page showing the status and history of bills introduced on this topic in the past. The bill text and any related fiscal notes can be accessed through the link at the top of that page.

**Legislation can be complex and this history is not intended to be exhaustive. Please contact the drafter of the requested bill for more information.**

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### Background Materials and Research

**Topic Summary:** Neighbor helping neighbor may be an age-old tradition, but there is dissonance when that assistance comes at a physically disabling price (or death) to the volunteer. Many Montana communities rely on volunteer firefighters. Workers' compensation coverage of volunteer firefighters is required for volunteer firefighters working alongside a paid firefighter in a second-class city, as provided in 7-33-4109, MCA, and 39-71-118, MCA. But for other volunteer firefighters, workers' compensation is a choice. Some firefighting agencies may provide workers' compensation; others don't. When firefighters are called up on a mutual aid call, some may have workers' compensation, and others won't.

Three legislatively based options are available to provide assistance to volunteer firefighters injured in the line of duty. If adopted by the firefighting agency's trustees or local government, coverage is available:

- under the Volunteer Firefighters' Compensation Act" (Title 19, chapter 17);
- through a "disability and pension fund" set up by a Fire Relief Association (Title 19, chapter 18); or
- under the Workers' Compensation Act (Title 39, chapter 71).

Complicating the issue is a requirement for workers' compensation coverage for operators of firefighting apparatus contracted to counties under the State-County Cooperative Fire Protection Program. Under an agreement, the local firefighters in the program attest to having workers' compensation coverage.

For workers' compensation, the main concern is the cost of premiums. For the other options under Title 19, the concern is a lack of adequate medical and wage-loss replacement. The 2019 Legislature approved a bill giving firefighters a presumption that certain cancers and diseases experienced in relation to their firefighting career are caused by their work as firefighters, which relieves the firefighter from having to prove to the insurer a disease caused by one specific fire. As a result of SB160,

some firefighter premiums escalated, and some volunteer firefighters reportedly decided to go without workers' compensation coverage because of increased costs. Montana State Fund, which insures both municipal and volunteer firefighters, created a tiered system of rates. Professional firefighters did not, in the first year of presumptive disease coverage, pay extra for that additional benefit, but volunteer firefighters faced immediate increases, based on actuarial calculations. Volunteer firefighters that did not opt in to the presumptive disease coverage received a 20% discount in Montana State Fund rates. The Montana Municipal Interlocal Authority, which funds other municipal and county firefighters, also set higher rates. Coordination with SB171, which prohibits use of tobacco products by firefighters, was reportedly intended to improve firefighter fitness.

**Legislative Services Division Materials:** Can include reports, legal opinions, white papers.

The 2019-2020 Economic Affairs Interim Committee included presumptive disease among its member issues. Materials included a summary report, Montana State Fund 2020 rates, an actuarial review and updates, plus comments from firefighters, and links to testimony on the presumptive disease bill, SB 160, from the Montana Municipal Interlocal Authority in 2019. See the Presumptive Disease section under the EAIC Committee Topics website:

<https://leg.mt.gov/committees/interim/2019eaic/member-issues/>.

The 2017-2018 Local Government Interim Committee studied a range of firefighting issues. The [SJR 21 Final Report](#) addressed volunteer fire and emergency services in Montana.

The 2015-2016 Education and Local Government Interim Committee had a separate [SJR 21](#) study of local fire and emergency services. Materials provided as part of that study included:

- A [bill draft](#) for discussion in January 2016 (and later) regarding volunteer firefighter workers' compensation.
- A [staff summary](#) on workers' compensation issues for firefighters, along with other SJR 21 study issues.

The [final report](#) for the 2011-2012 Economic Affairs Interim Committee included information on firefighting issues, primarily related to coverage of volunteer firefighters under House Joint Resolution No. 38. Although not part of the study, some attention was paid to presumptive diseases for firefighters. Also presented in 2012 was a [staff memo](#) on rural volunteer firefighter concerns related to workers' compensation. Starting in March 2012, a subcommittee met on volunteer firefighting concerns related to workers' compensation. This [website](#) includes a [staff overview](#) on volunteer firefighters and work comp.

The 2009-2010 Economic Affairs Interim Committee heard about concerns related to volunteer firefighters who slept at the firehouse (which by some measures counted as payment via housing.) A [staff memo](#) addressed this topic.

## Other Materials:

Presentations in 2016 at the Economic Affairs Interim Committee reviewed the [history](#) of what are called “mental-mental claims” in workers' compensation and [definitions](#) of post-traumatic stress disorder (PTSD) from a diagnostic code manual.

Presentations at the 2015-2016 Education and Local Government Interim Committee included:

- A link to the Northern Rockies Coordination Center [website](#);
- [2012 information](#) from Montana State Fund on rural volunteer firefighter workers' compensation;
- A [sample](#) of the Cooperative Fire Control Agreement a county may sign with the Department of Natural Resources;
- A 2011 DNRC [legal memo](#) regarding volunteer firefighters;
- A [report](#) on Montana's emergency medical services system from the Department of Public Health and Human Services;

- A [suggestion](#) from a member of the public on how to pay for volunteer firefighter workers' compensation.

## Introduced Legislation

\*Chapter number assigned means bill was passed and approved.

### 2019

**HB 28** – (Died in Process) - "AN ACT PROVIDING FOR A TAX ON FIREWORKS TO PROVIDE FUNDING FOR EMERGENCY SERVICES; PROVIDING THAT THE TAX IS COLLECTED BY FIREWORKS WHOLESALERS; PROVIDING FOR DISTRIBUTION OF THE TAX REVENUE; PROVIDING FOR A PORTION OF THE REVENUE TO BE USED FOR WORKERS' COMPENSATION COVERAGE FOR VOLUNTEER FIREFIGHTERS; CREATING AN EMERGENCY MEDICAL AND TRAUMA SERVICES GRANT PROGRAM; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN EFFECTIVE DATE AND A TERMINATION DATE."

**SB 29** – (Died in Standing Committee) – "AN ACT REQUIRING WORKERS' COMPENSATION COVERAGE FOR ALL VOLUNTEER FIREFIGHTERS; CLARIFYING THAT THE DISABILITY AND PENSION FUND'S USES INCLUDE PAYING WORKERS' COMPENSATION PREMIUMS PLUS ADMINISTRATIVE EXPENSES; DELAYING IMPLEMENTATION; SUPERSEDING THE UNFUNDED MANDATE LAWS; AND AMENDING SECTIONS 7-33-4510, 19-18-203, 19-18-601, AND 39-71-118, MCA."

**SB 160** – (Chapter Number Assigned) – "AN ACT ESTABLISHING THE FIREFIGHTER PROTECTION ACT BY CREATING PRESUMPTIVE COVERAGE UNDER WORKERS' COMPENSATION FOR CERTAIN DISEASES ASSOCIATED WITH FIREFIGHTING ACTIVITIES; PROVIDING CONDITIONS; PROVIDING A REBUTTAL OPTION FOR INSURERS; PROVIDING OPT-IN CHOICE FOR VOLUNTEER FIREFIGHTING ENTITIES; INCLUDING PRESUMPTIVE OCCUPATIONAL DISEASE WITHIN THE STATE'S PUBLIC POLICY PROVISIONS FOR WORKERS' COMPENSATION; PROVIDING DEFINITIONS; AMENDING SECTIONS 39-71-105, 39-71-124, AND 39-71-407, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

**SB 171** – (Chapter Number Assigned) – "AN ACT GENERALLY REVISING LAWS RELATED TO FIREFIGHTERS AND TOBACCO; REQUIRING THAT PAID FIREFIGHTERS HIRED ON OR AFTER JULY 1, 2019, BE TOBACCO-FREE; PROVIDING TOBACCO CESSATION COURSES TO PAID FIREFIGHTERS WHO CURRENTLY USE TOBACCO PRODUCTS; PROHIBITING CERTAIN FIREFIGHTERS FROM DISPLAYING TOBACCO PRODUCTS OR USING TOBACCO PRODUCTS WHILE ON DUTY; PROHIBITING PROVISIONS ALLOWING TOBACCO USE IN COLLECTIVE BARGAINING AGREEMENTS; AMENDING SECTION 7-33-4107, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

### 2017

**SJ 21** – (Filed with the Secretary of State) – "A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF EMERGENCY MEDICAL SERVICE AND VOLUNTEER FIRE PROTECTION SERVICE SYSTEMS; REQUESTING THAT THE STUDY EXAMINE COVERAGE AREAS, PERSONNEL SHORTAGES, TRAINING REQUIREMENTS, EQUIPMENT NEEDS, AND COMPENSATION; AND REQUESTING THAT STRATEGIES FOR ENHANCING THE VIABILITY AND SUSTAINABILITY OF THE SERVICES BE INCLUDED IN A STUDY REPORT."

2015

[HB 555](#) – (Chapter Number Assigned) – “AN ACT INCREASING THE ALLOWANCE THAT MAY BE PAID TO VOLUNTEER FIREFIGHTERS; AND AMENDING SECTION 19-17-110, MCA.”

2013

[HB 461](#) – (Chapter Number Assigned) – “AN ACT INCREASING THE PENSION BENEFIT AMOUNT THAT THE BOARD OF TRUSTEES OF A FIRE DEPARTMENT RELIEF ASSOCIATION MAY SET FOR MEMBERS OF THE ASSOCIATION WHO ARE VOLUNTEERS; AMENDING SECTION 19-18-602, MCA; AND PROVIDING AN EFFECTIVE DATE.”

[HB 476](#) – (Died in Standing Committee) – "AN ACT PROVIDING A COST-OF-LIVING ADJUSTMENT TO BENEFITS PROVIDED IN THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; AND PROVIDING AN EFFECTIVE DATE."

[SB 54](#) – (Died in Process) - "AN ACT REQUIRING WORKERS' COMPENSATION COVERAGE FOR VOLUNTEER FIREFIGHTERS; ~~REQUIRING EACH COUNTY GOVERNING BODY TO ESTABLISH A FUND FOR PAYING VOLUNTEER FIREFIGHTERS' WORKERS' COMPENSATION PREMIUMS; ALLOWING COUNTY GOVERNING BODIES TO IMPOSE A PERMISSIVE LEVY FOR PAYMENT OF PREMIUMS FOR VOLUNTEER FIREFIGHTERS; EXCLUDING CERTAIN CITIES FROM THE PROPERTY TAX PERMISSIVE LEVY FOR VOLUNTEER FIREFIGHTERS' WORKERS' COMPENSATION;~~ REVISING PREMIUM AND BENEFIT PROVISIONS FOR VOLUNTEER FIREFIGHTERS AND CERTAIN VOLUNTEER EMERGENCY MEDICAL TECHNICIANS; SUPERSEDING THE UNFUNDED MANDATE LAWS; AMENDING SECTIONS 7-6-621, ~~7-33-2109, 7-33-2209, 7-33-2403, 7-33-4111, 15-10-420,~~ 39-71-118, 39-71-123, AND 39-71-401, MCA; AND PROVIDING AN EFFECTIVE DATE."

[SB 386](#) – (Chapter Number Assigned) – "AN ACT REVISING LAWS GOVERNING BENEFITS FOR VOLUNTEER FIREFIGHTERS; ALLOWING CERTAIN LOCAL GOVERNMENTAL FIRE AGENCIES TO PROVIDE WORKERS' COMPENSATION COVERAGE FOR VOLUNTEER FIREFIGHTERS; REVISING PREMIUM AND BENEFIT PROVISIONS FOR VOLUNTEER FIREFIGHTERS AND CERTAIN VOLUNTEER EMERGENCY MEDICAL TECHNICIANS; AMENDING SECTIONS 7-6-621, 39-71-118, 39-71-123, AND 39-71-401, MCA; AND PROVIDING AN EFFECTIVE DATE.”

2011

[HB 119](#) – (Chapter Number Assigned) – "AN ACT GENERALLY REVISING THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; CLARIFYING CERTAIN DEFINITIONS; CLARIFYING ELIGIBILITY REQUIREMENTS FOR FIRE COMPANIES AND FIREFIGHTERS; CLARIFYING AND ADDING REQUIREMENTS FOR DOCUMENTATION; REQUIRING THAT CERTAIN DISPUTES BE RESOLVED BEFORE PAYMENT OF A BENEFIT; CLARIFYING DEATH AND DISABILITY BENEFIT PROVISIONS; CLARIFYING FILING REQUIREMENTS FOR FIRE COMPANIES; EXTENDING EXISTING RULEMAKING AUTHORITY; AMENDING SECTIONS 7-33-2110, 7-33-2311, 7-33-2316, 19-2-408, 19-17-102, 19-17-106, 19-17-108, 19-17-201, 19-17-203, 19-17-204, 19-17-401, 19-17-403, 19-17-404, 19-17-411, 19-17-501, 19-17-502, 19-17-503, AND 19-17-506, MCA; REPEALING SECTIONS 19-17-104, 19-17-402, 19-17-504, AND 19-17-505, MCA; AND PROVIDING AN EFFECTIVE DATE.

**HB 346** – (Died in Standing Committee) - "AN ACT ALLOWING THE BOARD OF TRUSTEES OF A FIRE DEPARTMENT RELIEF ASSOCIATION TO EXCEED THE EXISTING CAP ON A MONTHLY PENSION FOR A VOLUNTEER FIREFIGHTER IF THE ASSOCIATION'S FUND IS SOUNDLY FUNDED OR ACTUARIALLY SOUND; AND AMENDING SECTION 19-18-602, MCA."

**HB 505** – (Died in Standing Committee) - "AN ACT ESTABLISHING A PRESUMPTIVE DISEASE FOR WORKERS' COMPENSATION CLAIMS FOR CERTAIN DISEASES EXPERIENCED BY FIREFIGHTERS; PROVIDING CONDITIONS AND A REBUTTABLE PRESUMPTION; AMENDING SECTIONS 39-71-116 AND 39-71-119, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

**HB 552** – (Chapter Number Assigned) – “AN ACT REVISING WORKERS' COMPENSATION LAWS RELATED TO CERTAIN PUBLIC SAFETY VOLUNTEERS; ALLOWING LEVIES USED TO FUND PUBLIC SAFETY VOLUNTEERS' DISABILITY INCOME INSURANCE TO BE USED ALTERNATIVELY FOR WORKERS' COMPENSATION COVERAGE; PROVIDING COVERAGE FOR VOLUNTEER EMERGENCY MEDICAL SERVICE PROVIDERS UNDER CERTAIN CONDITIONS; AMENDING SECTIONS 7-6-621, 7-33-2109, 7-33-2209, 7-33-2403, 7-33-4109, 7-33-4111, 7-34-102, 39-71-118, AND 39-71-123, MCA; AND PROVIDING AN EFFECTIVE DATE.”

**HJ 38** – (Filed with Secretary of State) – “A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES REQUESTING AN INTERIM STUDY OF LOCAL FIRE PROTECTION AND EMERGENCY SERVICE ENTITIES AND FIREFIGHTER AND EMERGENCY MEDICAL TECHNICIAN BENEFITS.”

**SB 223** – (Chapter Number Assigned) – “AN ACT REVISING THE PENSION BENEFIT PROVIDED BY THE VOLUNTEER FIREFIGHTERS' COMPENSATION ACT; AMENDING SECTION 19-17-404, MCA; AND PROVIDING AN EFFECTIVE DATE.”

## 2009

**HB 259** – (Died in Standing Committee) - "AN ACT AUTHORIZING A \$100 INCOME TAX CREDIT FOR QUALIFIED VOLUNTEER FIREFIGHTERS AND EMERGENCY MEDICAL TECHNICIANS; PROVIDING QUALIFICATIONS TO CLAIM THE CREDIT; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

**SB 99** – (Died in Standing Committee) - "AN ACT REQUIRING STATE AGENCIES TO GRANT PAID LEAVE TO VOLUNTEER FIREFIGHTERS FOR INCIDENT RESPONSE IF CERTAIN REQUIREMENTS ARE MET; AMENDING SECTION 2-18-627, MCA; AND PROVIDING AN EFFECTIVE DATE."

**SB 105** – (Died in Standing Committee) - "AN ACT DEFINING "VOLUNTEER FIREFIGHTER"; PROVIDING TAX INCENTIVES TO VOLUNTEER FIREFIGHTERS AND THEIR EMPLOYERS; REQUIRING GOVERNMENTAL VOLUNTEER FIRE AGENCIES TO MAINTAIN A VOLUNTEER FIREFIGHTER DATABASE; AMENDING SECTIONS 7-33-2001, 7-33-4104, AND 7-33-4110, MCA; AND PROVIDING EFFECTIVE DATES AND AN APPLICABILITY DATE."

**SB 106** – (Died in Standing Committee) - "AN ACT DEFINING "VOLUNTEER FIREFIGHTER"; CREATING A SPECIAL LICENSE PLATE FOR VOLUNTEER FIREFIGHTERS; PROVIDING A TAX CREDIT FOR THE

PURCHASE OF VOLUNTEER FIREFIGHTER LICENSE PLATES; AND PROVIDING AN APPLICABILITY DATE."

**SB 110** -- (Died in Standing Committee) - "AN ACT ALLOWING VOLUNTEER FIREFIGHTERS TO PARTICIPATE IN GROUP HEALTH INSURANCE PLANS ENTERED INTO BY COUNTIES OR THIRD-CLASS CITIES AND TOWNS; ALLOWING THE COUNTY, CITY, OR TOWN TO REQUIRE THE VOLUNTEER FIREFIGHTER TO PAY THE FULL COST OF PARTICIPATION; AND AMENDING SECTION 2-18-702, MCA."

**SB 352** – (Died in Standing Committee) - "AN ACT AUTHORIZING A CITY OR TOWN TO IMPOSE A LEVY TO KEEP A FIREFIGHTERS' RETIREMENT FUND SOUNDLY FUNDED WITHOUT A VOTE; AMENDING SECTIONS 15-10-420, 15-10-425, AND 19-18-504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

NOTE: The bills included here do not address paid firefighters or the Firefighters' Unified Retirement System.

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