

June 27, 2018

Local Government Interim Committee
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HJ 25: STUDY OF MUNICIPAL FIRE DEPARTMENTS

INTRODUCTION

The information provided below attempts to briefly summarize information about the various fire jurisdictions in Montana. It is based on a [report](#) prepared in 2011 by Harold Blattie of the Montana Association of Counties that discusses the types of fire protection provided for in the Montana Code Annotated.

The document's intended audience was a 2011-2012 subcommittee of the Economic Affairs Interim Committee assigned to identify means to provide workers' compensation for volunteer firefighters. The document provides statutory references for the various types of fire protection and discusses how the statutes have evolved over time. The types of fire protection covered in the report are rural fire districts, fire service areas, fire companies, and municipal fire departments, all of which are governed by the provisions of Title 7, chapter 33, of the Montana Code Annotated.

Using the MACO information, staff attempted to prepare a brief overview of how various fire jurisdictions could be impacted by LCMFD3 and LCMFD4. At the July 11-12 LGIC meeting, committee members likely will learn more from stakeholders about potential impacts and necessary changes to the proposals to accommodate the policy changes. The committee will have the opportunity to discuss the drafts, hear from the public, make changes to the two proposals, and ultimately determine if the drafts should be brought before the 2019 Montana Legislature for consideration.

LCMFD3

Allows a city of the second class to annex to a rural fire district for fire protection services, and allows a city of the second class that has annexed to a rural fire district to remain part of the rural fire district if it grows in population requiring it to otherwise be considered a city of the first class.

LCMFD4

Municipal (regardless of class) fire departments, rural fire districts, rural fire protection (volunteer and paid departments), fire companies, and fire service areas would be able to merge with any other adjacent fire jurisdiction to establish a regional fire authority. The power of the existing jurisdictions cease to exist once the authority is formed and the power of the authority is based on the plan approved by the voters within the boundaries of the authority.

June 27, 2018

HJ 25: Study of Municipal Fire Departments
Local Government Interim Committee

MUNICIPALITIES

Current: In every city and town in Montana there must be a fire department, which must be organized, managed, and controlled as provided in law except that a third-class city or town may contract for fire protection services or consolidate its fire department with another fire protection provider created under this part. 7-33-4101, MCA.

Who: Municipalities. Municipalities are also authorized to enter into agreements with other recognized fire protection agencies, so a municipality can provide fire protection in areas outside the incorporated municipal boundaries.

With LCMFD3 and LCMFD4:

First Class Cities

- Municipal Fire Department
- Regional Fire Authority
- Remain part of a fire district (if merged as a second-class city and population increased)

Second Class Cities

- Municipal Fire Department
- Regional Fire Authority
- Merge with a Fire District (Note that a fire district can merge with another fire district and/or a fire service area)
- Interlocal Agreement
- Contract

Third-Class Cities or Towns

- Regional Fire Authority
- Merge with a Fire District (Note that a fire district can merge with another fire district and/or a fire service area)
- Contract
- Consolidation with another fire jurisdiction

COUNTIES

Current: In Montana, the county provides the basic level of fire protection through a system of volunteers and county personnel from Rural Fire Districts, Fire Service Areas, and Volunteer Fire Companies that are organized under a County Rural Fire Department. Fire districts can merge with one another or with fire service areas.

Rural Fire Districts – 7-33-2101, MCA

How: The board of county commissioners is authorized to establish fire districts in any unincorporated territory incorporated third-class city (if approved by city), or town upon presentation of a petition in writing signed by the owners of 40% or more of the real property in the proposed district and owners of property representing 40% or more of the taxable value of property in the proposed district. Under **LCMFD3**, this is extended to second-class cities (if approved by the city). Under **LCMFD4**, fire districts could merge with any other adjacent fire jurisdiction to create a regional authority.

June 27, 2018

HJ 25: Study of Municipal Fire Departments
Local Government Interim Committee

Who: Board of County Commissioners

What: Structural Fire Protection in rural areas.

Governing Body: Five trustees, elected/appointed.

Rural Fire Protection – 7-33-2201, MCA

How: A Board of County Commissioners is granted discretionary authority to provide fire protection, limited to wildland fire protection. For the purpose of protection and conservation of range, farm, and forest resources and of the prevention of soil erosion, the county governing body may perform the functions provided in this part. Under **LCMFD4**, county rural fire departments could merge with any other adjacent fire jurisdiction to create a regional authority.

Who: Board of County Commissioners

What: Rural areas, range, farm, forest

Governing Body: Board of County Commissioners

Volunteer Fire Companies – 7-33-2311, MCA

How: Fire companies in unincorporated towns and villages are organized by filing with the county clerk of the county in which they are located a certificate in writing, signed by the presiding officer and secretary, providing the date of organization, name, officers, and roll of active and honorary members or a copy of the certificate provided for in 19-17-402, MCA. The certificate and filing must be renewed annually on or before September 1. Under **LCMFD4**, volunteer fire companies could merge with any other adjacent fire jurisdiction to create a regional authority.

Who: These are created by a group of individuals, a fire district, or a county.

What: Structural Fire Protection in Rural Areas

Fire Service Areas – 7-33-2401, MCA

How: Upon receipt of a petition signed by at least 30 owners of real property in the proposed service area, or by a majority of the owners of real property if there are no more than 30 owners of real property in the proposed service area, the board of county commissioners may establish a fire service area within an unincorporated area not part of a rural fire district in the county to provide the services and equipment. The law also allows a municipal department or a nearby fire district to provide fire protection to property owners who pay an assessment. Under **LCMFD4**, fire service areas could merge with any other adjacent fire jurisdiction to create a regional authority.

Who: Property owners petition county commission.

What: Structural Fire Protection and wildland fire protection.

June 27, 2018

HJ 25: Study of Municipal Fire Departments
Local Government Interim Committee

WILDLAND FIRE PROTECTION DISTRICTS

A Wildland Fire Protection District is formed by a vote of the landowners (see 76- 13-204 MCA). To form a Wildland Fire Protection District, boundaries must be set, notice to landowners given, meetings held, petitions circulated, and a vote taken. The district, once formed, will be assigned by the Department of Natural Resources and Conservation to a recognized protection agency for protection.

As drafted, **LCMFD4** does not allow for a fire jurisdiction to merge with a wildland fire protection district.

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