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Chapter No. 460

11/HR40/R1264SG

EW / JF

***HOUSE BILL NO. 1199***

Originated in House Don Richardson Clerk

HOUSE BILL NO. 1199

AN ACT TO CREATE THE MISSISSIPPI WINDSTORM MITIGATION COORDINATING COUNCIL; TO PROVIDE THE MEMBERSHIP OF THE COUNCIL; TO PROVIDE FOR THE OPERATION OF THE COUNCIL; TO PROVIDE THAT THE MISSISSIPPI BUILDING CODES COUNCIL SHALL SERVE AS AN ADVISORY COUNCIL TO THE MISSISSIPPI WINDSTORM MITIGATION COORDINATING COUNCIL; TO CREATE THE "MISSISSIPPI WINDSTORM MITIGATION FUND" TO RECEIVE MONIES TO BE USED FOR THE PURPOSES OF ASSISTING THE MISSISSIPPI WINDSTORM MITIGATION COORDINATING COUNCIL IN DEVELOPING AND IMPLEMENTING A COMPREHENSIVE AND COORDINATED APPROACH FOR WINDSTORM MITIGATION; TO AMEND SECTION 83-34-5, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI WINDSTORM UNDERWRITING ASSOCIATION TO ENTER INTO CONTRACTUAL AGREEMENTS WITH THIRD PARTIES FOR THE PURPOSES OF DEVELOPING AND IMPLEMENTING WINDSTORM MITIGATION PROGRAMS; TO AMEND SECTION 83-1-37, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE USE OF CERTAIN MONIES FROM THE MUNICIPAL FIRE PROTECTION FUND TO BE USED FOR WINDSTORM MITIGATION; TO AMEND SECTION 83-1-39, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE USE OF CERTAIN COUNTY INSURANCE REBATE MONIES TO BE USED FOR WINDSTORM MITIGATION; AND FOR RELATED PURPOSES.

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

**SECTION 1.** (1) There is created the Mississippi Windstorm Mitigation Coordinating Council for the purpose of developing and implementing a comprehensive and coordinated approach for windstorm mitigation. The council shall consist of the following:

(a) The Commissioner of Insurance, or his designee, to serve ex officio;

(b) The Chairman of the Board of Directors of the Mississippi Insurance Windstorm Underwriting Association, or his designee, to serve ex officio;

(c) Two (2) members who are property and casualty insurance providers appointed by the Governor, to serve at his will and pleasure;

(d) Two (2) members who are insurance producers from the Coast Area, as defined under Section 83-34-1, appointed by the Commissioner of Insurance, to serve at his will and pleasure;

(e) One (1) member from the Home Builders Association of Mississippi or the State Board of Contractors appointed by the Commissioner of Insurance, to serve at his will and pleasure;

(f) One (1) nonvoting member from the Institute for Business and Home Safety appointed by the Governor, to serve at his will and pleasure;

(g) One (1) member who is a representative of the state institutions of higher learning appointed by the Commissioner of Higher Education to serve at his will and pleasure, nonvoting;

(h) The Director of the Mississippi State Rating Bureau, or his designee, to serve ex officio, nonvoting; and

(i) The Chief Deputy State Fire Marshal, or his designee, to serve ex officio, nonvoting.

(2) The Commissioner of Insurance shall convene the first meeting of the council within ninety (90) days of the effective date of this act and shall act as temporary chairman until the council elects from its members a chairman and vice chairman. The council shall adopt regulations consistent with this act, subject to the approval of the Commissioner of Insurance. The council may also consider the mitigation measures and initiatives referenced under Section 83-1-191 in developing and implementing a windstorm mitigation program. A meeting may be called by the chairman on his own initiative and must be called by him at the request of three (3) or more members of the council. Each member must be notified by the chairman in writing of the time and place of the meeting at least seven (7) days before the meeting. Four (4) voting members constitute a quorum. Each meeting is open to the public. An official decision of the council may be made only by a vote of a majority of those voting members in attendance at the meeting.

(3) The Mississippi Building Codes Council created under Section 17-2-3 shall serve as an advisory council to the council created under this section.

(4) (a) There is created in the State Treasury a special fund to be designated as the "Mississippi Windstorm Mitigation Fund." The fund shall consist of monies appropriated by act of the Legislature and monies from any other public or private source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited to the credit of the fund.

(b) Monies in the special fund may be used by the Department of Insurance, upon appropriation by the Legislature, only for the purposes of assisting the Mississippi Windstorm Mitigation Coordinating Council in developing and implementing a comprehensive and coordinated approach for windstorm mitigation including providing grants, developing education programs, providing funds for training local officials or providing any other assistance consistent with these purposes.

**SECTION 2.** Section 83-34-5, Mississippi Code of 1972, is amended as follows:

83-34-5. The association shall, pursuant to the provisions of this chapter and the plan of operation, and with respect to essential property insurance on insurable property, have the power:

(a) To issue policies of essential property insurance on insurable property to applicants;

(b) At its option, and with consent of the commissioner, to issue policies of related essential property insurance on insurable property to applicants;

(c) To purchase reinsurance for all or part of the risks of the association;

(d) To levy and collect regular assessments from assessable insurers;

(e) To issue bonds or incur other forms of indebtedness, including, but not limited to, loans, lines of credit or letters of credit;

(f) To establish underwriting criteria consistent with the provisions of this chapter and as approved by the commissioner;

(g) To invest and reinvest income and assets subject to the oversight of the commissioner; \* \* \*

(h) To enter into contractual agreements with third parties, including the Mississippi Windstorm Mitigation Coordinating Council, for the purposes of developing and implementing windstorm mitigation programs; and

(i) All other powers necessary to carry out the provisions and intent of this chapter.

**SECTION 3.** Section 83-1-37, Mississippi Code of 1972, is amended as follows:

83-1-37. (1) The Department of Revenue shall pay for credit to a fund known as the "Municipal Fire Protection Fund," the sum of Four Million Eight Hundred Fifty Thousand Dollars (\$4,850,000.00) annually out of the insurance premium tax collected annually from the taxes levied on the gross premiums on fire insurance policies written on properties in this state, under Sections 27-15-103 through 27-15-127. The State Treasurer shall credit this amount to the Municipal Fire Protection Fund. This fund shall be set aside and earmarked for payment to municipalities in this state, as hereinafter provided.

(2) Using 1990 as a base year, the Department of Revenue shall pay over annually to the State Treasurer, for credit to the "Municipal Fire Protection Fund," an amount representing one-half of ten percent (1/2 of 10%) of any growth after 1990 of the insurance premium tax collected annually from the taxes levied on

the gross premium on fire insurance policies written on properties in this state, under Sections 27-15-103 through 27-15-127.

(3) The fund hereby created and denominated "Municipal Fire Protection Fund" shall be apportioned and paid over by the Department of Insurance to the incorporated municipalities certified as eligible to participate in the fund by the Commissioner of Insurance, and shall be distributed once each year on a population basis, to be determined by the most recent federal census, except as provided in subsection (4) of this section. Municipalities receiving these funds shall earmark such monies for fire protection services.

(4) \* \* \* Two Hundred Fifty Thousand Dollars (\$250,000.00) from the Municipal Fire Protection Fund shall be annually designated from that fund for the training of municipal personnel as needed for the adoption of and compliance with the minimum building codes as established and promulgated by the Mississippi Building Codes Council or for windstorm mitigation programs as approved by the Commissioner of Insurance. These monies shall be apportioned and distributed amongst qualifying municipalities. Any monies that are designated under this subsection (4) that are not expended annually shall be returned to the Municipal Fire Protection Fund to be distributed for fire protection services.

(5) The amount paid under subsections (1) and (2) of this section to a municipality shall be used and expended in accordance with the guidelines established by the Commissioner of Insurance authorized by Section 45-11-7, and for the training of municipal personnel as needed for the adoption of and compliance with the minimum building codes as established and promulgated by the Mississippi Building Codes Council, or for windstorm mitigation programs as approved by the Commissioner of Insurance.

(6) Each municipality shall levy a tax of not less than one-fourth (1/4) mill on all property of the municipality or appropriate the avails of not less than one-fourth (1/4) mill from

the municipality's general fund for fire protection purposes. Municipalities may allow such millage to be collected by the county. Each municipality shall annually provide the Commissioner of Insurance and the State Fire Coordinator on a form provided by the State Fire Coordinator a report stating whether the municipality is levied the one-fourth (1/4) mill hereby required or in lieu thereof is allowing such millage to be collected by the county.

**SECTION 4.** Section 83-1-39, Mississippi Code of 1972, is amended as follows:

83-1-39. (1) The Department of Revenue shall pay over to the State Treasurer, to be credited to a fund entitled "County Volunteer Fire Department Fund," the sum of Four Million Eight Hundred Fifty Thousand Dollars (\$4,850,000.00) annually out of the insurance premium tax in addition to the amount collected by it under the provisions of Section 27-15-103 et seq. Such funds, hereinafter referred to as insurance rebate monies, are hereby earmarked for payment to the various counties of the state and shall be paid over to the counties by the Department of Insurance on the basis of the population of each county as it compares to the population of participating counties, not counting residents of any municipality. Such insurance rebate monies shall only be distributed to those counties which are in compliance with subsections (5) and (6) of this section. Of these monies, Two Hundred Fifty Thousand Dollars (\$250,000.00) shall be designated for the purposes prescribed in subsection (3)(f) of this section.

(2) Using 1990 as a base year, the Department of Revenue shall pay to the State Treasurer, to be credited to the "County Volunteer Fire Department Fund," an amount representing one-half of ten percent (1/2 of 10%) of any growth after 1990 of the 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 for the following categories:

(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;

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

(f) Training of any county personnel as needed for the adoption of and compliance with the codes established and promulgated by the Mississippi Building Codes Council or for windstorm mitigation programs as approved by the Commissioner of Insurance. These monies shall be apportioned and distributed amongst qualifying counties. Any monies designated under this paragraph (f) that are not expended annually shall be returned to the County Volunteer Fire Protection Fund to be distributed for fire protection services.

(g) 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:

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

(b) Designates one (1) member of the sheriff's department to be the county fire investigator and, from and after July 1, 2008, requires the designated member of the sheriff's department to attend the State Fire Academy to be trained in arson investigation; however, in the event of a loss of the county fire investigator due to illness, death, resignation, discharge or other legitimate cause, notice shall be immediately given to the Commissioner of Insurance and the county may continue to receive payments on an interim basis for a period not to exceed one (1) year;

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

(d) Counties shall levy a tax of not less than one-fourth (1/4) mill on all property of the county or appropriate avails of not less than one-fourth (1/4) mill from the county's general fund for fire protection purposes. Municipalities making a written declaration to the county that they fund and provide their own fire services shall be exempted from this levy. This

levy shall be used for fire protection purposes which include, but are not limited to, contracting with any provider of fire protection services.

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

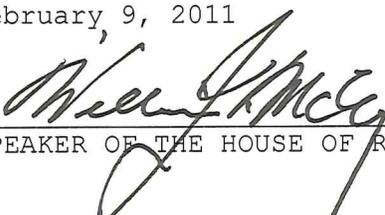
(8) Any municipal, county or local water association or other utility district supplying water may, upon adoption of a resolution authorizing such action, contribute free of charge to a volunteer fire department or fire protection district serving such local government, political subdivision or utility 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 of supervisors under the authority of this subsection shall be spread upon the minutes of the board of supervisors when the work is authorized.

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

**SECTION 5.** This act shall take effect and be in force from and after July 1, 2011.

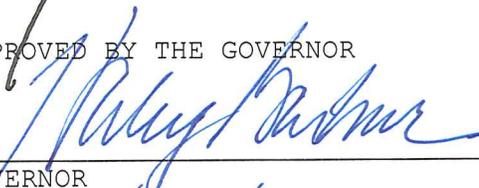
PASSED BY THE HOUSE OF REPRESENTATIVES  
February 9, 2011

  
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SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
March 3, 2011

  
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PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

  
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GOVERNOR

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