

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

House Bill 3153

By Delegates Jennings, Mallow, Hillenbrand, Warner,
DeVault, Garcia, Dean, Sheedy, Ferrell, Reynolds and
Rowe

[Originating in the Committee on Finance; February
27, 2023]

1 A BILL to amend and reenact §16-4C-24 of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §29-3E-7 of said code to amend and reenact §33-3-14d and §33-3-33
3 of said code; and to amend and reenact §33-12C-7 of said code, all relating to certain
4 taxes and surcharges to benefit certain emergency service providers; defining terms;
5 providing method of allocation and distribution for proceeds of fireworks safety fee
6 deposited in Fire Protection Fund; increasing surcharge on fire and casualty policies;
7 providing method of allocation of policy surcharge; requiring the State Fire Marshal provide
8 certain information to the State Treasurer; increasing tax on surplus lines policies;
9 providing method of allocation of surplus lines policy tax; and providing requirements for
10 distribution of funds in Fire Protection Fund.

Be it enacted by the Legislature of West Virginia:

CHAPTER 16. PUBLIC HEALTH

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-24. Emergency Medical Services Equipment and Training Fund; establishment of grant program for equipment and training of emergency medical service providers and personnel.

4 (a) There is hereby created in the State Treasury a special revenue fund to be known as
5 the Emergency Medical Services Equipment and Training Fund. Expenditures from the fund by
6 the Office of Emergency Medical Services, Bureau for Public Health, Department of Health and
7 Human Resources are authorized from collections. The fund may only be used for the purpose of
8 providing grants to equip emergency medical services providers and train emergency medical
9 services personnel, as defined in §16-4C-3 of this code. Any balance remaining in the fund at the
10 end of any fiscal year does not revert to the General Revenue Fund but remains in the special
11 revenue fund.

12 (b) The Commissioner of the Bureau for Public Health shall establish a grant program for
13 equipment and training of emergency medical services providers and personnel. Such grant
14 program shall be open to all emergency medical services personnel and providers, ~~but priority~~
15 ~~shall be given to rural and volunteer emergency medical services providers.~~

16 (c) The Commissioner of the Bureau for Public Health shall propose legislative rules for
17 promulgation in accordance with §29A-3-1 *et seq.* of this code to implement the grant program
18 established pursuant to this section.

19 (d) Notwithstanding any other provision of this code to the contrary, grants awarded
20 pursuant to this section shall be limited in total available to each county according to the following:

21 (1) Each county shall be eligible for grants totaling up to 1% of the total amount of funds
22 collected each fiscal year.

23 (2) Each of the six counties with the highest population calculated as of the last day of the
24 previous fiscal year shall be eligible for an additional 1% of the total amount of funds collected
25 each fiscal year. This additional percentage is in addition to amount authorized in subdivision (1)
26 of this subsection.

27 (3) Each county with a county special ambulance service fee as authorized by §7-15-17 of
28 this code shall be eligible for an additional percentage of the total amount of funds available equal
29 to 39% divided by the total number of counties with a county special ambulance service fee as
30 authorized by §7-15-17 of this code. This additional percentage is in addition to the amount
31 authorized in subdivisions (1) and (2) of this subsection.

32 (e) Any grant awarded by this section shall be subject to the provisions of §12-4-14 of
33 this _____ code.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3E. FIREWORKS SAFETY.

§29-3E-7. Fireworks safety fee; administration; tax crimes; collections; remittances; deposits; distributions; rules.

1 (a) In addition to the sales tax, a fireworks safety fee of 12 percent of all sales is levied on
2 retail sales of consumer fireworks in this state. The fee shall be distributed pursuant to the
3 provisions of this subsection. The fee computation under this subsection shall be carried to the
4 third decimal place, and the fee rounded up to the next whole cent whenever the third decimal
5 place is greater than four and rounded down to the lower whole cent whenever the third decimal
6 place is four or less.

7 The State Tax Commissioner shall disburse all proceeds of the fireworks safety fee into the
8 State Treasury each month in the following manner:

9 (1) Seventy-five percent shall be deposited into a special account in the State Treasury,
10 designated the Veterans' Facility Support Fund established by the provisions of §9A-1-11 of this
11 code for expenditure on veterans' programs.

12 (2) Twenty-five percent shall be deposited into a special account in the State Treasury,
13 designated the Fire Protection Fund ~~established in §33-3-33 of this code~~ and shall be allocated
14 and distributed in accordance with that section to each volunteer fire company or department on
15 an equal share basis by the State Treasurer according to the requirements of §33-3-33 of this
16 code.

17 (b) A person who purchases consumer fireworks in a retail transaction shall pay to the
18 retailer the amount of the fee levied by this section, which fee is added to and constitutes a part of
19 the sale price and is collectible by the retailer who shall account to the state for all fees paid by a
20 purchaser. If the retailer fails to collect the fee or fails to account to the state for the fees paid by a
21 purchaser, then the retailer is liable for the payment of the fee to the state.

22 (c) A retailer shall remit to the State Tax Commissioner no later than 30 days after the end
23 of each preceding month all moneys collected for such preceding month, pursuant to the

24 requirements of this section, and shall report such collections on forms and in the manner
25 prescribed by the State Tax Commissioner.

26 (d) All moneys so remitted, net of refunds and adjustments, shall be paid by the State Tax
27 Commissioner into the funds specified in this section.

28 (e) Each and every provision of the West Virginia Tax Crimes and Penalties Act set forth
29 §11-9-1 *et seq.* of this code applies to the fees imposed pursuant to this article, with like effect as if
30 that act were applicable only to the fees imposed by this article and were set forth in extenso in this
31 article.

32 (f) The State Tax Commissioner shall propose legislative rules and may promulgate such
33 emergency rules as are necessary to implement the provisions of this article.

CHAPTER 33. INSURANCE.

ARTICLE 3. LICENSING, FEES, AND TAXATION OF INSURERS.

§33-3-14d. Additional fire and casualty insurance premium tax; allocation of proceeds; effective date.

1 (a) (1) For the purpose of providing additional revenue for municipal policemen's and
2 firemen's pension and relief funds and the Teachers Retirement System Reserve Fund and for
3 volunteer and part-volunteer fire companies and departments, there is hereby levied and imposed
4 an additional premium tax equal to one percent of taxable premiums for fire insurance and
5 casualty insurance policies. For purposes of this section, casualty insurance does not include
6 insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit
7 transaction or insurance on a debtor to provide indemnity for payments becoming due on a
8 specific loan or other credit transaction while the debtor is disabled as defined in the policy.

9 (2) All moneys collected from this additional tax shall be received by the commissioner and
10 paid by him or her into a special account in the State Treasury, designated the Municipal Pensions

11 and Protection Fund, to be allocated as follows: *Provided*, That on or after January 1, 2010, the
12 ~~commissioner shall pay~~

13 (A) Ten percent of the amount collected to shall be deposited in the Teachers Retirement
14 System Reserve Fund created in §18-7A-18 of this code;

15 (B) Twenty-five percent of the amount collected to shall be deposited in the Fire Protection
16 Fund created in section 33 of this article for allocation distribution by the State Treasurer to
17 volunteer and part-volunteer fire companies and departments according to the requirements of
18 §33-3-33 of this code; and

19 ~~65% of the amount collected to the Municipal Pensions and Protection Fund: *Provided*,~~
20 ~~*however*, That upon notification by the Municipal Pensions Oversight Board pursuant to the~~
21 ~~provisions of §8-22-18b of this code, on or after January 1, 2010, or as soon thereafter as the~~
22 ~~Municipal Pensions Oversight Board is prepared to receive the funds,~~

23 (C) Sixty-five percent of the amount collected by the commissioner shall be deposited in
24 the Municipal Pensions Security Fund created in §8-22-18b of this code the net proceeds of this
25 tax after appropriation thereof by the Legislature is to be distributed in accordance with the
26 provisions of this section, except for distribution from proceeds pursuant to §8-22-18a(d) of this
27 code.

28 (b) *Municipal Pensions Security Fund allocation and distribution* —

29 (1) Before August 1 of each year, the treasurer of each municipality in which a municipal
30 policemen's or firemen's pension and relief fund is established shall report to the ~~State Treasurer~~
31 ~~Municipal Pensions Oversight Board~~ the average monthly number of members who worked at
32 least 100 hours per month and the average monthly number of retired members of municipal
33 policemen's or firemen's pension and relief fund or the Municipal Police Officers and Firefighters
34 Retirement System during the preceding fiscal year. ~~*Provided*, That beginning in the year 2010~~
35 ~~and continuing thereafter, the report shall be made to the oversight board created in §8-22-18a of~~
36 this code. ~~These reports received by the oversight board shall be provided~~ The reports received by

37 the Municipal Pensions Oversight Board shall be provided annually to the State Treasurer by
38 September 1.

39 (2) ~~Before September 1 of each calendar year, the State Treasurer, or the Municipal~~
40 ~~Pensions Oversight Board once in operation, shall allocate and authorize for distribution the~~
41 ~~revenues in the Municipal Pensions and Protection Fund which were collected during the~~
42 ~~preceding calendar year for the purposes set forth in this section.~~ Before September 1 of each
43 calendar year, and after the Municipal Pensions Oversight Board has notified the Treasurer and
44 commissioner pursuant to ~~§8-22-18b~~ of this code, the The Municipal Pensions Oversight Board
45 shall allocate and authorize for distribution the revenues in the Municipal Pensions Security Fund
46 which were collected during the preceding calendar year for the purposes set forth in this section.
47 In any year the actuarial report required by §8-22-20 of this code indicates no actuarial deficiency
48 in the municipal policemen's or firemen's pension and relief fund and that no pensions funding
49 revenue bonds of the building commission of such municipality remain outstanding, no revenues
50 may be allocated from the ~~Municipal Pensions and Protection Fund~~ or the Municipal Pensions
51 Security Fund to that fund. The revenues from the Municipal Pensions ~~and Protection~~ Security
52 Fund shall then be allocated to all other pension and relief funds which have an actuarial
53 deficiency. Pension funding revenue bonds include bonds of a municipality's building commission
54 the net proceeds of which were used to fund either or both of a municipality's policemen's or
55 firemen's pension and relief fund or bonds issued to refinance such bonds.

56 (3) The Municipal Pensions Oversight Board shall annually review the investment
57 performance of each municipal policemen's or firemen's pension and relief fund. If the municipal
58 pension and relief fund's board fails for three consecutive years to comply with the investment
59 provisions established by §8-22-22a of this code, the oversight board may require the municipal
60 policemen's or firemen's pension and relief fund to invest with the Investment Management Board
61 to continue to receive its allocation of funds from the premium tax. If the municipal pension and
62 relief fund fails to move its investments to the Investment Management Fund within the 18-month

63 drawdown period, provided in §8-22-19(e) of this code, the revenues shall be reallocated to all
64 other municipal policemen's or firemen's pension and relief funds that have drawn down one
65 hundred percent of their allocations.

66 ~~(4) The moneys, and the interest earned thereon, in the Municipal Pensions and Protection~~
67 ~~Fund allocated to volunteer and part-volunteer fire companies and departments shall be allocated~~
68 ~~and distributed quarterly to the volunteer fire companies and departments. Before each~~
69 ~~distribution date, the State Fire Marshal shall report to the State Treasurer the names and~~
70 ~~addresses of all volunteer and part-volunteer fire companies and departments within the state~~
71 ~~which meet the eligibility requirements established in §8-15-8a of this code.~~

72 ~~(c) (1) Each municipal pension and relief fund shall have allocated and authorized for~~
73 ~~distribution a pro rata share of the revenues allocated to municipal policemen's and firemen's~~
74 ~~pension and relief funds based on the corresponding municipality's average monthly number of~~
75 ~~police officers and firefighters who worked at least one hundred hours per month during the~~
76 ~~preceding fiscal year. On and after July 1, 1997, from~~

77 (4) The Municipal Pensions Oversight Board shall allocate and distribute the growth in any
78 moneys collected pursuant to the tax imposed by this section and interest thereon there shall be
79 allocated and authorized for distribution to each municipal policemen's or firemen's pension and
80 relief fund, a pro rata share of the revenues allocated to municipal policemen's and or firemen's
81 pension and relief funds based on the corresponding municipality's average number of police
82 officers and firefighters who are members of a municipal policemen's or firemen's pension and
83 relief fund or the Municipal Police Officers and Firefighters Retirement System and who worked at
84 least 100 hours per month during the preceding fiscal year and average monthly number of retired
85 police officers and firefighters during the preceding fiscal year. For the purposes of this subsection,
86 the growth in moneys collected from the tax collected pursuant to this section is determined by
87 subtracting the amount of the tax collected during the fiscal year ending June 30, 1996, from the
88 tax collected during the fiscal year for which the allocation is being made and interest thereon. All

89 moneys received by municipal pension and relief funds under this section may be expended only
90 for those purposes described in §8-22-16 through §8-22-28a of this code. Notwithstanding the
91 foregoing provision of this subdivision, if a municipality has outstanding pension funding revenue
92 bonds and continues to pay the normal cost of its policemen's and firemen's pension and relief
93 funds, then the allocable share of revenues to be allocated which would otherwise have been
94 allocated to a municipal policemen's or firemen's pension and relief fund shall instead be allocated
95 to the trustee of any outstanding pension funding revenue bonds.

96 ~~(2) Each volunteer fire company or department shall receive an equal share of the~~
97 ~~revenues allocated for volunteer and part-volunteer fire companies and departments.~~

98 ~~(3) In addition to the share allocated and distributed in accordance with subdivision (1) of~~
99 ~~this subsection, each municipal fire department composed of full-time paid members and~~
100 ~~volunteers and part-volunteer fire companies and departments shall receive a share equal to the~~
101 ~~share distributed to volunteer fire companies under subdivision (2) of this subsection reduced by~~
102 ~~an amount equal to the share multiplied by the ratio of the number of full-time paid fire department~~
103 ~~members who are also members of a municipal firemen's pension and relief fund or the Municipal~~
104 ~~Police Officers and Firefighters Retirement System to the total number of members of the fire~~
105 ~~department.~~ (5) If a municipality has outstanding pension funding revenue bonds and continues to
106 pay the normal cost of its policemen's and firemen's pension and relief funds, then the share that
107 would otherwise be payable to the municipality's firemen's pension and relief fund pursuant to this
108 subsection shall be paid to the trustee of such outstanding pension funding revenue bonds.

109 ~~(d)~~ (6) The allocation and distribution of revenues provided in this section are subject to the
110 provisions of §8-22-20, §8-15-8a, and §8-15-8b of said chapter this code.

111 (c) Based upon the findings of an audit by the Treasurer, the Legislature hereby finds and
112 declares that during the period of 1982 through April 27, 2012, allocations from the Municipal
113 Pensions and Protection Fund were miscalculated and errors were made in amounts transferred,
114 resulting in overpayments and underpayments to the relief and pension funds and to the Teachers

115 Retirement System, and that the relief and pension funds and the Teachers Retirement System
116 were not at fault for any of the overpayments and underpayments. The Legislature hereby further
117 finds and declares that any attempt by the Municipal Pension Oversight Board or other entity to
118 recover any of the overpayments would be unjust and create economic hardship for the entities
119 that received overpayments. No entity, including, without limitation, the Municipal Pension
120 Oversight Board, may seek to recover from a relief or pension fund, the Teachers Retirement
121 System or the state any overpayments received from the Municipal Pensions and Protection Fund
122 and the overpayments are not subject to recovery, offset or litigation. Pursuant to the audit by the
123 Treasurer, the amount of \$3,631,846.55 is determined owed to specific relief and pension funds
124 through the period of April 27, 2012. The Treasurer is hereby authorized to transfer the amount of
125 \$3,631,846.55 from the Unclaimed Property Trust Fund to the Municipal Pensions and Protection
126 Fund, which is hereby reopened for the sole purpose of the transfer and remittances pursuant to
127 this subsection, and to use the amount transferred to remit the amounts due to the pension and
128 relief funds. The payment of \$3,631,846.55 to the pension and relief funds is complete satisfaction
129 of any amounts due and no entity, including, without limitation, the Municipal Pension Oversight
130 Board and any pension or relief fund, may seek to recover any further amounts.

**§33-3-33. Surcharge on fire and casualty insurance policies to benefit volunteer and part-
volunteer fire departments and emergency medical services providers; ~~Public
Employees Insurance Agency and municipal pension plans; special fund created;
Fire Protection Fund; allocation of proceeds. effective—date.~~**

1 (a) For the purposes of this section:

2 (1) "Full-time paid members" means the members of a fire department who are
3 compensated to provide services to the department on a full-time basis and are also members of a
4 municipal firemen's pension and relief fund or the Municipal Police Officers and Firefighters
5 Retirement System.

6 (2) The "policy surcharge" refers to the surcharge on certain insurance policies imposed by
7 subsection (b) of this section.

8 (3) "Volunteer fire departments" or "departments" includes volunteer and part-volunteer
9 fire departments and companies, as described in §18-15-1 et seq. of this code.

10 (b) (1) For the purpose of providing additional revenue for volunteer fire departments, part-
11 volunteer fire departments and certain retired teachers and the teachers retirement reserve fund,
12 there is hereby authorized and imposed on and after July 1, 1992, on the policyholder of any fire
13 insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or
14 by any risk retention group, a policy surcharge equal to one percent of the taxable premium for
15 each such policy. After June 30, 2005, the surcharge shall be imposed as specified in subdivisions
16 (2) and (3) of this subsection.

17 (2) After June 30, 2005, through December 31, 2005, for the purpose of providing
18 additional revenue for volunteer fire departments, part-volunteer fire departments and to provide
19 additional revenue to the Public Employees Insurance Agency and municipal pension plans, there
20 is hereby authorized and imposed on and after July 1, 2005, on the policyholder of any fire
21 insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or
22 by any risk retention group, a policy surcharge equal to one percent of the taxable premium for
23 each such policy.

24 (3) After December 31, 2005, For the purpose of providing additional revenue for volunteer
25 fire departments ~~and part-volunteer fire departments~~, there is hereby authorized and imposed on
26 the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer,
27 authorized or unauthorized, or by any risk retention group, a policy surcharge equal to 0.55% of
28 the taxable premium for each such policy. All money from the policy surcharge authorized by this
29 subdivision shall be collected by the Commissioner who shall disburse the money received from
30 the surcharge into a special account in the state Treasury, designated the Fire Protection Fund.

31 The policy surcharge authorized by this subdivision is separate from and in addition to the tax
32 imposed by §33-3-14d of this code.

33 (4) After January 1, 2024, for purposes of providing additional revenue for volunteer fire
34 departments and emergency medical services providers, there is hereby authorized and imposed
35 on the policyholder of any fire insurance policy or casualty insurance policy issued any insurer,
36 authorized or unauthorized, or by any risk retention group, a policy surcharge equal to 0.45% of
37 the taxable premium for each such policy. All money from the policy surcharge authorized by this
38 subdivision shall be collected by the commissioner, who shall disburse 77.5 percent of the money
39 received from the surcharge into the Fire Protection Fund for distribution as provided in subsection
40 (f) of this section. The commissioner shall disburse 22.5 percent of the money received from the
41 surcharge into the Emergency Medical Services Equipment and Training Fund established in §16-
42 4C-24 of this code for disbursement in accordance with the provisions of that section. The policy
43 surcharge authorized by this subdivision is separate from and in addition to the tax imposed by
44 §33-3-14d of this code and the surcharge authorized in subdivision (3) of this subsection.

45 (4) (c) For purposes of this section, casualty insurance ~~may~~ does not include insurance on
46 the life of a debtor pursuant to or in connection with a specific loan or other credit transaction or
47 insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other
48 credit transaction while the debtor is disabled as defined in the policy. The policy surcharges ~~may~~
49 ~~are~~ not ~~be~~ subject to premium taxes, agent commissions, or any other assessment against
50 premiums.

51 (~~b~~) (d) The policy surcharges imposed by this section shall be collected and remitted to the
52 commissioner by the insurer, or in the case of surplus lines coverage, by the surplus lines licensee,
53 or if the policy is issued by a risk retention group, by the risk retention group. The amount required
54 to be collected under this section shall be remitted to the commissioner on a quarterly basis on or
55 before the 25th day of the month succeeding the end of the quarter in which they are collected,

56 except for the fourth quarter for which the surcharges shall be remitted on or before March 1 of the
57 succeeding year.

58 ~~(e)~~ (e) Any person failing or refusing to collect and remit to the commissioner any policy
59 surcharge and whose surcharge payments are not postmarked by the due dates for quarterly filing
60 is liable for a civil penalty of up to \$100 for each day of delinquency, to be assessed by the
61 commissioner. The commissioner may suspend the insurer, broker, or risk retention group until all
62 surcharge payments and penalties are remitted in full to the commissioner.

63 ~~(d)~~ (f) Fire Protection Fund allocation and distribution. —

64 (1) All money from the ~~policy surcharge shall be collected by the Commissioner who shall~~
65 ~~disburse the money received from the surcharge into a special account in the state Treasury,~~
66 ~~designated the Fire Protection Fund. The State Treasurer's Office shall distribute the net proceeds~~
67 ~~of this portion of the tax~~ the portion of the policy surcharges deposited into the Fire Protection Fund
68 pursuant to this section, the amount deposited into the Fire Protection Fund pursuant to §29-3E-7
69 of this code, the amount deposited into the Fire Protection Fund pursuant to §33-3-14d of this
70 code, and the amount deposited into the Fire Protection Fund pursuant to §33-12C-7 of this code,
71 and the interest thereon on a quarterly basis, after appropriation by the Legislature. ~~shall be~~
72 ~~distributed quarterly~~ The distributions shall occur on the first day of the months of January, April,
73 July, and October to each eligible volunteer fire company or department, ~~on an equal share basis~~
74 ~~by the state Treasurer.~~ After June 30, 2005, the money received from the surcharges shall be
75 distributed as specified in subdivisions (2), ~~and~~ (3) and (4) of this subsection.

76 (2)(A) After June 30, 2005, through December 31, 2005, all money from the policy
77 surcharge shall be collected by the Commissioner who shall disburse one half of the money
78 received from the surcharge into the Fire Protection Fund for distribution as provided in
79 subdivision (1) of this subsection.

80 (B) The remaining portion of moneys collected shall be transferred into the fund in the state
81 Treasury of the Public Employees Insurance Agency into which are deposited the proportionate

82 shares made by agencies of this state of the Public Employees Insurance Agency costs of those
83 agencies, until November 1, 2005. After the October 31, 2005, through December 31, 2005, the
84 remain portion shall be transferred to the special account in the state Treasury, known as the
85 Municipal Pensions and Protection Fund.

86 (3) ~~After December 31, 2005, all money from the policy surcharge shall be collected by the~~
87 ~~Commissioner who shall disburse all of the money received from the surcharge into the Fire~~
88 ~~Protection Fund for distribution~~ moneys deposited into the Fire Protection Fund, except for the
89 moneys collected pursuant to subdivision (4), subsection (b) of this section and §33-12C-7(b) of
90 this code shall be distributed as provided in subdivision (1) of this subsection.

91 (4) After January 1, 2024, all moneys collected pursuant to subdivision (4), subsection (b)
92 of this section and §33-12C-7(b) of this code and deposited into the Fire Protection Fund shall be
93 distributed to each county according to the following:

94 (A) Each county shall receive 1% of the total amount of funds collected each fiscal year;

95 (B) Each of the six counties with the highest population calculated as of the last day of the
96 previous fiscal year shall be eligible for an additional 1% of the total amount of funds collected
97 each fiscal year. This additional percentage is in addition to amount authorized in paragraph (A) of
98 this subdivision; and

99 (C) Each county with either a county fire service fee as authorized by §7-17-12 of this code
100 or a levy for the establishment and operation of fire protection units as authorized by §7-1-3d of
101 this code shall be eligible for an additional percentage of the total amount of funds collected each
102 fiscal year equal to 39% divided by the total number of counties with a county fire service fee
103 authorized by §7-17-12 of this code or a levy establishment and operation of fire protection units
104 authorized by §7-1-3d of this code. This additional percentage is in addition to the amount
105 authorized in paragraphs (A) and (B) of this subdivision.

106 (5) Before each distribution date to volunteer fire companies or departments, the State Fire
107 Marshal shall report to the State Treasurer:

108 (A) The names and addresses of all volunteer ~~and part-volunteer~~ fire companies and
109 departments within the state which ~~meet~~ met the eligibility requirements established in §8-15-8a of
110 this code during the preceding quarter; and

111 (B) The number of volunteer firefighters and the number of full-time paid members
112 providing services to each volunteer and part-volunteer department during the preceding quarter.

113 (6) Each eligible volunteer fire department shall receive an equal share of the amount of
114 proceeds to be distributed each quarter: *Provided*, That each part-volunteer department's share
115 will be reduced by a percentage amount equal to the percentage of the members of the fire
116 department who are full-time paid members of the department, according to the report described
117 in subdivision (5) of this subsection.

118 (e) (g) The allocation, distribution, and use of revenues provided in the Fire Protection
119 Fund are subject to the provisions of §8-15-8a and §8-15-8b of this code.

ARTICLE 12C. SURPLUS LINE.

§33-12C-7. Surplus lines tax.

1 (a) In addition to the full amount of gross premiums charged by the insurer for the
2 insurance, every person licensed pursuant to §33-12C-8 of this code shall collect and pay to the
3 commissioner a sum equal to 4.55 percent of the gross premiums and gross fees charged, less
4 any return premiums, for surplus lines insurance provided by the licensee pursuant to the license.
5 Where the insurance covers properties, risks, or exposures located or to be performed both in and
6 out of this state and this state is the insured's home state, the sum payable shall be computed on
7 that portion of the gross premiums allocated to this state, plus an amount equal to the portion of the
8 gross premiums allocated to other states or territories on the basis of the tax rates and fees
9 applicable to properties, risks or exposures located or to be performed outside of this state, and
10 less the amount of gross premiums allocated to this state and returned to the insured due to
11 cancellation of policy: *Provided*, That the surcharge imposed by ~~section thirty-three, article three of~~
12 ~~this chapter~~ §33-3-33 of this code on surplus lines policies shall no longer be effective with respect

13 to premium attributable to coverage under such policies for periods after June 30, 2011: *Provided,*
14 *however,* That 12 per cent of taxes collected under this subsection with respect to premium
15 attributable to coverage under such policies after June 30, 2011, shall be disbursed into the Fire
16 Protection Fund and distributed in accordance with ~~subsection (d), section thirty-three, article~~
17 ~~three of this chapter~~ §33-3-33 of this code, and 88 per cent in accordance with subdivision (2),
18 subsection (f) (g) of this section. The tax on any portion of the premium unearned at termination of
19 insurance having been credited by the state to the licensee shall be returned to the policyholder
20 directly by the surplus lines licensee or through the producing broker, if any.

21 (b) After January 1, 2024, in addition to the full amount of gross premiums charged by the
22 insurer for the insurance and the sum assessed pursuant to subsection (a) of this section, every
23 person licensed pursuant to §33-12C-8 of this code shall collect and pay to the commissioner a
24 sum equal to 0.05 percent of the gross premiums and gross fees charged, less any return
25 premiums, for surplus lines insurance provided by the licensee pursuant to the license. Where the
26 insurance covers properties, risks, or exposures located or to be performed both in and out of this
27 state and this state is the insured's home state, the sum payable shall be computed on that portion
28 of the gross premiums allocated to this state, plus an amount equal to the portion of the gross
29 premiums allocated to other states or territories on the basis of the tax rates and fees applicable to
30 properties, risks or exposures located or to be performed outside of this state, and less the amount
31 of gross premiums allocated to this state and returned to the insured due to cancellation of policy:
32 *Provided,* That 16 per cent of taxes collected under this subsection with respect to premium
33 attributable to coverage under such policies after January 1, 2024, shall be disbursed into the Fire
34 Protection Fund and distributed in accordance with §33-3-33 of this code, 4 percent of taxes
35 collected under this subsection shall be disbursed into the Emergency Medical Services and
36 Training Fund established in §16-4C-24 and 80 percent of the taxes collected under this
37 subsection shall be disbursed in accordance with subdivision (2), subsection (g) of this section.
38 The tax on any portion of the premium unearned at termination of insurance having been credited

39 by the state to the licensee shall be returned to the policyholder directly by the surplus lines
40 licensee or through the producing broker, if any.

41 (c) The individual insurance producer may not:

42 (1) Pay directly or indirectly the tax or any portion thereof, either as an inducement to the
43 policyholder to purchase the insurance or for any other reason; or

44 (2) Rebate all or part of the tax or the surplus lines licensee's commission, either as an
45 inducement to the policyholder to purchase the insurance or for any reason.

46 ~~(e)~~ (d) The surplus lines licensee may charge the prospective policyholder a fee for the cost
47 of underwriting, issuing, processing, inspecting, service, or auditing the policy for placement with
48 the surplus lines insurer if:

49 (1) The service is required by the surplus lines insurer;

50 (2) The service is actually provided by the individual insurance producer or the cost of the
51 service is actually incurred by the surplus lines licensee; and

52 (3) The provision or cost of the service is reasonable, documented, and verifiable.

53 ~~(d)~~ (e) The surplus lines licensee shall make a clear and conspicuous written disclosure to
54 the policyholder of:

55 (1) The total amount of premium for the policy;

56 (2) Any fee charged;

57 (3) The total amount of any fee charged; and

58 (4) The total amount of tax on the premium and fee.

59 ~~(e)~~ (f) The clear and conspicuous written disclosure required by subdivision (4) of this
60 subsection is subject to the record maintenance requirements of §33-12C-8 of this code.

61 ~~(f)~~ (g) (1) This tax is imposed for the purpose of providing additional revenue for municipal
62 policemen's and firemen's pension and relief funds and additional revenue for volunteer and part-
63 volunteer fire companies and departments. This tax is required to be paid and remitted, on a
64 calendar year basis and in quarterly estimated installments due and payable on or before the 25th

65 day of the month succeeding the close of the quarter in which they accrued, except for the fourth
66 quarter, in respect of which taxes shall be due and payable and final computation of actual total
67 liability for the prior calendar year shall be made, less credit for the three quarterly estimated
68 payments prior made, and filed with the annual return to be made on or before March 1 of the
69 succeeding year. Provisions of this chapter relating to the levy, imposition, and collection of the
70 regular premium tax are applicable to the levy, imposition, and collection of this tax to the extent
71 that the provisions are not in conflict with this section.

72 (2) Except as provided in subsection (a) of this section, all taxes remitted to the
73 commissioner pursuant to subdivision (1) of this subsection shall be paid by him or her into a
74 special account in the State Treasury, designated Municipal Pensions and Protection Fund, or
75 pursuant to §8-22-18b of this code, the Municipal Pensions Security Fund, and after appropriation
76 by the Legislature, shall be distributed in accordance with ~~the provisions of subsection (c), section~~
77 ~~fourteen-d, article three of this chapter~~ §33-3-14d of this code. The surplus lines licensee shall
78 return to the policyholder the tax on any unearned portion of the premium returned to the
79 policyholder because of cancellation of policy.

80 ~~(g)~~ (h) In determining the amount of gross premiums taxable in this state for a placement of
81 surplus lines insurance covering properties, risks, or exposures only partially located or to be
82 performed in this state, the tax due shall be computed on the portions of the premiums which are
83 attributable to properties, risks, or exposures located or to be performed in this state and which
84 relates to the kinds of insurance being placed as determined by reference to an appropriate
85 allocation table.

86 (1) If a policy covers more than one classification:

87 (A) For any portion of the coverage identified by a classification on the allocation schedule,
88 the tax shall be computed by using the allocation schedule for the corresponding portion of the
89 premium;

90 (B) For any portion of the coverage not identified by a classification on the allocation
91 schedule, the tax shall be computed by using an alternative equitable method of allocation for the
92 property or risk;

93 (C) For any portion of the coverage where the premium is indivisible, the tax shall be
94 computed by using the method of allocation which pertains to the classification describing the
95 predominant coverage.

96 (2) If the information provided by the surplus lines licensee is insufficient to substantiate the
97 method of allocation used by the surplus lines licensee, or if the commissioner determines that the
98 licensee's method is incorrect, the commissioner shall determine the equitable and appropriate
99 amount of tax due to this state as follows:

100 (A) By use of the allocation schedule where the risk is appropriately identified in the
101 schedule;

102 (B) Where the allocation schedule does not identify a classification appropriate to the
103 coverage, the commissioner may give significant weight to documented evidence of the
104 underwriting bases and other criteria used by the insurer. The commissioner may also consider
105 other available information to the extent sufficient and relevant, including the percentage of the
106 insured's physical assets in this state, the percentage of the insured's sales in this state, the
107 percentage of income or resources derived from this state, and the amount of premium tax paid to
108 another jurisdiction for the policy.

109 ~~(h)~~ (i) The commissioner is authorized to participate in a clearinghouse established
110 through NIMA or in a similar allocation procedure for the purpose of collecting and disbursing to
111 signatory states any funds collected pursuant to this section that are allocable to properties, risks,
112 or exposures located or to be performed outside of this state: *Provided*, That ~~twelve per cent~~ 16
113 percent of any moneys received from a clearinghouse or through a similar allocation procedure is
114 are subject to the provisions of ~~subsection (d), section thirty-three, article three of this chapter §33-~~
115 3-33(d) of this code, four percent of such moneys are subject to the provisions of §16-4C-24 of this

116 code, and ~~88 per cent~~ 80 percent of such moneys ~~is~~ are subject to the provisions of subdivision (2),
117 subsection ~~(f)~~ (g) of this section: *Provided, however,* That to the extent other states where portions
118 of the properties, risks, or exposures reside have failed to enter into NIMA or a similar allocation
119 procedure with this state, the net premium tax collected shall be retained by this state and shall be
120 disbursed and distributed in the same manner as moneys received through a clearinghouse or
121 similar allocation procedure.

122 ~~(+)~~ (j) Collection of tax.

123 If the tax owed by a surplus lines licensee under this section has been collected and is not
124 paid within the time prescribed, the same shall be recoverable in a suit brought by the
125 commissioner against the surplus lines licensee. The commissioner may charge interest for any
126 unpaid tax, fee, financial assessment or penalty, or portion thereof: *Provided,* That interest may
127 not be charged on interest. Interest shall be calculated using the annual rates which are
128 established by the Tax Commissioner pursuant to §11-10-17a of this code and shall accrue daily.