

CHAPTER 477B

FIRE STATE AID

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477B.01 DEFINITIONS.

Subdivision 1. **Scope.** Unless the language or context clearly indicates that a different meaning is intended, the following words and terms, for the purposes of this chapter and chapters 423A and 424A, have the meanings given to them.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of revenue.

Subd. 3. **Company or insurance company.** "Company" or "insurance company" has the meaning given in section 60A.02, subdivision 4.

Subd. 4. **Estimated market value.** "Estimated market value" has the meaning given in section 272.03, subdivision 14.

Subd. 5. **Fire department.** "Fire department" includes a municipal fire department and an independent nonprofit firefighting corporation.

Subd. 6. **Fire department service area.** "Fire department service area" means the area serviced by a qualifying fire department that meets the requirements of section 477B.02.

Subd. 7. **Independent nonprofit firefighting corporation.** "Independent nonprofit firefighting corporation" means an independent nonprofit firefighting corporation that meets the criteria in section 424A.094, subdivision 1, paragraph (a).

Subd. 8. **Minnesota Fire Premium Report.** "Minnesota Fire Premium Report" means a form for reporting by insurance companies of (1) gross direct fire, lightning, sprinkler leakage, and extended coverage premiums received upon risks located or to be performed in this state less return premiums and dividends, and (2) other facts that the commissioner may require.

Subd. 9. **Municipal clerk.** "Municipal clerk" means the person elected or appointed to the position of municipal clerk or, if there is no such person, the chief financial official, the chief administrative official, or the person primarily responsible for managing the finances of a municipality.

Subd. 10. **Municipality.** (a) "Municipality" means:

- (1) a home rule charter or statutory city;
- (2) an organized town;
- (3) a park district subject to chapter 398;
- (4) the University of Minnesota; and

(5) an American Indian tribal government entity located within a federally recognized American Indian reservation.

(b) This subdivision only applies to chapter 477B.

Subd. 11. **Secretary.** "Secretary" means the secretary of an independent nonprofit firefighting corporation that has a subsidiary incorporated firefighters' relief association or whose firefighters participate in the statewide volunteer firefighter plan.

Subd. 12. **Statewide volunteer firefighter plan.** "Statewide volunteer firefighter plan" means the retirement plan established under chapter 353G.

History: *1Sp2019 c 6 art 19 s 1; 2020 c 108 art 7 s 9*

477B.02 QUALIFYING FOR FIRE STATE AID.

Subdivision 1. **Qualifications for fire state aid.** A municipality or independent nonprofit firefighting corporation qualifies to receive fire state aid if all the requirements of this section are met.

Subd. 2. **Establishment of fire department.** (a) An independent nonprofit firefighting corporation must be created under the nonprofit corporation act of this state operating for the exclusive purpose of firefighting, or the governing body of a municipality must officially establish a fire department.

(b) The fire department must have provided firefighting services for at least one calendar year.

Subd. 3. **Personnel and benefits requirements.** (a) A fire department must have a minimum of ten paid or volunteer firefighters, including a fire chief and assistant fire chief.

(b) The fire department must have regular scheduled meetings and frequent drills that include instructions in firefighting tactics and in the use, care, and operation of all fire apparatus and equipment.

(c) The fire department must have a separate subsidiary incorporated firefighters' relief association that provides retirement benefits or must participate in the statewide volunteer firefighter plan; or if the municipality solely employs full-time firefighters as defined in section 299N.03, subdivision 5, retirement coverage must be provided by the public employees police and fire retirement plan.

(d) Notwithstanding paragraph (c), a municipality without a relief association as described under section 424A.08, paragraph (a), may still qualify to receive fire state aid if all other requirements of this section are met.

Subd. 4. **Equipment requirements.** The fire department must have all of the following equipment, or the equivalent as determined by the state fire marshal, by December 31 of the year preceding the certification required in subdivision 8:

(1) a motorized fire truck equipped with:

(i) a motorized pump;

(ii) a 250-gallon or larger water tank;

(iii) 300 feet of one inch or larger fire hose in two lines with combination spray and straight stream nozzles;

(iv) five-gallon hand pumps - tank extinguisher or equivalent;

(v) a dry chemical extinguisher or equivalent;

(vi) ladders;

(vii) extension ladders;

(viii) pike poles;

(ix) crowbars;

(x) axes;

(xi) lanterns; and

(xii) fire coats, helmets, and boots;

(2) the items in clause (1) suitably housed in a building of good construction with facilities for care of hoses and equipment;

(3) a reliable and adequate method of receiving fire alarms by telephone or with electric siren and suitable means of sounding an alarm; and

(4) if response is to be provided outside the corporate limits of the municipality where the fire department is located, another piece of motorized apparatus to make the response.

Subd. 5. Fire service contract or agreement; apportionment agreement filing requirement. (a) Every municipality or independent nonprofit firefighting corporation must file a copy of any duly executed and valid fire service contract or agreement with the commissioner.

(b) If more than one fire department provides service to a municipality, the fire departments furnishing service must enter into an agreement apportioning among themselves the percentage of the population and the percentage of the estimated market value of each shared service fire department service area. The agreement must be in writing and must be filed with the commissioner.

Subd. 6. Compliance with rules. The fire department must meet all other requirements that the commissioner establishes by rule.

Subd. 7. Financial reporting requirements. The financial reporting requirements of section 424A.014 must be satisfied.

Subd. 8. PERA certification to commissioner. On or before February 1 each year, if retirement coverage for a fire department is provided by the statewide volunteer firefighter plan, the executive director of the Public Employees Retirement Association must certify the existence of retirement coverage.

Subd. 9. Fire department certification to commissioner. On or before March 15 of each year, the municipal clerk or the secretary, and the fire chief, must jointly certify to the commissioner that the fire department exists and meets the qualification requirements of this section. The certification must be on a form prescribed by the commissioner and must include all other information that the commissioner requires.

Subd. 10. Penalty for failure to file certification. (a) If the certification under subdivision 9 is not filed with the commissioner on or before March 15, the commissioner must notify the municipal clerk or the secretary that a penalty equal to a portion or all of the current year aid will apply if the certification is not received within ten days of the postmark date of the notification.

(b) The penalty for failure to file the certification under subdivision 9 is equal to the amount of fire state aid determined for the municipality or the independent nonprofit firefighting corporation for the current year, multiplied by five percent for each week or fraction of a week that the certification is late. The penalty must be computed beginning ten days after the postmark date of the commissioner's notification. Aid amounts

forfeited as a result of the penalty revert to the state general fund. Failure to receive the certification form is not a defense for a failure to file.

Subd. 11. **Determination by commissioner.** The commissioner must determine which municipalities and independent nonprofit firefighting corporations are qualified to receive fire state aid directly or are qualified to receive the benefit of fire state aid paid to the statewide volunteer firefighter plan based on compliance with the requirements of this section and the financial compliance report required under section 6.495, subdivision 3, if applicable. The commissioner may take into account any other relevant information that comes to the attention of the commissioner when making the determination.

History: *1Sp2019 c 6 art 19 s 2; 2020 c 108 art 7 s 9*

477B.03 CALCULATION OF FIRE STATE AID; APPEAL.

Subdivision 1. **Certification and calculation of fire state aid.** (a) On or before October 1, the commissioner must calculate the amount of fire state aid that each municipality or independent nonprofit firefighting corporation is to receive.

(b) The commissioner must calculate an initial fire state aid allocation amount for each municipality or independent nonprofit firefighting corporation under subdivision 4 and, if applicable, a minimum fire state aid allocation amount for each municipality or independent nonprofit firefighting corporation under subdivision 5. The municipality or independent nonprofit firefighting corporation must be apportioned the greater of the amounts calculated under subdivisions 4 and 5.

Subd. 2. **Apportionment of fire state aid.** (a) The amount of fire state aid available for apportionment, before the addition of the minimum fire state aid allocation amount under subdivision 5, is equal to 107 percent of the amount of premium taxes paid to the state upon the fire, lightning, sprinkler leakage, and extended coverage premiums reported to the commissioner by companies or insurance companies on the Minnesota Fire Premium Report. This amount must be reduced by the amount required to pay the state auditor's costs and expenses of the audits or exams of the firefighters' relief associations.

(b) The total amount available for apportionment must not be less than two percent of the premiums less return premiums reported to the commissioner by companies or insurance companies on the Minnesota Fire Premium Report after subtracting the following amounts:

(1) the amount required to pay the state auditor's costs and expenses of the audits or exams of the firefighters' relief associations; and

(2) one percent of the premiums reported by township mutual insurance companies and mutual property and casualty companies with total assets of \$5,000,000 or less.

(c) The commissioner must apportion the fire state aid to each municipality or independent nonprofit firefighting corporation qualified under section 477B.02 relative to the premiums reported on the Minnesota Fire Premium Reports filed under this chapter.

(d) The commissioner must calculate the percentage of increase or decrease reflected in the apportionment over or under the previous year's available state aid using the same premiums as a basis for comparison.

Subd. 3. **Population and estimated market value.** (a) Official statewide federal census figures must be used in calculations requiring the use of population figures under this chapter. Increases or decreases in population disclosed by reason of any special census must not be taken into consideration.

(b) The latest available estimated market value property figures must be used in calculations requiring the use of estimated market value property figures under this chapter.

Subd. 4. Initial fire state aid allocation amount. (a) The initial fire state aid allocation amount is the amount available for apportionment as fire state aid under subdivision 2, without the inclusion of any additional funding amount to support a minimum fire state aid amount under section 423A.02, subdivision 3. The initial fire state aid allocation amount is allocated one-half in proportion to the population for each fire department service area and one-half in proportion to the estimated market value of each fire department service area, including (1) the estimated market value of tax-exempt property, and (2) the estimated market value of natural resources lands receiving in lieu payments under sections 477A.11 to 477A.14 and 477A.17. The estimated market value of minerals is excluded.

(b) In the case of a municipality or independent nonprofit firefighting corporation furnishing fire protection to other municipalities as evidenced by valid fire service contracts filed with the commissioner under section 477B.02, subdivision 5, the distribution must be adjusted proportionately to take into consideration the crossover fire protection service. Necessary adjustments must be made to subsequent apportionments.

(c) In the case of municipalities or independent nonprofit firefighting corporations qualifying for aid, the commissioner must calculate the state aid for the municipality or independent nonprofit firefighting corporation on the basis of the population and the estimated market value of the area furnished fire protection service by the fire department as evidenced by fire service agreements filed with the commissioner under section 477B.02, subdivision 5.

(d) In the case of more than one fire department furnishing contracted fire service to a municipality, the population and estimated market value in the apportionment agreement filed with the commissioner under section 477B.02, subdivision 5, must be used in calculating the state aid.

Subd. 5. Minimum fire state aid allocation amount. (a) The minimum fire state aid allocation amount is the amount derived from any additional funding amount to support a minimum fire state aid amount under section 423A.02, subdivision 3. The minimum fire state aid allocation amount is allocated to municipalities or independent nonprofit firefighting corporations with volunteer firefighters' relief associations or covered by the statewide volunteer firefighter plan. The amount is based on the number of active volunteer firefighters who are (1) members of the relief association as reported to the Office of the State Auditor in a specific annual financial reporting year as specified in paragraphs (b) to (d), or (2) covered by the statewide volunteer firefighter plan as specified in paragraph (e).

(b) For relief associations established in calendar year 1993 or a prior year, the number of active volunteer firefighters equals the number of active volunteer firefighters who were members of the relief association as reported in the annual financial reporting for calendar year 1993, but not to exceed 30 active volunteer firefighters.

(c) For relief associations established in calendar year 1994 through calendar year 1999, the number of active volunteer firefighters equals the number of active volunteer firefighters who were members of the relief association as reported in the annual financial reporting for calendar year 1998 to the Office of the State Auditor, but not to exceed 30 active volunteer firefighters.

(d) For relief associations established after calendar year 1999, the number of active volunteer firefighters equals the number of active volunteer firefighters who are members of the relief association as reported in the first annual financial reporting submitted to the Office of the State Auditor, but not to exceed 20 active volunteer firefighters.

(e) If a relief association is terminated as a result of providing retirement coverage for volunteer firefighters by the statewide volunteer firefighter plan under chapter 353G, the number of active volunteer firefighters equals the number of active volunteer firefighters of the municipality or independent nonprofit firefighting corporation covered by the statewide plan as certified by the executive director of the Public Employees Retirement Association to the commissioner and the state auditor, but not to exceed 30 active firefighters.

Subd. 6. **Corrective aid adjustments.** Any adjustments needed to correct prior misallocations must be made to subsequent fire state aid apportionments.

Subd. 7. **Appeal.** A municipality, an independent nonprofit firefighting corporation, a fire relief association, or the statewide volunteer firefighter plan may object to the amount of fire state aid apportioned to it by filing a written request with the commissioner to review and adjust the apportionment of funds within the state. The decision of the commissioner is subject to appeal, review, and adjustment by the district court in the county in which the applicable municipality or independent nonprofit firefighting corporation is located or by the Ramsey County District Court with respect to the statewide volunteer firefighter plan.

History: *1Sp2019 c 6 art 19 s 3; 2020 c 108 art 7 s 9*

477B.04 APPROPRIATION, PAYMENT, AND ADMINISTRATION.

Subdivision 1. **Payments.** (a) The commissioner must make payments to the Public Employees Retirement Association for deposit in the statewide volunteer firefighter fund on behalf of a municipality or independent nonprofit firefighting corporation that is a member of the statewide volunteer firefighter plan under chapter 353G, or directly to a municipality or county designated by an independent nonprofit firefighting corporation. The payment is equal to the amount of fire state aid apportioned to the applicable fire state aid recipient under section 477B.03.

(b) Fire state aid is payable on October 1 annually. The amount of state aid due and not paid by October 1 accrues interest payable to the recipient at the rate of one percent for each month or part of a month that the amount remains unpaid after October 1.

(c) The interest under paragraph (b) does not apply when payment has not been made by October 1 due to noncompliance with sections 424A.014 and 477B.02, subdivision 7.

Subd. 2. **Appropriation.** The amount necessary to make the payments under this section and section 477B.03 is annually appropriated to the commissioner from the general fund.

Subd. 3. **Deposit of state aid.** (a) If the municipality or the independent nonprofit firefighting corporation is covered by the statewide volunteer firefighter plan under chapter 353G, the executive director of the Public Employees Retirement Association must credit the fire state aid against future municipal contribution requirements under section 353G.08 and must notify the municipality or the independent nonprofit firefighting corporation of the fire state aid so credited at least annually.

(b) If (1) the municipality or the independent nonprofit firefighting corporation is not covered by the statewide volunteer firefighter plan and is affiliated with a duly incorporated firefighters relief association, (2) the relief association has filed a financial report with the municipality pursuant to section 424A.014, subdivision 1 or 2, whichever applies, and (3) there is not an aid allocation agreement under section 477B.042 in effect, then the treasurer of the municipality must, within 30 days after receipt, transmit the fire state aid to the treasurer of the relief association. If clauses (1) and (2) are satisfied and there is an aid allocation agreement under section 477B.042 in effect, then fire state aid must be transmitted as described in that section. If the relief association has not filed a financial report with the municipality, then, regardless of

whether an aid allocation agreement is in effect, the treasurer of the municipality must delay transmission of the fire state aid to the relief association until the complete financial report is filed.

(c) The treasurer of the municipality must deposit the fire state aid money in the municipal treasury if (1) the municipality or independent nonprofit firefighting corporation is not covered by the statewide volunteer firefighter plan, (2) there is no relief association organized, (3) the association has dissolved, or (4) the association has been removed as trustees of state aid. The money may be disbursed from the municipal treasury only for the purposes and in the manner set forth in section 424A.08 or for the payment of the employer contribution requirement with respect to firefighters covered by the public employees police and fire retirement plan under section 353.65, subdivision 3.

History: *1Sp2019 c 6 art 19 s 4; 2020 c 108 art 7 s 9; art 11 s 1*

477B.042 ALLOCATION OF FIRE STATE AID FOR RELIEF ASSOCIATIONS.

Subdivision 1. **Applicability.** (a) This section applies to fire state aid payable each year under section 477B.04, subdivision 3, paragraph (b), if, during the prior year, the municipality or independent nonprofit firefighting corporation:

(1) employs one or more volunteer firefighters covered by the relief association affiliated with the municipality or independent nonprofit firefighting corporation under chapter 424A; and

(2) contributes on behalf of one or more firefighters to the public employees police and fire retirement plan under chapter 353.

(b) This section does not apply to police and firefighter supplemental state aid under section 423A.022.

Subd. 2. **Allocation of fire state aid.** (a) The municipality or independent nonprofit firefighting corporation and the affiliated relief association may agree to allocate fire state aid between the relief association and the public employees police and fire retirement plan by entering into an aid allocation agreement described in subdivision 3.

(b) If an aid allocation agreement has been filed with the state auditor and is in effect, then within 30 days of receipt of the fire state aid the treasurer of the municipality must transmit to the relief association the amount of the fire state aid as determined in the aid allocation agreement. If a municipality receives fire state aid on behalf of an independent nonprofit firefighting corporation, the municipality must also transmit any remaining fire state aid to the independent nonprofit firefighting corporation.

(c) The fire state aid allocated to the municipality or independent nonprofit firefighting corporation may only be disbursed for the payment of employer contributions for firefighters covered by the public employees police and fire retirement plan or for contributions to the relief association and must be disbursed within 18 months of receipt by the municipality or independent nonprofit firefighting corporation.

Subd. 3. **Aid allocation agreement.** (a) An aid allocation agreement is a written agreement that meets the following requirements:

(1) the agreement specifies:

(i) the percentage of the fire state aid, a dollar amount, or a formula for determining the amount of fire state aid that will be transmitted to the relief association annually; and

(ii) the period of time covered by the agreement and the date on which the agreement expires; and

(2) the agreement has been signed by:

(i) an individual authorized to sign on behalf of the municipality or independent nonprofit firefighting corporation; and

(ii) the president of the relief association or its representative duly appointed for the purposes of this section.

(b) An aid allocation agreement is not effective unless filed with the state auditor under subdivision 5.

Subd. 4. Modifying or terminating the aid allocation agreement. (a) The parties to the agreement may modify or terminate the aid allocation agreement, provided that the modification or termination is in writing and signed by the parties.

(b) If the amount of fire state aid paid to a municipality or independent nonprofit firefighting corporation by the commissioner changes by an amount greater than 50 percent of the prior year's amount, then the aid allocation agreement may be terminated by either party to the agreement by providing written notice of termination to the other party.

(c) Unless the aid allocation agreement provides otherwise, termination is effective for the fire state aids payable in the calendar year after notice of termination has been given.

Subd. 5. Filing requirement and remedy. (a) By March 1 of each year in which fire state aid is to be allocated, the municipality or independent nonprofit firefighting corporation must file a copy of the aid allocation agreement or modified agreement with the state auditor.

(b) If an aid allocation agreement terminates by its own terms or for any other reason, the municipality or independent nonprofit firefighting corporation must notify the Office of the State Auditor in writing within 30 days after the termination date.

(c) If the municipality or independent nonprofit firefighting corporation fails to file by the deadline in paragraph (a), fire state aid payments must not be allocated, but must be transmitted to the relief association until the agreement has been filed. If the state auditor determines that an aid allocation agreement does not meet the requirements of subdivision 3, any future fire state aid payments must be transmitted to the relief association by the municipality until the municipality files with the state auditor an aid allocation agreement that satisfies the requirements under subdivision 3.

History: 2020 c 108 art 11 s 2

477B.05 SHORTFALL FROM GENERAL FUND.

(a) If the annual funding requirements of fire relief associations or consolidation accounts under sections 424A.091 to 424A.095 or Laws 2013, chapter 111, article 5, sections 31 to 42, exceed all applicable revenue sources of a given year, including the insurance premium taxes funding fire state aid under this chapter as set under section 297I.05, subdivisions 2, 3, and 4, the shortfall in the annual funding requirements must be paid from the general fund to the extent appropriated by the legislature.

(b) Nothing in this section relieves any municipality from its obligation to a relief association or consolidation account under law.

History: 1Sp2019 c 6 art 19 s 5