

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1145
(Representatives D. Johnson, Steiner, Guggisberg)
(Senators Oehlke, Wanzek, Robinson)

AN ACT to amend and reenact sections 18-04-02, 18-04-05, 23-46-05, 26.1-01-07.5, and 26.1-03-17 of the North Dakota Century Code, relating to use of insurance premium tax collections for firefighting; to provide a continuing appropriation; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 18-04-02 of the North Dakota Century Code is amended and reenacted as follows:

18-04-02. City auditor or secretary of rural fire department to file certificate with state fire marshal and insurance commissioner - Report to budget section.

1. On or before the thirty-first day of October in each year, the auditor or secretary of any city or rural fire department that has an organized fire department shall file with the state fire marshal and with the insurance commissioner the auditor's or secretary's certificate stating the existence of the fire department, the date of its organization, the number of fire engines, hook and ladder trucks, and the system of water supply in use by the department, with such other facts as the state fire marshal or commissioner may require.
2. A certified city fire department, certified rural fire department, or certified fire protection district receiving funds under section 18-04-05 shall file an annual report with the state fire marshal detailing the expenditure of the funds and its committed and uncommitted reserve balances. The report must identify the purpose of any committed reserve balance and the anticipated time period for spending the committed reserves. The state fire marshal shall present a biennial report to the budget section of the legislative management summarizing the expenditures by certified city fire departments, certified rural fire departments, and certified fire protection districts of funds received under section 18-04-05 and the information on committed and uncommitted reserve fund balances of these entities.

SECTION 2. AMENDMENT. Section 18-04-05 of the North Dakota Century Code is amended and reenacted as follows:

18-04-05. Amount due cities, rural fire protection districts, or rural fire departments - Transfer to firefighters death benefit fund - Disbursement to North Dakota firefighter's association - Payments by insurance commissioner.

1. The insurance commissioner shall disburse funds in the insurance tax distribution fund as provided under this section.
2. The insurance commissioner shall transfer an amount of up to fifty thousand dollars per biennium, as may be necessary, to the firefighters death benefit fund for distribution under chapter 18-05.1.
3. The insurance commissioner shall disburse funds to the North Dakota firefighter's association for uses authorized under chapter 18-03, subject to legislative appropriations.
4. The insurance commissioner shall compute the amounts due to the certified city fire departments, certified rural fire departments, or certified fire protection districts entitled to benefits under this chapter on or before ~~October~~December first of each year. The insurance commissioner shall allocate one-half of the biennial legislative appropriation which must be

based on an amount equal to one hundred percent of the total premium tax collected for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, commercial multiple peril, and crop hail insurance, less the amount transferred to the firefighters death benefit fund and the amount distributed to the North Dakota firefighter's association for distribution under this section~~subsection~~, to each eligible city not within a certified fire protection district, each certified rural fire protection district organized under this title, and each rural fire department certified by the state fire marshal, and pay the amount allocated in ~~September~~December of each year. The allocation must be made in proportion to the amount of insurance company premiums received by insurance companies pursuant to section 26.1-03-17 for policies for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, commercial multiple peril, and crop hail insurance on property within the city, certified rural fire protection district, or area served by the certified rural fire department to the total of those premiums for those policies in the state.

SECTION 3. AMENDMENT. Section 23-46-05 of the North Dakota Century Code is amended and reenacted as follows:

23-46-05. State financial assistance for emergency medical services - Distribution limit.

During the first year of the biennium, the state department of health may not distribute more than ~~one million two hundred fifty thousand dollars~~one-half of the biennial legislative appropriation for state financial assistance for emergency medical services.

SECTION 4. AMENDMENT. Section 26.1-01-07.5 of the North Dakota Century Code is amended and reenacted as follows:

26.1-01-07.5. Fire district maps - Insurance applications to show fire district in which property is located - Penalty.

Before December first of each year, the insurance commissioner shall publish maps of the fire districts of the state for use by insurers under this section for the following calendar year. The state firefighter's association and the state fire marshal shall assist the insurance commissioner in preparing the maps. After December 31, 1993, no insurer may issue or renew a policy for fire, allied lines, homeowner's multiple peril, farmowner's multiple peril, commercial multiple peril, or crop hail insurance coverage for property in this state unless the application identifies each fire district in which the insured property is located. The application must identify the property and insured value of the property located within each fire district if the policy provides coverage for property that is not all within a single district. For purposes of this section, "fire district" means rural fire protection district, city, or area served by a certified rural fire department. An insurer that is found by the commissioner to be in violation of this section is subject to a penalty of one hundred dollars for each violation to be deposited in the fire insurance tax distribution fund. The insurance commissioner may adopt rules necessary for administration of this section, including rules governing preparation, charges for, and use of maps under this section.

SECTION 5. AMENDMENT. Section 26.1-03-17 of the North Dakota Century Code is amended and reenacted as follows:

26.1-03-17. Commissioner to collect premium tax - Insurance companies generally - Computation - Credits - Penalty - Estimated tax.

1. Before issuing the annual certificate required by law, the commissioner shall collect from every stock and mutual insurance company, nonprofit health service corporation, health maintenance organization, and prepaid legal service organization, except fraternal benefit and benevolent societies, doing business in this state, a tax on the gross amount of premiums, assessments, membership fees, subscriber fees, policy fees, service fees collected by any third-party administrator providing administrative services to a group that is self-insured for health care benefits, and finance and service charges received in this state during the preceding calendar year, at the rate of two percent with respect to life insurance, one and

three-fourths percent with respect to accident and health insurance, and one and three-fourths percent with respect to all other lines of insurance. This tax does not apply to considerations for annuities. The total tax is payable on or before March first following the year for which the tax is assessable. If the due date falls on a Saturday or legal holiday, the tax is payable on the next succeeding business day. Collections from this tax, ~~except for collections deposited in the firefighters death benefit fund,~~ must be deposited in the insurance tax distribution fund under section 18-04-04.1 but not in an amount exceeding one-half of the biennial amount appropriated for distribution under ~~sections~~ section 18-04-05 and 23-46-04 ~~chapter 23-46~~ in any fiscal year. Collections from this tax exceeding the sum of the amount deposited in the insurance tax distribution fund ~~and the amount deposited in the firefighters death benefit fund~~ each fiscal year must be deposited in the general fund in the state treasury. ~~If the due date falls on a Saturday or legal holiday, the tax is payable on the next succeeding business day.~~

2. An insurance company, nonprofit health service corporation, health maintenance organization, or prepaid legal service organization subject to the tax imposed by subsection 1 is entitled to a credit against the tax due for the amount of any assessment paid as a member of a comprehensive health association under subsection 3 of section 26.1-08-09 for which the member may be liable for the year in which the assessment was paid, a credit as provided under section 26.1-38.1-10, a credit against the tax due for an amount equal to the examination fees paid to the commissioner under sections 26.1-01-07, 26.1-02-02, 26.1-03-19.6, 26.1-03-22, 26.1-17-32, and 26.1-18.1-18, and a credit against the tax due for an amount equal to the ad valorem taxes, whether direct or in the form of rent, on that proportion of premises occupied as the principal office in this state for over one-half of the year for which the tax is paid. The credits under this subsection must be prorated on a quarterly basis and may not exceed the total tax liability under subsection 1.
3. Any company failing to pay the tax imposed by subsection 1, within the time required, is subject to a penalty of one hundred dollars plus twenty-five dollars per day, excepting the first day after the tax became due. Any company failing to file the appropriate tax statement required by rule if the tax is zero is subject to a penalty of twenty-five dollars per day for each day's neglect not to exceed five hundred dollars. The commissioner, if satisfied that the delay was excusable, may waive, and if paid, issue a premium tax credit for all or any part of the penalty and interest.
4. Every stock and mutual insurance company, nonprofit health service corporation, health maintenance organization, and prepaid legal service organization, except fraternal benefit or benevolent societies, doing business in this state required to pay premium taxes in this state shall make and file a statement of estimated premium taxes. The statement and payment must be made on a quarterly basis as prescribed by the commissioner. Failure of a company to make payments of at least one-fourth of the total tax paid during the previous calendar year, or eighty percent of the actual tax for the quarter being reported of the current calendar year, shall subject the company to the penalty and interest provided in subsection 3.
5. If an amount of tax, penalty, or interest has been paid which was not due under the provisions of this section, a refund may be issued to the taxpayer who made the erroneous payment. The refund is allowed as a credit against any tax due or to become due under this section or as a cash refund, at the discretion of the commissioner. The taxpayer who made the erroneous payment shall present a claim for refund to the commissioner not later than two years after the due date of the return for the period for which the erroneous payment was made.
6. In lieu of the tax required by subsection 1, the commissioner shall collect from each entity subject to this section an annual filing fee in the amount of two hundred dollars, provided the total tax liability of the entity pursuant to subsection 1 is less than two hundred dollars. No annual filing fee is due or may be collected from an entity if its total tax liability pursuant to subsection 1 is in excess of two hundred dollars. The annual filing fee may be reduced by any credits available pursuant to subsections 2 and 5. Failure of a company to pay the two hundred dollar filing fee subjects the company to the penalty as provided in subsection 3.

SECTION 6. APPROPRIATION. There is appropriated out of any moneys in the insurance tax distribution fund in the state treasury, not otherwise appropriated, the sum of \$15,336,386 or so much of the sum as may be necessary, to the insurance commissioner for the purpose of providing payments, in accordance with provisions of section 18-04-05, to North Dakota fire departments in the amount of \$14,536,386 and payments to the North Dakota firefighter's association in the amount of \$800,000, for the biennium beginning July 1, 2013, and ending June 30, 2015.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1145.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 44 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State