

**CHAPTER 309****(SB 66)**

AN ACT relating to the merger of volunteer fire departments.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

*If two (2) or more volunteer fire departments merge under the provisions of Sections 1 to 7 of this Act after January 1, 2000, and each is qualified to receive the volunteer fire department aid under subsection (2) of Section 8 of this Act at the time of merger, then the volunteer fire department aid shall be disbursed according to the provisions of Sections 1 to 7 of this Act as long as the resulting district remains qualified to receive the volunteer fire department aid.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

*As used in Sections 1 to 7 of this Act, unless the context requires otherwise:*

- (1) "Qualified fire department" means any volunteer fire department in any city of any class, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273 eligible to receive volunteer fire department aid under subsection (2) of Section 8 of this Act; and*
- (2) "Qualified share" means the amount of money allocated by the Commission on Fire Protection Personnel Standards and Education for volunteer fire department aid under subsection (2) of Section 8 of this Act, less any penalties for failure to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

- (1) The Commission on Fire Protection Personnel Standards and Education shall pay to the merged district, for the first, second, and third years after the merger, the number of qualified shares of volunteer fire department aid allotted under subsection (2) of Section 8 of this Act equal to the total number of qualified shares that each department would have received previous to merger;*
- (2) The Commission on Fire Protection Personnel Standards and Education shall pay to the merged district, for the fourth, fifth, and sixth years after the merger, the number of qualified shares of volunteer fire department aid allotted under subsection (2) of Section 8 of this Act equal to fifty percent (50%) of the total number of qualified shares that each department would have received previous to merger, plus one (1) yearly disbursement of four thousand dollars (\$4,000) as a merger incentive; and*
- (3) The Commission on Fire Protection Personnel Standards and Education shall pay to the merged district, for the seventh year after the merger and thereafter, one (1) qualified share of volunteer fire department aid allotted under subsection (2) of Section 8 of this Act.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

*The trustees of the volunteer fire district shall notify the Commission on Fire Protection Personnel Standards and Education, in writing, within thirty (30) days of the merger or splitting of a merged volunteer fire district created under the provisions of this chapter. Notification shall be made in the manner prescribed by the Commission on Fire Protection Personnel Standards and Education in administrative regulations promulgated in accordance with the provisions of KRS Chapter 13A.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

*If a new volunteer fire department is created from territory in an existing fire department merged under the provisions of Sections 1 to 7 of this Act, the newly created volunteer fire district shall be able to receive one (1) share at the next regular disbursal date, if qualified. The parent fire department shall have aid allotted under subsection (2) of Section 8 of this Act reduced by one (1) qualified share for calculations of aid, for the first, second, third, fourth, fifth, and sixth years after merger.*

SECTION 6. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

*The Commission on Fire Protection Personnel Standards and Education shall calculate and disburse to each district merged after January 1, 2000, but before the effective date of this Act, any payments owed the district according to the schedule set out in this section. In order to receive the payment, the trustees of the volunteer fire district shall notify the commission in writing within sixty (60) days of the effective date of this Act that there has been a merger in their jurisdiction within that time. If sufficient funds do not exist to make all the payments at one (1) time owed under the provisions of this subsection, then the available amount shall be prorated evenly and proportionately and disbursed among those merged districts each disbursal cycle until the total amount has been paid to each of those districts. The commission shall not reduce any other payments under KRS 95A.262 to make the payments under this subsection.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

*If the resulting merged district does not remain qualified to receive the volunteer fire department aid under subsection (2) of Section 8 of this Act, then the Commission on Fire Protection Personnel Standards and Education shall suspend all payments calculated under Section 3 of this Act. The merged district shall have ninety (90) days to come into compliance with the requirements for qualification. If the merged district does so, then the commission shall resume payments as calculated under Section 3 of this Act. If the merged district does not come into compliance within ninety (90) days of the loss of qualification, then the commission shall not resume payments as calculated under Section 3 of this Act. Should the merged district come into compliance after ninety (90) days, it shall receive only one (1) qualified share of the volunteer fire department aid under subsection (2) of Section 8 of this Act.*

Section 8. KRS 95A.262 is amended to read as follows:

- (1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be

reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

- (2) Except as provided in subsection (3) of this section and KRS 61.316, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot eight thousand dollars (\$8,000) annually to each qualifying department, and beginning on July 1, 2001, the commission shall allot eight thousand two hundred fifty dollars (\$8,250) annually to each qualifying department. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars (\$500) of its allotment. ***If two (2) or more qualified volunteer fire departments, as defined in Sections 1 to 7 of this Act, merge after January 1, 2000, then the allotment shall be in accordance with the provisions of Sections 1 to 7 of this Act.*** The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one-half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.
- (3) There shall be allotted two hundred thousand dollars (\$200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars (\$200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in

subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

- (4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.
- (5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.
- (6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.
- (7) The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including, but not limited to, the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.
- (8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.
- (9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:
  - (a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;
  - (b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;
  - (c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;
  - (d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;
  - (e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;
  - (f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

- (g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.
- (10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars (\$10,000) or the actual amount of the loss, whichever is less.
- (11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.
- (12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.
- (13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.
- (14) There shall be allotted each year of the 1992-93 biennium one million dollars (\$1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars (\$1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

**Approved April 11, 2002**