

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

As Engrossed: H3/13/01 H3/15/01

A Bill

Act 1540 of 2001
HOUSE BILL 1321

5 By: Representative R. Smith
6 By: *Senator Faris*
7

For An Act To Be Entitled

8
9
10 *AN ACT TO AMEND ARKANSAS CODE 24-11-301, 24-11-*
11 *302, AND 24-11-809 TO CHANGE THE ORDER OF*
12 *CALCULATION OF THE FIRE PROTECTION FUND'S PORTION*
13 *OF THE INSURANCE PREMIUM TAXES USED FOR LOCAL*
14 *POLICE AND FIRE PENSION RELIEF FUNDS; AND FOR*
15 *OTHER PURPOSES.*

Subtitle

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17
18 TO CHANGE THE CALCULATION OF THE FIRE
19 PROTECTION FUND'S PORTION OF THE
20 INSURANCE PREMIUM TAXES USED FOR POLICE
21 AND FIRE PENSION FUNDS.
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 *SECTION 1. Arkansas Code 24-11-302 is amended to read as follows:*

27 *24-11-302. Cities and towns qualified to participate - Reports.*

28 *(a) Each city or town having a police officers' pension and relief fund*
29 *which is organized pursuant to any existing statute of this state and each*
30 *city or town which covers its police department under the Arkansas Local*
31 *Police and Fire Retirement System shall be qualified to participate in the*
32 *distribution of the funds described and appropriated by this subchapter.*

33 *(b) The allocation of funds to each qualified city or town pursuant to*
34 *§ 24-11-301 shall be subject to the following conditions:*

35 *(1) Each calendar year the Arkansas Fire and Police Pension*
36 *Review Board shall review its previous calendar year distribution of funds to*

1 each qualified city or town prior to disbursement to each of these qualified
2 areas. This review shall comply with subdivisions (d)(4) and (5) of this
3 section; and

4 (2) The certification of any new city or town to participate in
5 the Firemen's and Police Officers' Pension and Relief Fund shall be considered
6 in the board's assessment each calendar year of the allocation of the
7 disbursement of the funds pursuant to subdivisions (d)(4) and (5) of this
8 section.

9 (c)(1) The revenues collected pursuant to §§ 23-60-102, 24-11-301, 24-
10 11-302, 26-57-601 - 26-57-605, and 26-57-607 and distribution in accordance
11 with this section shall be allocated to each qualified city or town in a
12 proportion determined by evaluation of the following factors:

13 (A) The legal description of the metes and bounds of the
14 city or town. The legal description shall be based on standard visible
15 features of the area. If the legal description cannot be based on standard
16 visible features, a Global Positioning System survey shall be conducted to
17 determine the boundaries; and

18 (B) A census population assessment in the city or town.

19 (2)(A) The mayor or other qualified representative of each city
20 or town shall certify to the board the accuracy of the metes and bounds legal
21 description of the area and the population information.

22 (B) The metes and bounds legal description shall be
23 determined by a surveyor licensed in the State of Arkansas, a preexisting map
24 held by the city, town, or fire protection district or by the Institute for
25 Economic Advancement at the College of Business Administration at the
26 University of Arkansas at Little Rock's Geographic Information Systems Lab.

27 (C) The population of the area shall be determined by the
28 Census State Data Center at the Institute for Economic Advancement at the
29 College of Business Administration at the University of Arkansas at Little
30 Rock's Geographic Information Systems Lab.

31 (3)(A) An actuary certified by the Society of Actuaries shall
32 evaluate the information submitted pursuant to subsection (c) of this section
33 to determine the amount of turnback funds to be directed to an area based on
34 the following formula:

35 (i) The legal description of the metes and bounds
36 shall be considered as forty percent (40%) of the calculation; and

1 (ii) The population of the area shall be considered
2 as sixty percent (60%) of the calculation.

3 (B) The actuarial assessment shall apply the corresponding
4 ratio of these factors in calculating the exact amount of funds that should be
5 allocated to each city, town, or fire protection district.

6 (d)(1) All cities, towns, or fire protection districts participating in
7 the Arkansas Firemen's and Police Officers' Pension and Relief Fund as of
8 April 15, 1999, shall receive at least seventy-five percent (75%) of its
9 current level of premium tax distributions upon conversion to the distribution
10 method prescribed in subsection (c) of this section. This threshold
11 percentage may be used as a phase-in tool by the board to accommodate the
12 conversion of distribution of a period of five (5) years from April 15, 1999.

13 The distribution of these funds shall be subject to subsection (b) of this
14 section.

15 (2) All cities and towns having police departments organized
16 pursuant to §§ 24-11-101 - 24-11-830 that have provided the information
17 required in subsection (c) of this section to the board shall qualify for
18 participation in the distribution of premium taxes for the Firemen's and
19 Police Officers' Pension and Relief Fund under the board.

20 (3) On or before December 15, 1985, of each calendar year until
21 the year 2000, the board shall certify to the Insurance Commissioner those
22 cities and towns which have organized police departments qualified to
23 participate in the distribution of premium taxes described by §§ 24-11-301 -
24 24-11-830.

25 (4) On or before June 15, 2001, the board shall certify to the
26 Department of Finance and Administration those cities and towns that qualify
27 for distribution of premium taxes collected under §§ 23-60-102, 24-11-301, 24-
28 11-302, 26-57-601 - 26-57-605, and 26-57-607 for the 2000 tax year pursuant to
29 the amended section determining qualification based on metes and bounds and
30 population of the area. Certification shall be provided to the Department of
31 Finance and Administration on all entities participating in the pension plan,
32 including, but not limited to, those entities participating prior to April 15,
33 1999.

34 (5) On or before June 15, 2001, the board shall certify to the
35 Department of Finance and Administration the exact amount of tax revenues each
36 city and town is entitled to receive for the calendar year in which coverage

1 began pursuant to subsection (c) of this section. Such information shall be
2 provided each calendar year thereafter on or before June 15.

3 (6) The eligibility of the cities or towns shall be continuous
4 for a ten-year period without recertification unless otherwise directed by the
5 board. The first year of implementation shall require a nine-year cycle from
6 June 15, 2001. Thereafter each city or town shall resubmit the information
7 required in subsection (c) of this section every ten (10) years beginning on
8 December 15, 2010.

9 (e) The Arkansas Fire and Police Pension Review Board created by § 24-
10 11-203 is directed, and it shall be its duty, to identify those cities and
11 towns to certify them to the Insurance Commissioner on or before December 15
12 of each calendar year until the year 2000, indicating that they are qualified
13 to participate in the distribution of those funds described and appropriated
14 by this subchapter. Subsequent to the year 2000, for each political
15 subdivision which covers a police department under the Arkansas Local Police
16 and Fire Retirement System, the board shall certify eligibility for the tax
17 moneys to the Department of Finance and Administration on or before December
18 15 of the calendar year.

19 ~~(f) Until December 15, 2000, each city and town qualified by either the~~
20 ~~Arkansas Fire and Police Pension Review Board or the Board of Trustees of the~~
21 ~~Arkansas Local Police and Fire Retirement System shall then be entitled to~~
22 ~~receive that portion of the tax, as described and appropriated by this~~
23 ~~subchapter, that is collected during the forthcoming calendar year, arising~~
24 ~~from such insurance as shall be written upon every motor vehicle principally~~
25 ~~garaged in that qualified city or town.~~

26 ~~(g) The Insurance Commissioner shall advise all companies subject to~~
27 ~~the tax of the name of each qualified city or town.~~

28 ~~(h) At the time of filing their respective annual statements, the~~
29 ~~companies shall report to the commissioner those premiums from motor vehicle~~
30 ~~owners for insurance against the perils described in this subchapter and shall~~
31 ~~identify that qualified city or town in which the subject of the insurance is~~
32 ~~principally garaged until the year 2000.~~

33 ~~(i) As of December 15, 2000, the provisions of subsections (f), (g),~~
34 ~~and (h) of this section shall be superseded by the provisions of § 24-11-~~
35 ~~301(a)-(d).~~

36 ~~(j)(1)(f)(1)~~ All taxes that are levied on insurers but are not

1 ~~allocated to cities or towns qualified to participate in the distribution of~~
 2 ~~the taxes that are allocated to general revenues under § 24-11-301(a)(3) shall~~
 3 first be allocated to the Arkansas Fire and Police Pension Guarantee Fund and
 4 next to the Policemen's Pension Supplement Program Fund as provided for in
 5 subdivision ~~(j)(3)(f)(4)~~ of this section and then to general revenues.

6 (2) Funds shall be distributed by the Chief Fiscal Officer of the
 7 State upon the recommendation of the Arkansas Fire and Police Pension Review
 8 Board in an amount necessary to fund the priority categories defined by § 24-
 9 11-209(e)(3)(A) - (D).

10 ~~(2)(3)~~ Funds ~~shall~~ may be distributed by the Chief Fiscal Officer
 11 of the State to the Arkansas Fire and Police Pension Guarantee Fund upon the
 12 recommendation of the Arkansas Fire and Police Pension Review Board for plans
 13 in the priority category defined by § 24-11-209(e)(3)(E).

14 ~~(3)(4)~~ After transfers are made to cover funds distributed under
 15 ~~subdivision (j)(2)~~ subdivisions (f)(3) and (f)(4) of this section and the
 16 portion of those premium taxes set aside for transfer to the State Police
 17 Retirement Fund under § 24-6-209(b), the Director of the Department of Finance
 18 and Administration is directed to make ~~monthly~~ annual transfers to the
 19 Policemen's Pension Supplement Program Fund on or before July 25, 1999, and
 20 each ~~month~~ year thereafter ~~of a portion of those unallocated insurance premium~~
 21 ~~taxes enumerated in § 24-11-301(a)~~ as certified by the Arkansas Fire and
 22 Police Pension Review Board on July 1 each year as the amount needed to pay
 23 the expenses of and to make payments to the eligible retired police officers
 24 and survivors under the Policemen's Pension Supplement Program for the coming
 25 year of the program.

26
 27 SECTION 2. Arkansas Code 24-11-809 is amended to read as follows:

28 24-11-809. Apportionment of insurance premium tax generally.

29 (a)(1) There is apportioned and set aside for the use and benefit of
 30 duly constituted firemen's relief and pension funds, and for the
 31 administrative and actuarial expenses of the Arkansas Fire and Police Pension
 32 Review Board and the Arkansas Fire and Police Pension Guarantee Fund the
 33 annual taxes of two and one-half percent (2.5%) on all foreign and alien
 34 premiums collected by all property and casualty insurance companies,
 35 corporations, or associations incorporated under the laws of any state or
 36 nation and doing business in the State of Arkansas, after all cancellations

1 and dividends to policyholders are deducted as provided by §§ 23-60-102, 24-
2 11-809, 26-57-601 - 26-57-605, and 26-57-607, upon real and personal property
3 insured against the perils of fire and extended coverage, tornado, windstorm,
4 cyclone, and hail, except upon growing crops, and located in or at cities,
5 towns, and fire protection districts in the State of Arkansas coming within
6 the provisions of this act.

7 (2) The premium taxes collected in this subsection shall be
8 placed in a fund combined with the premium taxes collected pursuant to § 24-
9 11-301. The combined fund shall be entitled the "Firemen's and Police
10 Officers' Pension and Relief Fund".

11 ~~(3) Each calendar year the Insurance Commissioner shall determine~~
12 ~~the total gross amount collected pursuant to this act and § 24-11-301. The~~
13 ~~commissioner shall withdraw six point two percent (6.2%) of the total gross~~
14 ~~amount collected for this fund and transfer such to General Revenue of the~~
15 ~~State of Arkansas.~~

16 ~~(4) For the 1999-2000 fiscal year, six hundred thousand dollars~~
17 ~~(\$600,000) shall be transferred to the Fire Protection Premium Tax Fund, from~~
18 ~~the six point two percent (6.2%) that would have otherwise accrued to General~~
19 ~~Revenues, and in all subsequent years, fifty percent (50%) of the increase in~~
20 ~~premium taxes from the six point two percent (6.2%) of the total gross amount~~
21 ~~collected, using the dollar amount collected in fiscal year 1999-2000 as the~~
22 ~~baseline, shall be transferred to the Fire Protection Premium Tax Fund in~~
23 ~~addition to the six hundred thousand dollars (\$600,000) per year, until such~~
24 ~~time that a cap of two million dollars (\$2,000,000) annually is transferred to~~
25 ~~the Fire Protection Premium Tax Fund. Thereafter, the annual transfer shall be~~
26 ~~set at two million dollars (\$2,000,000).~~

27 (b) In the case of multiperil policies with a single premium for both
28 the property and casualty coverages, the portion of the taxable premium shall
29 be as follows:

30 (1) In the case of commercial multiperil policies, seventy
31 percent (70%);

32 (2) In the case of homeowners' policies, forty-five percent
33 (45%);

34 (3) In the case of automobile physical damage policies, nine
35 percent (9%); and

36 (4) In the case of inland marine policies, fifteen percent (15%).

1 (c)(1)(A) The commissioner is directed, and it shall be his duty, to
2 embody in his annual statement the names of all cities, towns, and fire
3 protection districts entitled to receive the tax paid by the insurance
4 companies.

5 (B) He shall require the companies to report at the time of
6 making his annual statements the amount of premiums received and the amount of
7 taxes paid by the companies during the year ending December 31, upon real and
8 personal property insured against the perils recited, in each and all of the
9 several cities, towns, and fire protection districts named in his report.

10 (2) Thereafter, and by June 30 in each calendar year until the
11 year 2000, the commissioner shall certify to the Auditor of State the names of
12 the towns, cities, and fire protection districts having organized fire
13 departments which qualify for participation in the taxes distributed for
14 firemen's relief and pension funds, and the amount of taxes paid in the
15 preceding year by the companies described in this section upon the premiums
16 described in this section. As of December 15, 2000, the provisions of
17 subdivisions (c)(1) and (c)(2) of this section shall be superseded by the
18 provisions of § 24-11-810(a) and (b).

19 (3)(A) *All taxes that are levied on insurers, but are not*
20 *allocated to cities, towns, and fire protection districts qualified to*
21 *participate in the distribution of the taxes, may be allocated to the Fire*
22 *Protection Premium Tax Fund and the Arkansas Fire and Police Pension Guarantee*
23 *Fund and then to general revenues.*

24 *(B) For the 1999-2000 fiscal year, six hundred thousand*
25 *dollars (\$600,000) of the funds transferred to General Revenues pursuant to*
26 *this section and § 24-11-810 shall be transferred to the Fire Protection*
27 *Premium Tax Fund and in all subsequent years, fifty percent (50%) of the*
28 *percentage increase in the amount allocated to General Revenues under this*
29 *section and § 24-11-810, using the dollar amount allocated in fiscal year*
30 *1999-2000 as the baseline, shall be transferred to the Fire Protection Premium*
31 *Tax Fund in addition to the six hundred thousand dollars (\$600,000) per year,*
32 *until such time that a cap of two million dollars (\$2,000,000) annually is*
33 *transferred to the Fire Protection Premium Tax Fund. Thereafter, the annual*
34 *transfer shall be set at two million dollars (\$2,000,000).*

35 ~~(B)~~(C) *Funds shall be distributed by the Chief Fiscal*
36 *Officer of the State upon the recommendation of the Arkansas Fire and Police*

1 Pension Review Board in an amount necessary to fund the priority categories
2 defined by subdivisions (e)(3)(A) - (D) in § 24-11-209.

3 ~~(C)(D)~~ Funds may be distributed by the Chief Fiscal Officer
4 of the State to the Arkansas Fire and Police Pension Guarantee Fund upon the
5 recommendation of the Arkansas Fire and Police Pension Review Board for plans
6 in the priority category defined by § 24-11-209(e)(3)(E).

7 (4) The payment for the administrative and actuarial expenses of
8 the Arkansas Fire and Police Pension Review Board shall be made prior to the
9 disbursements to the eligible political subdivisions.

10 SECTION 3. Arkansas Code § 24-11-301(a), concerning the
11 appropriation of tax revenues from insurance premium taxes, is amended to read
12 as follows:

13 (a)(1) Sixty-six and two-thirds percent (66 2/3%) of the total tax
14 revenues derived from premium taxes paid to the State of Arkansas by alien and
15 foreign insurance companies upon premiums collected by the insurance companies
16 upon insurance contracts written on motor vehicles, the licensed addresses of
17 which are qualified cities or towns wherein the motor vehicles are insured
18 against the perils of physical damage or the owner or operators of the motor
19 vehicles are insured against legal liability arising out of the use,
20 ownership, or operation of the motor vehicles, is appropriated and set aside
21 for the use and benefit of all duly qualified police officers' pension and
22 relief funds and for the administrative and actuarial expenses of the Arkansas
23 Fire and Police Pension Review Board and for the Arkansas Fire and Police
24 Pension Guarantee Fund and for the Arkansas Policemen's Pension Supplement
25 Program.

26 (2) The premium taxes collected in this subsection shall be
27 placed in a fund combined with the premium taxes collected pursuant to § 24-
28 11-809. The combined fund shall be entitled the "Firemen's and Police
29 Officers' Pension and Relief Fund".

30 ~~(3) Each calendar year the Insurance Commissioner shall determine~~
31 ~~the total gross amount collected pursuant to this section and § 24-11-809.~~
32 ~~The commissioner shall withdraw six point two percent (6.2%) of the total~~
33 ~~gross amount collected for this fund and transfer such to General Revenue of~~
34 ~~the State of Arkansas.~~

35 ~~(4) For the 1999-2000 fiscal year, six hundred thousand dollars~~
36 ~~(\$600,000) shall be transferred to the Fire Protection Premium Tax Fund from~~

1 ~~the six point two percent (6.2%) that would have otherwise accrued to General~~
 2 ~~Revenues, and in all subsequent years, fifty percent (50%) of the increase in~~
 3 ~~premium taxes from the six point two percent (6.2%) of the total gross amount~~
 4 ~~collected, using the dollar amount collected in fiscal year 1999-2000 as the~~
 5 ~~baseline, shall be transferred to the Fire Protection Premium Tax Fund in~~
 6 ~~addition to the six hundred thousand dollars (\$600,000) per year, until such~~
 7 ~~time that a cap of two million dollars (\$2,000,000) annually is transferred to~~
 8 ~~the Fire Protection Premium Tax Fund. Thereafter, the annual transfer shall~~
 9 ~~be set at two million dollars (\$2,000,000).~~

10 ~~(5)(A)(3)(A)~~ The remaining revenues collected pursuant to §§ 23-
 11 60-102, 24-11-301, 24-11-302, 24-11-809, 24-11-810, 26-57-601 - 26-57-605, and
 12 26-57-607 shall be distributed to the Firemen's and Police Officers' Pension
 13 and Relief Fund and to the State of Arkansas as general revenues. Revenues
 14 distributed to the State of Arkansas as general revenues are subject to the
 15 allocations enumerated in § 24-11-302(f).

16 (B) The revenues shall be distributed in such a manner that
 17 the Firemen's and Police Officers' Pension and Relief Fund and the general
 18 revenue fund will each receive distributions of no less than they received in
 19 fiscal year 1999, except that:

20 (i) If the revenues to be distributed in a subsequent
 21 year are less than the revenues distributed in 1999, then the distributions to
 22 each shall be reduced proportionately; and

23 (ii) If additional police departments become eligible
 24 for distributions from the Firemen's and Police Officers' Pension and Relief
 25 Fund, the base amount for the state shall be reduced in proportion to the
 26 population in the area served by the police department to the portion of the
 27 population of the state not covered by a police department receiving a
 28 distribution from the fund.

29 (C) Except as provided in subdivision (5)(B) of this
 30 section, the portion distributed to the Firemen's and Police Officers' Pension
 31 and Relief Fund shall be based on the ratio percentage of the total population
 32 of the cities or towns qualified to participate in such fund in comparison to
 33 the total population of the State of Arkansas. The remaining percentage shall
 34 be distributed to the State of Arkansas' general revenue fund.

35
 36 SECTION 4. [THE ARKANSAS CODE REVISION COMMISSION IS NOT REQUIRED TO

1 CODIFY THIS SECTION.] No benefit enhancement provided for by this act shall
 2 be implemented if it would cause the publicly supported retirement system's
 3 unfunded actuarial accrued liabilities to exceed a thirty (30) year
 4 amortization. No benefit enhancement provided for by this act shall be
 5 implemented by any publicly supported system which has unfunded actuarial
 6 accrued liabilities being amortized over a period exceeding thirty (30) years
 7 until the unfunded actuarial accrued liability is reduced to a level less than
 8 the standards prescribed by Arkansas Code, Title 24.

9
 10 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General
 11 Assembly that the provisions of this act must be implemented before the funds
 12 described herein are next disbursed in order to insure the fiscal well being
 13 of the beneficiaries of the Police and Fire Pension and Relief Funds.
 14 Therefore, an emergency is declared to exist and this act being immediately
 15 necessary for the preservation of the public peace, health and safety shall
 16 become effective on the date of its approval by the Governor. If the bill is
 17 neither approved nor vetoed by the Governor, it shall become effective on the
 18 expiration of the period of time during which the Governor may veto the bill.
 19 If the bill is vetoed by the Governor and the veto is overridden, it shall
 20 become effective on the date the last house overrides the veto.

21 /s/ R. Smith

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 24 APPROVED: 4/12/2001