

INTERIM STUDY PROPOSAL 2013-161

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H4/5/13 H4/10/13

A Bill

HOUSE BILL 1191

By: Representative Hammer

Filed with: Interim House Committee on City, County and Local Affairs
pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

AN ACT TO PROVIDE ADDITIONAL METHODS FOR COLLECTING
DELINQUENT RURAL FIRE DEPARTMENT DUES AND FEES; TO
ALLOW THE COMMISSIONER OF STATE LANDS TO ASSESS A
PENALTY TO BENEFIT CERTAIN FIRE DEPARTMENTS; AND FOR
OTHER PURPOSES.

Subtitle

TO PROVIDE ADDITIONAL METHODS FOR
COLLECTING DELINQUENT FIRE DEPARTMENT
FEES AND DUES; AND TO ALLOW THE
COMMISSIONER OF STATE LANDS TO ASSESS A
PENALTY TO BENEFIT CERTAIN FIRE
DEPARTMENTS.

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

SECTION 1. Arkansas Code Title 26, Chapter 37, Subchapter 1, is amended to add an additional section to read as follows:

26-37-110. Additional penalty – Grant program.

(a) In addition to any other fees and penalties allowed under this chapter, the Commissioner of State Lands may assess a penalty of the lesser of ten percent (10%) of the total sale or redemption price for any property forfeited to the state for delinquent taxes or fifty dollars (\$50.00).

(b) The purchaser or redeemer of the property shall be responsible for paying any penalty assessed under this section.

1 (c)(1) The Commissioner of State Lands shall use the funds collected
2 under this section exclusively for the purposes stated in subdivision (c)(2)
3 of this section.

4 (2)(A) The Commissioner of State Lands, in cooperation with the
5 Department of Rural Services, shall use the funds collected under this
6 section to establish and administer by rule a grant program that shall be
7 used to provide financial assistance to fire departments to be used
8 exclusively for the purpose of lowering the fire department's Public
9 Protection Classification rating as determined by Insurance Services Office,
10 Inc.

11 (B) A fire department receiving a grant under this section
12 may use the funds to retain personnel to process the documentation required
13 by Insurance Services Office, Inc., to lower the fire department's Public
14 Protection Classification rating.

15 (3) The rules promulgated under this section are subject to the
16 Arkansas Administrative Procedure Act, § 25-15-201 et seq.

17 (d) This section shall expire on June 30, 2019.

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20 /s/Hammer

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23 Referral requested by: Representative Kim Hammer

24 Prepared by: JLL/JLL

Challenges facing rural volunteer fire departments in Arkansas

How can we lower ISO Ratings for Fire Departments in Arkansas? Fire Departments in Arkansas face major challenges in delivering fire protection services statewide. Finding volunteers committed to training, readiness and undertaking life-threatening risks is a major task for every fire department. Establishing, collecting and administrating state and local revenues for fire houses, equipment, and water sources presents an immense set of hurdles. The sheer number of fire departments in Arkansas amplifies the challenges for acquiring and retaining trained volunteers and administrators; and creates inefficiencies in collecting and administrating revenues. According to the Arkansas Department of Emergency Management there are approximately 980 certified fire departments in Arkansas and of these there are approximately 546 rural volunteer fire departments and 343 municipal fire departments (of which 26 municipal fire departments are paid or not VFD).

Headwinds for fire departments and volunteers

Charles Gangluff, Arkansas Association of Resource Conservation and Development Councils program manager, says the challenge of finding and keeping volunteer firefighters and administrators is becoming more difficult each year. This concern is found not only in Arkansas, but nationwide. Between 2008 and 2011 the number of volunteer firefighters in the U.S. declined by almost 9 percent. Training hours are increasing as the fire departments strive to efficiently provide the various services required by the public. Obviously training is very important, but the hours required to become proficient at these demanding tasks can often discourage new recruits. Most fire departments are seeing much higher call volume than they were just a few years ago. At the same time, there are fewer people willing to serve. This is often due to less free time for many citizens. The average age of volunteer firefighters in rural Arkansas continues to go up. Younger men and women seem to be impacted more severely by the current economic conditions and therefore have to travel further for work and may also have a second job.

The ultimate goal is to provide adequate fire protection services statewide and the acceptable method of measuring the level of fire protection services is the premium rating as per the Insurance Services Office. Calculations obtained by

the Bureau of Legislative Research reflect that an improvement statewide of 2 points under the Insurance Services Office (ISO) premium rating may result in a reduction in insurance premiums to Arkansans in excess of \$80 million. The percentage of Arkansas fire departments with ISO ratings of 9 is 49 percent and much higher than the national average of 26 percent. More detail can be found in the below charts showing the ISO ratings for Fire Departments in Arkansas and the national average of ISO ratings for fire departments nationwide.

Commitment of AAC, Counties and County Officials

The Association of Arkansas Counties, the County Judges Association of Arkansas, the Arkansas Assessors Association, and the Arkansas Collectors Association along with the 75 county governments and many of our 1,334 county and district officials have a special commitment to fire departments and their officers and employees. Many counties have local taxes or appropriations for fire departments in accordance with A.C.A. 14-284-403(a). However, as per Attorney General Opinion 2012-007 and Legislative Audit this section of code must be read in light of the Constitutional prohibition for appropriating local funds to individuals or corporations. The AG stated the law is read to require as a predicate to appropriating funds contracts for services to be entered into by counties in consideration of fire services in the unincorporated areas of the county.

Worker's Compensation coverage offered by

the Association of Arkansas Counties Workers Compensation Trust ("AAC-WCT") are offered by counties for rural volunteer firefighters. Recently, the Association of Arkansas Counties Risk Management Fund ("AACRMF") adopted a program in conjunction with the Arkansas Association of Resource Conservation and Development Councils ("AARCD") to provide active volunteer firefighters with Accidental Death and Dismemberment Insurance as well as Wage Loss Protection. These policies are complementary to the current Worker's Compensation coverage and are expected to increase firefighter recruitment and retention. This program is being funded with a grant from the SAFER or the "Staffing for Adequate Fire and Emergency Response" Program. Meetings have been held throughout the state to inform the fire departments about the program and to answer questions.

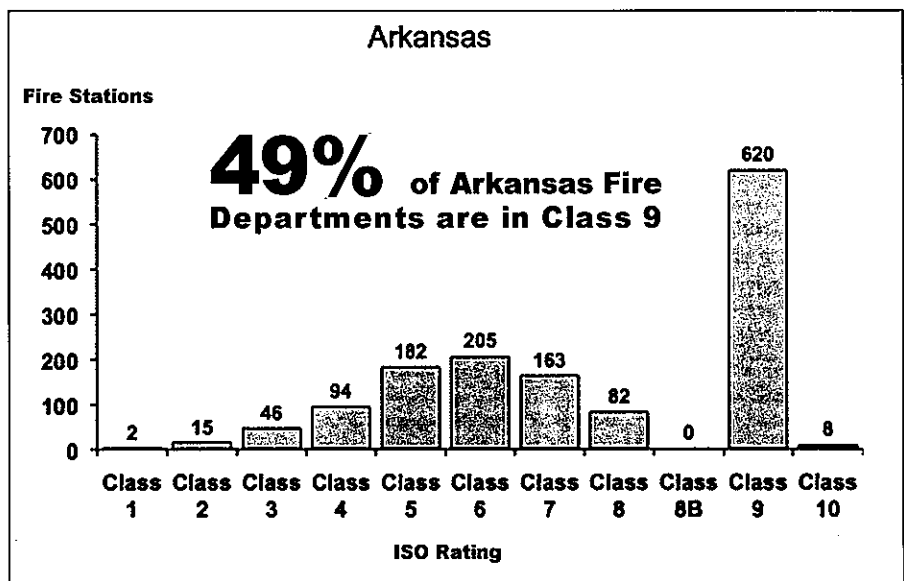
Commitment of the State of Arkansas

In 1991 the General Assembly with the support of counties, cities and other organizations rose to offer a financial rescue of fire departments in Arkansas. Act 833 of 1991 codified as A.C.A. 14-284-401 et seq. and A.C.A. 26-57-

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614 assessed and declared as the public policy of the state that it is necessary to assess an insurance premium tax to provide for adequate fire protection services to the citizens and their property through the use of properly trained and equipped fire fighters. The insurance premium tax of 1/2 of 1 percent on certain real and personal property insurance under Act 833 has resulted in disbursements of over \$158 million to fire departments since commencing with state fiscal year 1992. Act 833 disbursements have grown from about \$3.5 million in FY 1992 to about \$12.5 million in FY 2012.

Also, the General Assembly Act 1314 of 2007 and Act 884 of 2009 each funded \$4 million to fire departments. The Arkansas Supreme Court in *Wilson v. Weiss* in 2007 ruled adversely concerning local appropriations by the General Assembly (368 Ark. 300 (2006); and 370 Ark. 359 (2007)). As a result of the litigation the Governor and General Assembly have provided state funds to fire departments statewide. Funding to the Arkansas Department of Rural Services has recently been \$300,000 for fire protection grants. The funding to Arkansas Association of Resource Conservation and Development Councils ("AARCD") has recently declined to \$175,000. In 1996, the initial amount of \$1.1 million was allotted to the Arkansas Natural Resources Commission ("ARNC") to split this funding amongst their various boards funding the Rural Fire Protection Program administered by AARCD. The year end fiscal reports from 2003-2013 show appropriations of \$1.1 million to the commission, but unfortunately they also showed a consistent annual decrease in funding for the Rural Fire Protection Program. As a result, the Rural Fire Protection Program as well as Sewage and Water received fewer funds. The Rural Fire Pro-

tection Program began at \$497,000 in 2003 and dwindled to \$30,000 in a seven-year span (FY03-FY10) and to increase recently only to \$175,000 for (FY11-FY13).

Commitment to Taxpayer Fairness

It is apparent from information gathered by the Bureau of Legislative Research that the collection rates of fire departments are frequently below 30 percent. In contrast the collection rate of fire departments that utilize the county collector's office for collection is well above 90 percent and often higher. During the 2013 regular session of the General Assembly and frequently at the AAC, questions arose about the manner and laws on collecting fire dues. Rep. Kim Hammer (R, District 38) of Benton, Ark., made inquiry and has filed an ISP, Interim Study Proposal, ISP-2013-161

Act 1326 of 2003 funded a program that is now assisting fire departments in mailing their dues notices through AARCD. This program has successfully aided many fire departments by reducing the time consuming tasks and expense of mailing membership dues notices. The notices contain language to encourage public support of the fire department. The billing notices will appear to come from your fire department and the checks from the citizens will be mailed directly to your department at the address you specify. All of this is done at no cost to the fire department.

At the request of Rep. Hammer and the Bureau of Legislative Research, the Collectors Association polled county collectors statewide and determined that only 30 counties have collectors, sheriff-collectors or treasurer-collectors placing the fire dues on the tax statements. These fire departments had to front-end effort to organize their collection books and to comply with the law, but the return is several-fold

year after year. The remaining 45 counties indicate that they do not collect fire dues on the tax statements. Statewide the information gathered indicates that only 154 fire departments have their dues placed on the tax bills by their county collector. (See "On the Web" component for data on counties collecting fire dues.)

Some of the legal questions facing volunteer fire departments on collection of fire dues hinge upon the manner in which the particular fire department was formed. Many of these hundreds of volunteer fire departments were established as: nonprofit corporations; fire protection districts, fire improvement districts, suburban fire districts; and city or county created departments or entities such as public facilities boards, administrative boards, or advisory boards, etc. Volunteer fire departments have limited access to legal assistance and to financial administration, including collection of dues. Two laws provide an avenue for placing the collection of fire dues upon the property tax bills, A.C.A. 14-284-201 et seq. and A.C.A. 14-20-108. A.C.A. 14-284-215 is limited to fire protection districts. As per recent Attorney General Opinion No. 2013-08, A.C.A. 14-20-108 applies to any fire department including fire protection districts and including nonprofit fire departments in consideration of providing fire protection to unincorporated areas in the county.

A comparison may be needed between the ISO ratings of the fire department having their fire dues placed on the tax bills (and the resulting higher collection rate) versus those that are not having their dues placed on the tax bills (and have substantially lower collection rate). Considering the modest dues of voluntary fire departments, reduction in premiums from enhanced ISO ratings is a net gain to the constituents (often a significant net gain). Fire departments with collection rates of about 30 percent are unlikely to improve their ISO rating (and likewise unlikely to improve their constituents' ISO rating or reduce their premiums). It is our understanding that Rep. Hammer, the Bureau of Legislative Research and the General Assembly under the aforementioned ISP will continue to seek information on ways to enhance collection of fire dues. Meanwhile, the AAC, the CJAA and the Arkansas Collectors Association will assist in informing fire departments of the laws and attorney general opinions referenced in this memorandum.

On the Web:

Look for Counties & Fire Due Collection www.arcounties.org
Search "county comparison of counties and fire dues."

