MISSISSIPPI LEGISLATURE REGULAR SESSION 2021

By: Representative Ford (54th)

To: Insurance;
Appropriations

HOUSE BILL NO. 332

AN ACT TO AMEND SECTIONS 25-15-405 AND 25-15-407, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR PAYMENTS FOR BENEFITS AND INSURANCE PREMIUMS UNDER THE MISSISSIPPI FIRST RESPONDERS HEALTH AND SAFETY ACT; TO CREATE THE MISSISSIPPI FIRST RESPONDERS HEALTH AND SAFETY TRUST FUND; TO CREATE THE MINIMUM FIRE PROTECTION TRUST FUND; TO AMEND SECTION 83-34-4, MISSISSIPPI CODE OF 1972, TO ANNUALLY DIVERT FORTY PERCENT OF THE NONADMITTED POLICY FEE TO FUND THE RURAL FIRE TRUCK AND SUPPLEMENTAL FUND, THE MISSISSIPPI FIRST RESPONDERS HEALTH AND SAFETY FUND, THE CAPITAL EXPENSE FUND, THE COMPREHENSIVE HURRICANE MITIGATION FUND, AND TO PROVIDE FUNDS FOR FIRE PREVENTION AND EDUCATION, FOR FIRE APPARATUS GRANTS AND FIRE PROTECTION GRANTS; TO REMOVE THE REPEALER FROM THE SECTION OF LAW; TO AMEND SECTION 17-23-1, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE PURCHASE OF USED FIRE TRUCKS FOUR YEARS OLD AND LESS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-15-405, Mississippi Code of 1972, is amended as follows:

25-15-405. (1) As an alternative to pursuing workers' compensation benefits, upon a diagnosis of cancer, a first responder is entitled to the following benefits:

(a) Provided the diagnosis occurs on or after the first responder's effective date of coverage, a lump-sum benefit of Thirty-five Thousand Dollars ($35,000.00) of coverage for each

diagnosis payable to the first responder upon acceptable proof to the insurance carrier or other payor of a diagnosis by a board-certified physician in the medical specialty appropriate for the type of cancer diagnosed that the cancer was caused by an occupational hazard and that there are one or more malignant tumors characterized by the uncontrollable and abnormal growth and spread of malignant cells with invasion of normal tissue and that either:

(i) There is metastasis, and surgery, radiotherapy or chemotherapy is medically necessary;

(ii) There is a tumor of the prostate, provided that it is treated with radical prostatectomy or external beam therapy; or

(iii) The first responder has terminal cancer, his or her life expectancy is twenty-four (24) months or less from the date of diagnosis, and will not benefit from, or has exhausted, curative therapy.

(b) Provided the diagnosis occurs on or after the first responder's effective date of coverage, a lump-sum benefit of Six Thousand Two Hundred Fifty Dollars ($6,250.00) for each diagnosis payable to the first responder upon acceptable proof to the insurance carrier or other payor of a diagnosis by a board-certified physician in the medical specialty appropriate for the type of cancer involved that:

(i) There is carcinoma in situ such that surgery, radiotherapy or chemotherapy has been determined to be medically necessary;

(ii) There are malignant tumors which are treated by endoscopic procedures alone; or

(iii) There are malignant melanomas.

(c) The combined total of benefits received by any first responder under paragraphs (a) and (b) of this subsection (1) during his or her lifetime shall not exceed Fifty Thousand Dollars ($50,000.00).

(d) Provided the date of disability occurs on or after the first responder's effective date of coverage, a disability benefit payable as a result of a specific cancer to begin six (6) months after the date of disability and submission to the insurance carrier or other payor of acceptable proof of disability caused by the specified disease or events such that the illness precludes the first responder from serving as a first responder:

(i) For nonvolunteer first responders, a monthly benefit equal to sixty percent (60%) of the first responder's monthly salary as an employed first responder with a fire or police department or a monthly benefit of Five Thousand Dollars ($5,000.00), whichever is less, of which the first payment shall be made six (6) months after the total disability and shall continue for thirty-six (36) consecutive monthly payments unless the first responder regains the ability to perform his or her

duties as determined by reevaluation under subparagraph (iv) of this paragraph, at which time the payments shall cease the last day of the month of reevaluation;

(ii) For volunteer firefighters, a monthly benefit of One Thousand Five Hundred Dollars ($1,500.00) of which the first payment shall be made six (6) months after the total disability and shall continue for thirty-six (36) consecutive monthly payments unless the first responder regains the ability to perform his or her duties as determined by reevaluation under subparagraph (iv) of this paragraph, at which time the payments shall cease the last day of the month of reevaluation;

(iii) Such monthly benefit shall be subordinate to any other benefit actually paid to the first responder solely for such disability from any other source, not including private insurance purchased solely by the first responder;

(iv) Any first responder receiving the monthly benefits may be required to have his or her condition reevaluated. In the event any such reevaluation reveals that such person has regained the ability to perform duties as a first responder, then his or her monthly benefits shall cease the last day of the month of reevaluation; and

(v) In the event that there is a subsequent recurrence of a disability caused by a specified cancer, which precludes the first responder from serving as a first responder,

he or she shall be entitled to receive any remaining monthly payments.

(e) An eligible first responder who dies as a result of a compensable type of cancer, or circumstances arising out of the treatment of a compensable type of cancer, but does not submit sufficient proof of claim prior to the first responder's death, is entitled to receive benefits specified in paragraphs (a) and (b) of this subsection (1) and made available to the deceased first responder's beneficiary or beneficiaries.

(f) Any first responder who was simultaneously a member of more than one (1) fire or police department at the time of diagnosis shall not be entitled to receive benefits from or on behalf of more than one (1) fire or police department. The first responder's primary place of employment shall maintain coverage for the eligible first responder; and

(g) An otherwise eligible first responder shall be precluded from the benefits listed under this section if he or she has filed for workers' compensation for the same diagnosis of cancer.

(2) Benefits under this section may be paid from the Mississippi First Responders Health and Safety Trust Fund.

SECTION 2. Section 25-15-407, Mississippi Code of 1972, is amended as follows:

25-15-407. (1) The costs of purchasing an insurance policy that provides for cancer coverage in compliance with this article,

or the costs of providing such benefits through a self-funded system in compliance with this article, must be borne solely by the employer that employs the eligible first responder and may not be funded partially or wholly by individual first responders. In addition to any other purpose authorized, county governing authorities and municipal governing authorities may use proceeds from county and municipal taxes for the purposes of providing insurance in compliance with this article. The computation of premium amounts by an insurer for the coverage under this article shall be subject to generally accepted adjustments from insurance underwriting.

(2) The Insurance Department shall establish the process by which the state, municipality, county or fire protection district may request funds from the Mississippi First Responders Health and Safety Trust Fund to pay insurance premiums or benefits as provided under this chapter.

(3) Benefits under this section may be paid from the Mississippi First Responders Health and Safety Trust Fund.

SECTION 3. There is created in the State Treasury a special fund to be designated as the "Mississippi First Responders Health and Safety Trust Fund." This fund shall be funded through funds provided to it through the provisions of Section 83-34-4(3), and any monies which may be appropriated to it by the Legislature. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest

earned on amounts in the fund shall be deposited to the credit of the fund.

SECTION 4. (1) There is created in the State Treasury a special fund to be designated as the "Minimum Fire Protection Trust Fund" which shall be used to provide fire prevention and education grants, fire apparatus grants, smoke alarm grants and fire protection grants issued by the State Fire Marshal to counties and municipalities. It is the intention of the Legislature that preference shall be given to counties and municipalities in financial or immediate need of these grants. This fund shall be funded through monies provided to it through the provisions of Section 83-34-4(3), and any monies which may be appropriated to it by the Legislature. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund.

(2) The State Fire Marshal shall have the authority to establish rules and regulations to implement the provisions of this section.

SECTION 5. Section 83-34-4, Mississippi Code of 1972, is amended as follows:

83-34-4. (1) Nonadmitted insurers shall not be assessable insurers of the association. All surplus lines insurance producers placing insurance through nonadmitted insurers shall collect from the insured and remit * * *, as directed in

subsection (3) of this section, a nonadmitted policy fee on all premiums for all insurance written by such surplus lines insurance producer for a policy from a nonadmitted insurer for any and all risks in this state, except that policies or portions thereof that cover residential earthquake risks or residential flood risks that are not written through the National Flood Insurance Program shall be exempt from the nonadmitted policy fee. By procuring or selling insurance on property in this state from a nonadmitted insurer, each surplus lines insurance producer placing insurance through a nonadmitted insurer agrees to be bound by the provisions of this chapter and to collect and remit the nonadmitted policy fee provided for herein.

(2) The nonadmitted policy fee shall be a percentage of the total policy premium but the nonadmitted policy fee shall not be considered premium and is not subject to premium taxes or commissions. However, failure to pay the nonadmitted policy fee shall be treated the same as failure to pay premium. "Total policy premium" includes taxes and commissions.

(3) The nonadmitted policy fee percentage shall be three percent (3%). The monies derived under this section shall be paid to a fund administered by the commissioner and said funds shall be expended annually by the commissioner in the following manner:

(a) Three Million Two Hundred Thousand Dollars ($3,200,000.00) shall be paid to the Rural Fire Truck Fund or Supplementary Rural Fire Truck Fund for the purchase of new fire

trucks, or used trucks that are less than four (4) years old, and such trucks must meet the National Fire Protection Association (NFPA) standards in the 1900 series;

(b) Five Hundred Thousand Dollars ($500,000.00) to be paid to the Mississippi First Responders Health and Safety Trust Fund;

(c) Two Hundred Fifty Thousand Dollars ($250,000.00) to be paid to the Comprehensive Hurricane Damage Mitigation Program;

(d) One Million Dollars ($1,000,000.00) to be paid to the Minimum Fire Protection Trust Fund;

(e) One Million Five Hundred Thousand Dollars ($1,500,000.00) to be paid to the association; and

(f) Remaining monies to be paid to the Capital Expense Fund.

In the event of a covered event that produces losses in excess of available surplus and available reinsurance, all monies, with the exception for those monies provided under paragraph (b) of this subsection (3), shall immediately be diverted to the association and shall not be considered public funds.

(4) Within twenty (20) days of the end of the quarter, surplus lines insurance producers placing insurance through nonadmitted insurers shall remit directly to the * * * commissioner all nonadmitted policy fees collected in the preceding quarter. In addition to the nonadmitted policy fee provided for herein, surplus lines insurance producers placing

insurance through nonadmitted insurers shall collect and remit excess deficit surcharges as provided by this chapter. Surplus lines insurance producers placing insurance through nonadmitted insurers may designate another surplus lines insurance producer that actually procured the insurance from the nonadmitted carrier to collect and remit the nonadmitted policy fees.

(5) Each insured in this state who directly procures or renews insurance with a nonadmitted insurer on properties, risks or exposures located or to be performed, in whole or in part, in this state, other than insurance procured through a surplus lines licensee, shall be subject to the nonadmitted policy fee which shall be paid by the insured according to the procedures provided for premium taxes in Section 83-21-17(5).

(6) Monies derived from the nonadmitted policy fee collected under this section may be used by the association, in addition to any uses provided for in Section 83-34-3(4), for education, public outreach, training of building officials and other programs targeted to reduce the number of policies within the association *** * ***.

(7) *** * *** The commissioner may establish rules and regulations to implement the provisions of this section.

SECTION 6. Section 17-23-1, Mississippi Code of 1972, is amended as follows:

17-23-1. (1) There is established the Rural Fire Truck Acquisition Assistance Program to be administered by the

Department of Insurance for the purpose of assisting counties and municipalities in the acquisition of fire trucks.

(2) There is created in the State Treasury a special fund to be designated as the "Rural Fire Truck Fund." The Legislature may appropriate that amount necessary to fulfill the obligations created under this section by the Department of Insurance, from the State General Fund to such special fund, which sum shall be added to the remainder of the money transferred on July 1, 1995, and during the 1996 Regular Session to the Rural Fire Truck Fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Unobligated amounts remaining in the Rural Fire Truck Fund, Fund No. 3507, or in any fund created for funds appropriated or otherwise made available for this program, may be used as matching funds by any county with remaining eligibility as provided herein. It is the intent of the Legislature that the Department of Insurance continue to accept applications from the counties for fire trucks as provided in subsection (3) of this section.

(3) (a) A county that meets the requirements provided herein may receive an amount not to exceed Eight Hundred Thirty Thousand Dollars ($830,000.00) as provided in subparagraphs (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii) and (xiii) of this paragraph, and such amount shall be

divided as follows: an amount of not more than Fifty Thousand Dollars ($50,000.00) per fire truck for the first six (6) trucks and not more than Seventy Thousand Dollars ($70,000.00) per fire truck for the seventh, eighth, ninth, tenth and eleventh trucks, and not more than Ninety Thousand Dollars ($90,000.00) per fire truck for the twelfth and thirteenth truck. Monies distributed under this chapter shall be expended only for the purchase of new fire trucks, or used trucks that are less than four (4) years old, and such trucks must meet the National Fire Protection Association (NFPA) standards in the 1900 series.

(i) Any county that has not applied for a fire truck under this section is eligible to submit applications for thirteen (13) fire trucks as follows: six (6) fire trucks at not more than Fifty Thousand Dollars ($50,000.00) per truck and five (5) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and two (2) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of Eight Hundred Thirty Thousand Dollars ($830,000.00).

(ii) Any county that has received one (1) fire truck under this section is eligible to submit applications for twelve (12) fire trucks as follows: five (5) fire trucks at not more than Fifty Thousand Dollars ($50,000.00) per truck and five (5) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and two (2) fire trucks at not more than

Ninety Thousand Dollars ($90,000.00) per truck or a total of Seven Hundred Eighty Thousand Dollars ($780,000.00).

(iii) Any county that has received two (2) fire trucks under this section is eligible to submit an application for eleven (11) fire trucks as follows: four (4) fire trucks at not more than Fifty Thousand Dollars ($50,000.00) per truck and five (5) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and two (2) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Seven Hundred Thirty Thousand Dollars ($730,000.00).

(iv) Any county that has received three (3) fire trucks under this section is eligible to submit an application for ten (10) fire trucks as follows: three (3) fire trucks at not more than Fifty Thousand Dollars ($50,000.00) per truck and five (5) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and two (2) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Six Hundred Eighty Thousand Dollars ($680,000.00).

(v) Any county that has received four (4) fire trucks under this section is eligible to submit an application for nine (9) fire trucks as follows: two (2) fire trucks at not more than Fifty Thousand Dollars ($50,000.00) per truck and five (5) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and two (2) fire trucks at not more than Ninety

Thousand Dollars ($90,000.00) per truck or a total of not more than Six Hundred Thirty Thousand Dollars ($630,000.00).

(vi) Any county that has received five (5) fire trucks under this section is eligible to submit an application for eight (8) fire trucks as follows: one (1) fire truck at not more than Fifty Thousand Dollars ($50,000.00) per truck and five (5) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and two (2) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Five Hundred Eighty Thousand Dollars ($580,000.00).

(vii) Any county that has received six (6) fire trucks under this section is eligible to submit an application for seven (7) fire trucks as follows: five (5) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and two (2) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Five Hundred Thirty Thousand Dollars ($530,000.00).

(viii) Any county that has received seven (7) fire trucks under this section is eligible to submit an application for six (6) fire trucks as follows: four (4) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and two (2) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Four Hundred Sixty Thousand Dollars ($460,000.00).

(ix) Any county that has received eight (8) fire trucks under this section is eligible to submit an application for five (5) fire trucks as follows: three (3) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and two (2) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Three Hundred Ninety Thousand Dollars ($390,000.00).

(x) Any county that has received nine (9) fire trucks under this section is eligible to submit an application for four (4) fire trucks as follows: two (2) fire trucks at not more than Seventy Thousand Dollars ($70,000.00) per truck, and two (2) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Three Hundred Twenty Thousand Dollars ($320,000.00).

(xi) Any county that has received ten (10) fire trucks under this section is eligible to submit an application for three (3) fire trucks as follows: one (1) fire truck at not more than Seventy Thousand Dollars ($70,000.00) per truck, and two (2) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck or a total of not more than Two Hundred Fifty Thousand Dollars ($250,000.00).

(xii) Any county that has received eleven (11) fire trucks under this section is eligible to submit an application for two (2) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck.

(xiii) Any county may apply for two (2) fire trucks at not more than Ninety Thousand Dollars ($90,000.00) per truck as provided in subparagraph (xii), provided that the county agrees to forego any previous fire truck under subparagraphs (i) through (xi) for which the county has not previously applied, and that the county has received approval from the Rural Fire Truck Acquisition Assistance Program Committee to apply for and receive a truck under subparagraph (xii).

(b) The board of supervisors of the county shall submit its request for the receipt of monies to the Department of Insurance. A committee composed of the Commissioner of Insurance, the State Fire Coordinator, the Director of the Rating Bureau and the Director of the State Fire Academy shall review the requests by the boards of supervisors and shall determine whether the county or municipality for which the board of supervisors has requested a truck meets the requirements of eligibility under this chapter.

(c) To be eligible to receive monies under this chapter:

(i) A county or municipality must pledge to set aside or dedicate each year as matching funds, for a period not to extend over ten (10) years, local funds in an amount equal to or not less than one-tenth (1/10) of the amount of monies for which it is requesting distribution from the Rural Fire Truck Fund, which pledged monies may be derived from local ad valorem tax

authorized by law or from any other funds available to the county or municipality, except for those funds received by municipalities or counties from the Municipal Fire Protection Fund or the County Volunteer Fire Department Fund, as defined in Sections 83-1-37 and 83-1-39.

(ii) A municipality must provide adequate documentation of its contract with the county that requires the municipality to provide fire protection in rural areas. The term "rural areas" means any area within the county located outside the boundaries of an incorporated municipality or any incorporated municipality with a population of two thousand five hundred (2,500) or less.

(d) The Department of Insurance shall maintain an accurate record of all monies distributed to counties and municipalities and the number of fire trucks purchased and the cost for each fire truck, such records to be kept separate from other records of the Department of Insurance; notify counties and municipalities of the Rural Fire Truck Acquisition Assistance Program and the requirements for them to become eligible to participate; adopt and promulgate such rules and regulations as may be necessary and desirable to implement the provisions of this chapter; and file with the Legislature a report detailing how monies made available under this chapter were distributed and spent during the preceding portion of the fiscal year in each county and municipality, the number of fire trucks purchased, the

counties and municipalities making such purchases, and the cost of each fire truck purchased.

SECTION 7. This act shall take effect and be in force from and after July 1, 2021.

ST: Nonadmitted policy fee; revise distribution of and delete repealer on.