

## CHAPTER 8

## FIRE PROTECTION AND EMERGENCY SERVICES

CONTRACTS AND COOPERATIVE AGREEMENTS

If a majority of the owners of taxable real property residing within and owning real property within that part of a township located outside the corporate boundaries of a municipality petition the township trustee and township board to provide fire protection in that part of the township, the trustee and township board shall grant the petition and proceed without delay to provide for fire protection. IC 36-8-13-2

The trustee of a township, with the approval of the township board, may:

1. Purchase firefighting and emergency services apparatus and equipment for the township, provide for the housing, care, maintenance, operation, and use of the apparatus and equipment to extinguish fires that occur within the township but outside the corporate boundaries of municipalities, and employ full-time or part-time firefighters to operate the apparatus and equipment and to provide services in that area;
2. Contract with a municipality in the township or in a contiguous township that maintains adequate firefighting or emergency services apparatus and equipment to provide fire protection or emergency services for the township in accordance with IC 36-1-7, (Interlocal Corporation Act);
3. Cooperate with a municipality in the township or in a contiguous township in the purchase, maintenance, and upkeep of firefighting or emergency services apparatus and equipment for use in the municipality and township in accordance with IC 36-1-7;
4. Contract with a volunteer fire department that has been organized to fight fires in the township for the use and operation of firefighting apparatus and equipment that has been purchased by the township in order to save the private and public property of the township from destruction by fire, including use of the apparatus and equipment in an adjoining township by the company if the company has made a contract with the township of the adjoining township for the furnishing of firefighting service within the township; or
5. Contract with a volunteer fire department that maintains adequate firefighting service. IC 36-8-13-3

In cases of interlocal cooperation agreements there must be a written contract which makes provision for the duration of the agreement, its purpose, manner of financing, staffing, manner of termination and administration. IC 36-1-7-3

Agreements for firefighting services should include provision for the visiting firefighters to have the same powers and duties as the personnel of the entities they visit for the period they are there. The entity providing visiting personnel remains responsible for the conduct of its personnel, for their medical expenses, and for workmen's compensation. IC 36-1-7-7

OPINION OF ATTORNEY GENERAL

The proper officers of the township can enter a contract for fire protection only after an appropriation has been made, and then only for the term of office of the trustee. 1950, No. 15, Page 45

## MUNICIPAL TERRITORY COMPLETELY WITHIN TOWNSHIP

Only townships providing fire protection or emergency services or both under IC 36-8-13-3(a)(1) and only municipalities that have all municipal territory completely within a township and do not have a full-time paid fire department, may provide fire protection or emergency services or both without contracts inside the corporate boundaries of the municipalities if before July 1 of the year the following occurs:

1. The legislative body of the municipality adopts an ordinance to have the township provide the service without a contract.
2. The township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality.

In a township providing services under 36-8-13, the legislative body of either the township or a municipality in the township may opt out of participation by adopting an ordinance or a resolution, respectively, (resolutions for townships) before July 1 of a year. IC 36-8-13-3(b)

In townships providing fire protection or emergency services or both to municipalities in the township under IC 36-8-13-3(b), the executive with the consent of the township legislative body shall pay the expenses for fire protection and emergency services in the township both inside and outside the corporate boundaries of participating municipalities, from any combination of the following funds that the township may establish:

1. The township firefighting fund under IC 36-8-13-4.
2. The cumulative building and equipment fund under IC 36-8-14.
3. The debt fund under IC 36-8-13-6 and IC 36-8-13-6.5.
4. The rainy day fund established under IC 36-1-8-5.1.

Subject to the levy limitations contained in IC 6-1.1-18.5, the tax rate and levy for the township firefighting fund, cumulative building and equipment fund, or the debt fund is to be in an amount sufficient to pay all costs attributable to fire protection or emergency services provided to the township and the participating municipalities and not paid from other revenues available. The tax rate and levies are to be established in accordance with IC 6-1.1-17 and apply both inside and outside the corporate boundaries of participating municipalities.

The township executive may accept donations for the purposes of firefighting and emergency services and place donations in the firefighting fund. A person may donate partial payments for the purchase of firefighting or emergency services equipment made by the township. IC 36-8-13-4.5

## TOWNSHIP OWNED APPARATUS AND EQUIPMENT

After a sufficient appropriation has been made and approved and is available for the purchase of firefighting apparatus and equipment, including housing, the township trustee, with the approval of the township board, may purchase it for the township on an installment conditional sale or mortgage contract running for a period not exceeding (1) six (6) years; or (2) fifteen (15) years for a township that:

(A) has a totaled assessed value of sixty million dollars (\$60,000,000) (or less) as determined by the department of local government finance; and

(B) is purchasing the firefighting equipment with funding from the (i) state or its instrumentalities; or (ii) federal government or its instrumentalities.

The purchase shall be amortized in equal or approximately equal installments payable on January 1 and July 1 each year. IC 36-8-13-5

BORROWING FUNDS

The trustee and township board, on behalf of the township, may also borrow the necessary money from a financial institution in Indiana to make the purchase on the same terms. They shall, on behalf of the township, execute and deliver to the institution the negotiable note or bond of the township for the sum borrowed. The note or bond must bear interest, with both principal and interest payable in equal or approximately equal installments on January 1 and July 1 each year over a period not exceeding six (6) years.

The first installments of principal and interest on a contract, chattel mortgage, note, or bond is due on the next January 1 or July 1 following the first tax collection for which it is possible for the township to levy a tax. The executive and legislative body shall appropriate and levy a tax each year sufficient to pay the obligation according to its terms. An obligation of the township executed under this chapter is a valid and binding obligation of the township, notwithstanding any tax limitation, debt limitation, bonding, borrowing, or other law to the contrary. IC 36-8-13-6

EQUIPMENT PURCHASES

All purchases of firefighting apparatus and equipment shall be made in the manner provided by law for the purchase of township supplies. If the amount involved is sufficient to require notice under laws for bids in connection with the purchase of apparatus or equipment, the notice must offer all bidders the opportunity of proposing to sell the apparatus and equipment to the township upon a conditional sale or mortgage contract.

A bidder proposing to sell on a conditional sale or mortgage contract shall state in his bid the proposed interest rate and terms of it, to be considered by the township trustee and township board in determining the best bid received.

All bids submitted must specify the cash price at which the bidder proposes to sell the apparatus or equipment to the township so the trustee and township board may determine whether it is in the best interest of the township to purchase the apparatus or equipment on the terms of a conditional sale or mortgage contract proposed by the bidder or to purchase it for cash if sufficient funds are available or can be raised by negotiating a loan with a financial institution in accordance with this section. IC 36-8-13-7

JOINT OWNED TOWNSHIP EQUIPMENT

The trustee of any two or more townships, with the consent of their respective township boards, may unite in the joint purchase of firefighting equipment for use of their respective townships.

Any two or more townships desiring to unite in the purchase, housing, care, maintenance, operation and use of firefighting equipment may purchase such equipment by executing conditional sales or mortgage contracts, notes, or bonds. The two or more townships may jointly employ firemen to fight fires and operate the equipment. The title to equipment purchased jointly shall vest and remain in the respective townships in proportion to their respective contributions toward purchase. IC 36-1-7-2 and IC 36-8-13-3

CONSIDERATION FOR CONTRACTUAL AGREEMENTS REQUIRED

The contract between a unit and a volunteer fire department must provide that the unit pay to the department, as consideration for the contract, an amount of money that is determined by negotiation between them. This consideration must include the amounts that the unit is required to pay under this chapter for insurance premiums and clothing, automobile, and other allowances. IC 36-8-12-4

## FIRE PROTECTION DISTRICTS AND FIRE PROTECTION TERRITORIES

IC 36-8-11-1 et seq. and IC 36-8-19-1 et seq. sets out procedures for establishing a fire district and fire protection territory. These laws enable the proper local authorities and owners of property to organize special fire protection districts. Because of the length, these provisions should be reviewed in detail by any unit desiring to form such district.

### FIRE PROTECTION TERRITORIES (FPT)

The Attorney General of the State of Indiana Issued Advisory Letter 04-03 on February 2, 2007, and which stated in part "A township may participate in an FPT by passing a resolution in the manner and with the same statutory formality as required for ordinances under section 36-8-19-6.

The FPT is not a governmental entity or governmental body to which a city, town or township may transfer property to or exchange property with under Indiana Code sections 36-1-11-8 or 5-22-22-10."

Indiana Code section 36-8-19-8.6 allows a participating unit to adopt an ordinance or resolution to transfer any money belonging to the participating unit for fire protection purposes as long as the ordinance or resolution states the amount of money transferred and the source of the money.

Cities, towns and townships may establish various fire protection related funds in accordance with Indiana Code chapters 36-8-13 (township fire protection and emergency services) and 36-8-14 (cumulative firefighting building and equipment fund).

A municipality or Township is not required to disband its fire department when it participates in an FPT. Ind. Code 36-8-19-10. While section 36-1-8-5 controls the disposition of unused balances of general or special tax levies, a local governmental entity is not precluded from entering into an interlocal agreement with other participating entities or the provider unit of the FPT under IC 36-1-7 in order to facilitate cooperation and use existing equipment and other resources.

### FUNDS AND TAXATION

Each township may levy, for each year, a tax for the township firefighting fund on all taxable real and personal property in the township outside the corporate boundaries of municipalities. Subject to the levy limitations contained in IC 6-1.1-18.5, the township levy is to be in an amount sufficient to pay all costs attributable to fire protection and emergency services that are not paid from other revenues available to the fund. The tax rate and levy shall be established in accordance with procedures set forth in IC 6-1.1-17.

In addition to the tax levy and service charges received under IC 36-8-12-13 and IC 36-8-12-16, the trustee may accept donations to the township for the purpose of firefighting and other emergency services and shall place them in the fund, keeping an accurate record of the sums received. A person may also donate partial payment of any purchase of firefighting or other emergency services equipment made by the township. IC 36-8-13-4

Notwithstanding IC 36-8-13-4(a), the legislative body may authorize the executive to borrow a specified sum from a township fund other than the township firefighting fund if the legislative body finds that the emergency requiring the expenditure of money is related to paying the operating expense of a township fire department or volunteer fire department.

### AUDIT COST

A municipality that contracts for services with a volunteer fire department may pay the cost of an examination or investigation of the volunteer fire department under this chapter. IC 5-11-4-3

## CLOTHING AND AUTOMOBILE ALLOWANCES – VOLUNTEER FIRE DEPARTMENTS

Unless otherwise provided by contract, a unit served by a volunteer fire department shall pay to each active and participating member of the department: A clothing allowance of not less than one hundred dollars (\$100) per year and an automobile allowance of not less than one hundred dollars (\$100) per year for the use of the member's automobile in the line of duty. IC 36-8-12-5

## ASSOCIATION MEMBERSHIP FEES

A contract may also provide that fees for membership in a regularly organized volunteer firefighters' association be paid by the unit on behalf of the firefighters in the volunteer fire department. IC 36-8-12-5

## SERVICE CHARGES - PROPERTY OWNERS

A volunteer fire department that provides service within a jurisdiction served by the department may establish a schedule of charges for the services that the department provides not to exceed the state fire marshal's recommended schedule for services. The volunteer fire department or its agent may collect a service charge according to this schedule from the owner of property that receives service if the following conditions are met: (1) At the following times, the department gives notice under IC 5-3-1-4(d) in each political subdivision served by the department of the amount of the service charge for each service that the department provides: (A) Before the schedule of service charges is initiated. (B) When there is a change in the amount of a service charge. (2) The property owner has not sent written notice to the department to refuse service by the department to the owner's property. (3) The bill for payment of the service charge: (A) is submitted to the property owner in writing within thirty (30) days after the services are provided; and (B) includes a copy of a fire incident report in the form prescribed by the state fire marshal, if the service was provided for an event that requires a fire incident report. (4) Payment is remitted directly to the governmental unit providing the service.

A volunteer fire department shall use the revenue collected from the fire service charges under this section: (1) for the purchase of equipment, buildings, and property for firefighting, fire protection, or other emergency services; (2) for deposit in the township firefighting fund established under IC 36-8-13-4; or (3) to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus. Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees.

An agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services.

All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges. If at least twenty-five percent (25%) of the money received by a volunteer fire department for providing fire protection or emergency services is received under one (1) or more contracts with one (1) or more political subdivisions (as defined in IC 34-6-2-110), the legislative body of a contracting political subdivision must approve the schedule of service charges established under subsection (a) before the schedule of service charges is initiated in that political subdivision.

A volunteer fire department that: (1) has contracted with a political subdivision to provide fire protection or emergency services; and (2) charges for services under this section; must submit a report to the legislative body of the political subdivision before April 1 of each year indicating the amount of service charges collected during the previous calendar year and how those funds have been expended.

The state fire marshal shall annually prepare and publish a recommended schedule of service charges for fire protection services. IC 36-8-12-16

The volunteer fire department may maintain a civil action to recover an unpaid charge that is imposed under subsection IC 36-8-12-13(a).

### SERVICE CHARGES - FALSE ALARMS

If a fire department serving a township dispatches fire apparatus or personnel to a building or premises in the township in response to:

(1) an alarm caused by improper installation or improper maintenance; or

(2) a drill or test if the fire department is not previously notified that the alarm is a drill or test; the township may impose a fee or service charge upon the owner of the property. However, if the owner of property that constitutes the owner's residence establishes that the alarm is under a maintenance contract with an alarm company and that the alarm company has been notified of the improper installation or maintenance of the alarm, the alarm company is liable for the payment of the fee or service charge. IC 36-8-13-4(d)

If a political subdivision has not imposed their own false alarms service charge, a volunteer fire department that provides service within the jurisdiction may establish a charge for responding to false alarms under certain conditions. IC 36-8-12-17

If at least twenty-five percent (25%) of the money received by a volunteer fire department for providing fire protection or emergency services is received under one (1) or more contracts with one (1) or more political subdivisions (as defined in IC 34-6-2-110), the legislative body of a contracting political subdivision must approve the false alarm service charge established under subsection (a) before the service charge is initiated in that political subdivision. Section (f) provides that a volunteer fire department that: (1) has contracted with a political subdivision to provide fire protection or emergency services; and (2) imposes a false alarm service charge under this section; must submit a report to the legislative body of the political subdivision before April 1 of each year indicating the amount of false alarm charges collected during the previous calendar year and how those funds have been expended. IC 36-8-12-17

The amount of a fee or service charge imposed under subsection (d) shall be determined by the township legislative body. All money received by the township from the fee or service charge must be deposited in the township's firefighting fund. IC 36-8-13-4(e)

### SERVICE CHARGES – OWNERS OF VEHICLES INVOLVED IN HAZARDOUS EMERGENCY

A fire department that responds first to an incident may impose a charge on a person that is a responsible party with respect to a hazardous materials emergency that: (1) the fire department responded to; (2) members of that fire department assisted in containing, controlling, or cleaning up; (3) with respect to the release or imminent release of hazardous materials at a facility, involves a quantity of hazardous materials that exceeds the spill quantities of hazardous materials that must be reported under 327 IAC 2-6.1-5, as in effect on January 1, 2001; and (4) with respect to the release or imminent release of hazardous materials from a mode of transportation, involves a quantity of hazardous materials that exceeds the spill quantities of hazardous materials that must be reported under 327 IAC 2-6.1-6, as in effect on January 1, 2001.

The owner or responsible party shall remit payment directly to the governmental unit providing the service. Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees. An agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services. All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges. IC 36-8-12.2-6

A fire department imposing a charge under this chapter may bill the responsible party for the total value of the assistance provided as determined from the state fire marshal's schedule of service charges issued under IC 36-8-12-16(h). IC 36-8-12.2-7

Money collected under this chapter must be deposited in the general fund of the unit that established the fire department under IC 36-8-2-3 or IC 36-8-13-3(a)(1) and may be used only for the following: (1) Purchase of supplies and equipment used in providing hazardous materials emergency assistance under this chapter. (2) Training for members of the fire department in skills necessary for providing hazardous materials emergency assistance under this chapter. (3) Payments to persons with which the fire department contracts to provide services related to the hazardous materials emergency assistance provided by the fire department under this chapter. IC 36-8-12.2-8

A fire department may not bill under this chapter for services provided that duplicate services provided by another governmental entity. The responsible party billed for services under this chapter may elect to reimburse the fire department by providing replacement materials that are of equal or greater value than those expended by the fire department in responding to the emergency. IC 36-8-12.2-9

A fire department that imposes a service charge under this chapter and maintains an action for reimbursement under IC 13-25-6-5 may recover all costs of the action, including attorney's fees. IC 36-8-12.2-10

A responsible party is subject to a penalty for failure to pay the full amount of a charge made under this chapter within sixty (60) days after the issuance of the bill for payment by the fire department. The amount of the penalty is ten percent (10%) of the amount of the charge that remains unpaid on the due date. IC 36-8-12.2-11

#### CHARGES; OWNERS OF PROPERTY OR VEHICLES INVOLVED IN HAZARDOUS MATERIAL FIRE OR SPILL

A volunteer fire department that first responds to an incident may impose a charge on the owner of property, the owner of a vehicle, or a responsible party (as defined in IC 13-11-2-191(d)) that is involved in a hazardous material or fuel spill or chemical or hazardous material related fire (as defined in IC 13-11-2-96(b)): (1) that is responded to by the volunteer fire department; and (2) that members of that volunteer fire department assisted in extinguishing, containing, or cleaning up.

The volunteer fire department shall bill the owner or responsible party of the vehicle for the total dollar value of the assistance that was provided, with that value determined by a method that the state fire marshal shall establish under IC 36-8-12-16. A copy of the fire incident report to the state fire marshal must accompany the bill. This billing must take place within thirty (30) days after the assistance was provided. The owner or responsible party shall remit payment directly to the governmental unit providing the service. Any money that is collected under this section may be: (1) deposited in the township firefighting fund established in IC 36-8-13-4; (2) used to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus; or (3) used for the purchase of equipment, buildings, and property for firefighting, fire protection, and other emergency services.

Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees. An agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services. All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges. The volunteer fire department may maintain a civil action to recover an unpaid charge that is imposed under subsection (a) and may, if it prevails, recover all costs of the action, including reasonable attorney's fees. IC 36-8-12-13

## INSURANCE COVERAGE REQUIRED - FAILURE TO PROVIDE

Each unit that has a volunteer fire department shall procure insurance in the name of and for the benefit of each member of the department. However, if a contract or agreement exists between a unit and a volunteer fire department, the contract or agreement must provide for insurance of the volunteer firefighters and emergency medical services personnel in the department, in the amounts and with the coverage required by this chapter. Unless the contract or agreement stipulates otherwise, all insurance coverage must be under a group plan, rather than in the name of each individual firefighter and emergency medical services personnel. Either the unit or the volunteer fire department, according to the contract or agreement, may undertake procurement of required insurance, but in either case, the costs of coverage must be borne by the unit.

If a volunteer fire department serves more than one unit under contract, each unit shall pay the amount for insurance coverage by step 1, for each census block or other area in a unit served by more than one volunteer department, divide the population of the area by the number of departments serving the area and round the quotation to the nearest one thousandth (.001). Step 2 add the quotients determined under step 1 for the unit. Step 3 determine the sum of step 2 amounts for all units served by the same volunteer fire department. Step 4 divide step 2 amount for a unit by step 3 amount and round the quotient to the nearest one thousandth (.001). Step 5 multiply the cost of insurance for the volunteer fire department by the quotient determined in step 4, rounded to the nearest dollar.

A diminution of insurance benefits may not occur under this section because of a change in the insurance carrier or a change as to who actually procures the required insurance.

Each unit that has a volunteer fire department may procure an insurance policy for the benefit of auxiliary groups whose members could be injured while assisting the volunteer firefighters and emergency medical services personnel in the performance of their duties.

Each unit that has a volunteer fire department may procure an insurance policy or any other type of instrument that provides retirement benefits as an incentive to volunteer firefighters and emergency medical services personnel for continued service.

An insurance policy or other instrument containing any of the provisions authorized by IC 36-8-12-6(d) may not be considered in the computation of nominal compensation for purposes of this chapter.

A volunteer firefighter and emergency medical services personnel who becomes covered by an insurance policy or other instrument containing any of the provision authorized by IC 36-8-12-6(d) does not thereby become eligible for membership in the public employees' retirement fund under IC 5-10.3.

If a unit fails to provide the insurance for a volunteer firefighter and emergency medical services personnel that this chapter requires it to provide, and a volunteer firefighter suffers a loss of the type that the insurance would have covered, then the unit shall pay to that volunteer firefighter the same amount of money that the insurance would have paid to him. IC 36-8-12-6

IC 36-8-13-9 provides for a township to pay for certain firefighter health care expenditures.

## HEALTH INSURANCE

After September 30, 1988, a township shall provide a group health insurance program under IC 5-10-8-2.2(g), for every public safety employee who is receiving disability benefits under IC 36-8-8.



## INSURANCE - DEATH AND DISABILITY BENEFITS - LIABILITY COVERAGE

The policy of insurance required by section 6 of this chapter must provide for the payment of a sum not less than one hundred fifty thousand dollars (\$150,000) to the beneficiary, beneficiaries, or estate of a volunteer firefighter or member of the emergency medical services personnel if the firefighter or member of the emergency medical services personnel dies from an injury or smoke inhalation occurring while in the performance of the firefighter's or member of the emergency medical services personnel's duties as a volunteer firefighter or member of the emergency medical services personnel or from a cardiac disease event proximately caused within forty-eight (48) hours by or occurring while in the performance of the firefighter's or member of the emergency medical services personnel's duties as a volunteer firefighter or member of the emergency medical services personnel.

The policy of insurance must provide for the payment of a sum not less than one hundred fifty thousand dollars (\$150,000) to the volunteer firefighter or member of the emergency medical services personnel if the firefighter or member of the emergency medical services personnel becomes totally and permanently disabled for a continuous period of not less than two hundred sixty (260) weeks as a result of an injury or smoke inhalation occurring in the performance of the firefighter's or member of the emergency medical services personnel's duties as a volunteer firefighter or member of the emergency medical services personnel.

The policy of insurance must also provide for indemnification to a member of a volunteer fire department who becomes partially and permanently disabled or impaired as a result of an injury or smoke inhalation occurring in the performance of the firefighters or member of the emergency medical services personnel's duties.

In addition to other insurance provided volunteer firefighters or emergency medical services personnel under this chapter, each unit shall be covered by an insurance policy that provides a minimum of three hundred thousand dollars (\$300,000) of insurance coverage for the liability of all of the unit's volunteer firefighters or emergency medical services personnel for bodily injury or property damage caused by the firefighters or emergency medical services personnel acting in the scope of their duties while on the scene of a fire or other emergency. The civil liability of a volunteer firefighter or member of the emergency medical services personnel for: (1) an act that is within the scope of a volunteer firefighter's duties; or (2) the failure to do an act that is within the scope of a volunteer firefighter's duties; while performing emergency services at the scene of a fire or other emergency or while traveling in an emergency vehicle from the fire station to the scene of the fire or emergency or from the scene of a fire or emergency back to the fire station is limited to the coverage provided by the insurance policy purchased under this subsection. A volunteer firefighter or member of the emergency medical services personnel is not liable for punitive damages for any act that is within the scope of a volunteer firefighter's or member of the emergency medical services personnel's duties. However, if insurance as required under this subsection is not in effect to provide liability coverage for a volunteer firefighter or member of the emergency medical services personnel, the firefighter or member of the emergency medical services personnel is not subject to civil liability for an act or a failure to act as described in this subsection. IC 36-8-12-8

A township having a regularly organized fire department employing full-time firefighters may procure at the township's expense: An insurance policy for each member of the department insuring the member against the loss of his life or dismemberment while in the performance of his regularly assigned duties; and group insurance providing supplemental income protection for the member of the department who has been injured during the course of his employment. The insurance coverage shall be selected with the consent of the members and is supplemental to other benefits provided the injured member by law. IC 36-8-13-8

## INSURANCE - ACCIDENTAL INJURY

Each policy of insurance must provide for payment to a member of a volunteer fire department, for accidental injury or smoke inhalation caused by or occurring in the course of the performance of the duties of a volunteer firefighter or member of the emergency medical services personnel and for a cardiac disease event proximately caused within forty-eight (48) hours by or occurring in the course of the performance of the duties of a volunteer firefighter or member of the emergency medical services personnel while in an emergency situation, as follows: (1) For total disability that prevents the member from pursuing the member's usual vocation: (A) after June 30, 2009, and before July 24, 2009, a weekly indemnity of not less than two hundred sixty-two dollars (\$262); and (B) after July 23, 2009, a weekly indemnity of not less than two hundred ninety dollars (\$290); up to a maximum of two hundred sixty (260) weeks. After July 23, 2009, the weekly indemnity may not be less than the Indiana minimum wage computed on the basis of a forty (40) hour week. (2) For medical expenses, coverage for incurred expenses. However, the policy may not have medical expense limits of less than seventy-five thousand dollars (\$75,000). IC 36-8-12-7

## LIABILITY LIMITS; PUNITIVE DAMAGES

The combined aggregate liability of a volunteer fire department for an act or failure to act that is within the scope of the company's duties does not exceed three hundred thousand dollars (\$300,000) for injury to or death of one (1) person in any one (1) occurrence and does not exceed five million dollars (\$5,000,000) for injury to or death of all persons in that occurrence. A volunteer fire department is not liable for punitive damages. IC 36-8-12-15

## VOLUNTEERS; COVERAGE BY WORKER'S COMPENSATION AND OCCUPATIONAL DISEASES LAW; ADMINISTRATIVE PROCEDURES

A volunteer firefighter or an emergency medical technician working in a volunteer capacity for a volunteer fire or ambulance company is covered by the medical treatment and burial provision of the worker's compensation law (IC 22-3-2 through IC 22-3-6) and the worker's occupational diseases law (IC 22-3-7).

## FIRE TRUCKS AND EMERGENCY SERVICE VEHICLES, REAL PROPERTY

A governmental body may transfer title of surplus property (fire trucks, emergency service vehicles, or firefighting or emergency services equipment) to a volunteer fire department for the volunteer fire department's use in providing fire protection or emergency services.

A volunteer fire department located in the same county as the governmental body offering the surplus property for transfer has the right of first refusal for all surplus property offered. Surplus property refused by the volunteer fire department located in the same county as the governmental body may be transferred to any volunteer fire department in Indiana.

A governmental body may transfer title of surplus property to a volunteer fire department by:

- (1) sale;
- (2) gift; or
- (3) another arrangement acceptable to the governing body and the volunteer fire department. IC 5-22-22-12.

See IC 36-1-11-5.7 concerning other transfers of property.

### BUILDING OR REMODELING AND FIRE EQUIPMENT FUND

IC 36-8-14 authorizes townships to provide a cumulative fire fund for the purchase, construction, renovation, or addition to buildings or purchase of land used by the fire department or the volunteer fire department serving the unit and for the purchase of firefighting equipment, for use of the fire department or the volunteer fire department serving the unit including making the required payments under a lease rental with option to purchase agreement made to acquire the equipment. The fund may also be used for the purchase, construction, renovation or addition to a building or the purchase of land or purchase of equipment for use of a provider of emergency medical services under IC 16-31-5 to the township establishing the fund.

IC 36-8-14 limits the tax levy to no more than three and thirty – three hundredths cents (\$0.0333) on each one hundred dollars (\$100) of assessed valuation in the taxing district. Any tax collected after establishing the tax levy shall be deposited in a special fund to be known as the "Building or remodeling and fire equipment fund." Expenditures may be made only after an appropriation has been made available.

Any questions regarding procedures to establish the fund should be directed to the Department of Local Government Finance.

### FIRE DEPARTMENT MERIT SYSTEMS

Townships may establish merit systems for a township fire department. IC 36-8-3.5

### FIRE DEPARTMENT EMPLOYMENT POLICIES

Certain townships may adopt employment policies which include residency requirements in accordance with IC 36-8-13.5.