

LEGISLATIVE BILL 522

Approved by the Governor February 11, 2010

Introduced by Urban Affairs Committee: Friend, 10, Chairperson; Coash, 27; Lathrop, 12; McGill, 26; Rogert, 16; White, 8.

FOR AN ACT relating to volunteer fire and rescue departments; to amend section 35-901, Reissue Revised Statutes of Nebraska; to change provisions relating to the use of funds, fees, and charges; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 35-901, Reissue Revised Statutes of Nebraska, is amended to read:

35-901 (1) For purposes of this section, volunteer department shall mean volunteer fire department or volunteer first-aid, rescue, or emergency squad or volunteer fire company serving any city, village, county, township, or rural or suburban fire protection district.

(2) Except as provided in subsection (4) of this section, each volunteer department may establish a volunteer department trust fund. All general donations or contributions, bequests, or annuities made to the volunteer department and all money raised by or for the volunteer department shall be deposited in the trust fund. The trust fund shall be under the control of the volunteer department, and the volunteer department may make expenditures from the trust fund as it deems necessary. The treasurer of the volunteer department shall be the custodian of the trust fund.

(3) The trust fund shall not be considered public funds or funds of any city, village, county, township, or rural or suburban fire protection district for any purpose, including the Nebraska Budget Act, nor shall any city, village, county, township, or rural or suburban fire protection district incur any liability solely by reason of any expenditure from such fund except liability for property when any city, village, county, township, or rural or suburban fire protection district receives title to property acquired with money from such fund.

(4)(a) If the total amount of expenditures and receipts in the trust fund exceeds one hundred thousand dollars in any twelve-month period, the volunteer department shall inform any city, village, county, township, or rural or suburban fire protection district receiving service from the department and such entity may examine or cause to be examined all books, accounts, vouchers, records, and expenditures with regard to the trust fund.

(b) Funds, fees, or charges solicited, collected, or received by a volunteer department that are (i) in consequence of the performance of fire or rescue services by the volunteer department at a given place and time, (ii) accomplished through the use by the volunteer department of equipment owned by the taxing authority supporting such department and provided to the volunteer department for that purpose, and (iii) paid by or on behalf of the recipient of those services shall not be deposited in a trust fund authorized by this section. Such funds are public funds of the taxing authority supporting the volunteer department and are deemed to have been collected by the volunteer department as the agent of the taxing authority and are held by the department on its behalf. If such funds are in the possession of a volunteer department, the taxing authority shall cause all the books, accounts, records, vouchers, expenditures, and statements regarding such funds to be examined and independently audited at the expense of the taxing authority by a qualified professional auditor or the Auditor of Public Accounts for the immediately preceding five years.

(5) Nothing in this section shall be construed or deemed to permit a violation of the Nebraska Liquor Control Act.

(6) All expenditures of public funds as defined in the Nebraska Budget Act for support of a volunteer department or its purposes shall be submitted as claims, approved by the taxing authority supporting such department or its purposes, and published as required by law. All such claims shall be properly itemized for proposed expenditure or reimbursement for costs already incurred and paid except as may be otherwise permitted pursuant to section 35-106.

(7) All money raised pursuant to the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card Lottery Act, and the Nebraska Small Lottery and Raffle Act shall be subject to such acts with respect to the deposit and expenditure of such money.

(8) No volunteer department shall solicit, charge, or collect any funds, fees, or charges as described in subdivision (4)(b) of this section

without the express authorization of the taxing authority supporting the department by vote of a majority of the members of the governing body of such taxing authority. Such authorization shall not extend beyond a twelve-month period but may be renewed at the discretion of the taxing authority in the same manner in which it was initially granted. Upon collection or receipt, such funds, fees, or charges shall be remitted to the designated officer of the taxing authority for deposit to the account of the taxing authority.

(9) Funds, fees, or charges as described in subdivision (4)(b) of this section which are in the possession of the taxing authority shall be expended by such taxing authority solely (a) for the support of the emergency response activities of the volunteer department which gave rise to those funds, fees, or charges, (b) for charges directly related to the collection of those funds, fees, or charges, or (c) The taxing authority may appropriate and expend some or all of such funds for the support of a service award benefit program adopted and conducted pursuant to the Volunteer Emergency Responders Recruitment and Retention Act.

Sec. 2. Original section 35-901, Reissue Revised Statutes of Nebraska, is repealed.