

## Article - Public Safety

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§8–104.

(a) (1) (i) The money distributed under this subtitle shall be used by each county for the purposes listed in § 8–102(f)(1) of this subtitle as an addition to and may not be substituted for any money appropriated from sources other than the Fund.

(ii) In each fiscal year, each county shall make expenditures for fire protection from sources other than the Fund in an amount that is at least equal to the average amount of the expenditures for fire protection during the 3 preceding fiscal years.

(2) (i) If a county does not comply with the requirements of paragraph (1) of this subsection, the Director may withhold money allocated to the county for the fiscal year that begins after the submission of the report required under § 8–105 of this subtitle.

(ii) The penalty imposed under subparagraph (i) of this paragraph shall be equal to the percentage by which the county failed to meet the county's maintenance of effort under paragraph (1)(ii) of this subsection.

(3) (i) The Director shall automatically withhold money allocated to a county from the Fund if:

1. the county fails to comply with the requirements of paragraph (1) of this subsection for two consecutive fiscal years; and

2. no waiver has been granted by the Board of Public Works or the General Assembly in accordance with subsection (d) of this section.

(ii) The penalty imposed under subparagraph (i) of this paragraph shall be equal to the percentage by which the county failed to meet the county's maintenance of effort for the second consecutive fiscal year under paragraph (1)(ii) of this subsection.

(b) (1) Each county shall make expenditures for fire protection from its own sources that are at least equal to the amount of State money to be received.

(2) A county may receive less than the amount initially allocated.

(3) In determining the amount of expenditures for fire protection made by a county, before certification, the Director shall review the financial information of the county for the first completed fiscal year before the fiscal year for which State money is appropriated.

(4) Money received from the Volunteer Company Assistance Fund under

§ 8–203 of this title or other State money may not be used as the match required under this subsection.

(c) (1) Money not distributed to a county because the requirements of subsections (a) and (b) of this section are not satisfied shall be distributed to the counties that meet the requirements of subsections (a) and (b) of this section in accordance with this subsection.

(2) (i) Subject to subparagraph (ii) of this paragraph, each county that meets the requirements of subsections (a) and (b) of this section shall receive an allocation of the money distributed under paragraph (1) of this subsection based on a percentage to be determined in accordance with § 8–103(a) of this subtitle.

(ii) For purposes of determining the percentage allocated to each county under this subsection, the property tax accounts of each county that fails to satisfy the requirements of subsection (a) or (b) of this section shall be excluded from the statewide total.

(3) Each county shall distribute money provided under this subsection in accordance with § 8–103(c) of this subtitle.

(d) (1) The maintenance of effort requirement in subsection (a)(1)(ii) of this section does not apply to a county if the county requests and is granted a waiver from the requirement based on a determination that the county's fiscal condition significantly impedes the county's ability to fund the maintenance of effort requirement.

(2) (i) In order to qualify for a waiver for a fiscal year, a county shall:

1. seek a waiver from the General Assembly by legislation during the legislative session preceding the fiscal year in which the penalty for failing to comply with the maintenance of effort requirement is to be imposed; or

2. make a request for a waiver to the Board of Public Works by June 30 of the fiscal year preceding the fiscal year in which the penalty for failing to comply with the maintenance of effort requirement is to be imposed.

(ii) The Director shall provide a preliminary assessment of a waiver request to the Board of Public Works.

(3) When considering whether to grant a county's waiver request, the Board of Public Works shall consider the following factors:

(i) external environmental factors such as a loss of a major employer or industry affecting the county or a broad economic downturn affecting more than one county;

(ii) the county's tax base;

(iii) the county's maintenance of effort requirement relative to the county's statutory ability to raise revenues;

(iv) the county's history of exceeding the required maintenance of effort amount under subsection (a)(1)(ii) of this section;

(v) significant reductions in State aid to the county and municipalities of the county for the fiscal year for which a waiver is requested or new costs imposed on the county or municipalities of the county due to a change in State law, regulation, or policy; and

(vi) the number of waivers the county has received in the past 5 years.

(4) The Board of Public Works shall inform the county whether the waiver for a fiscal year is approved or denied in whole or part no later than 60 days after receipt of an application or August 30 of the fiscal year in which the waiver is requested, whichever is later.

(5) If a county is granted a waiver from the maintenance of effort provision in subsection (a)(1)(ii) of this section by either the Board of Public Works or the General Assembly for any fiscal year, the maintenance of effort calculation for the next fiscal year shall be calculated based on the three most recent fiscal years in which the county met the maintenance of effort requirement.

(6) (i) If a county is granted a waiver from the maintenance of effort calculation in subsection (a)(1)(ii) of this section by either the Board of Public Works or the General Assembly for 5 consecutive fiscal years, the county may request a waiver from the Board of Public Works to rebase the maintenance of effort calculation.

(ii) The Board of Public Works shall establish policies and procedures for:

1. requesting a waiver to rebase the maintenance of effort calculation; and

2. determining whether to grant a waiver to rebase the maintenance of effort calculation.

(iii) If a waiver to rebase the maintenance of effort calculation under this paragraph is granted, the maintenance of effort calculation shall be rebased to the average amount of expenditures for fire protection from sources other than the Fund during the 3 preceding fiscal years.

(7) A waiver granted by either the Board of Public Works or the General Assembly may not relieve a county of the requirement under subsection (b)(1) of this section.

(e) (1) The money distributed under this subtitle and allocated to a county

shall be:

(i) audited in accordance with the procedures for accounting and auditing of other governmental revenues; or

(ii) accounted for in a format developed by the Director.

(2) Money not expended by the county by the end of a fiscal year shall be placed in a special fund for expenditure in the next succeeding fiscal year.

(3) (i) Money distributed under this subtitle that remains unencumbered or unexpended by the county after the second fiscal year shall be repaid to the Director for deposit in the Fund.

(ii) The Comptroller may set off any shared revenues due to a county instead of repayment under this subsection.

(4) A volunteer fire, rescue, or ambulance company may not enter into a legal obligation to encumber money received under this subtitle with a duration of more than 2 years without prior approval from the county.

(5) (i) If a written agreement between a county and a volunteer fire, rescue, or ambulance company to encumber money becomes null and void, the money shall be placed in a special fund for expenditure by the county in the next succeeding fiscal year.

(ii) Money distributed under this paragraph that remains unencumbered or unexpended by the county after the second fiscal year shall be repaid to the Director for deposit in the Fund.

(iii) The Comptroller may set off any shared revenues due to a county instead of repayment under this paragraph.

(6) If a volunteer fire, rescue, or ambulance company creates a legal obligation to encumber money received from the Fund, the Director shall consider the legal obligation to be an encumbrance of the county for purposes of this subtitle.

(7) (i) Money distributed under this subtitle to be expended by a volunteer or municipal fire, rescue, or ambulance company shall be:

1. maintained in a separate bank account; and

2. except as provided in subparagraph (ii) of this paragraph, audited in the same manner as other money of the volunteer or municipal company is audited.

(ii) Money distributed under this subtitle to a volunteer or municipal fire, rescue, or ambulance company may be accounted for in a format developed by the

Director.

(iii) Copies of the audit of the separate bank account shall be submitted to the respective county government and to the Maryland Emergency Management Agency.

(8) (i) A county or municipality may hold money distributed under this subtitle to a fire, rescue, or ambulance company in the county or municipality's bank account.

(ii) Money held by a county or municipality under subparagraph (i) of this paragraph may be maintained in a bank account with other county or municipal funds.

(iii) Money held by a county or municipality under subparagraph (i) of this paragraph shall be:

1. audited in accordance with the procedures for accounting and auditing of other governmental revenues; or
2. accounted for in a format developed by the Director.

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