

**7-33-2101. Rural fire districts authorized — petition.** (1) The board of county commissioners is authorized to establish fire districts in any unincorporated territory or, subject to 7-33-4115 and subsection (2) of this section, incorporated second-class or third-class city or town upon presentation of a petition in writing signed by the owners of 40% or more of the real property in the proposed district and owners of property representing 40% or more of the taxable value of property in the proposed district.

(2) (a) Subject to 7-33-4115, second-class or third-class cities and towns may be included in the district upon approval by the city or town governing body.

(b) Subject to 7-33-4115, a second-class or third-class city or town may withdraw from a district 2 years after providing to the board of county commissioners notice of intent to withdraw.

**History:** En. Sec. 3237, Pol. C. 1895; re-en. Sec. 2081, Rev. C. 1907; amd. Sec. 1, Ch. 16, L. 1915; amd. Sec. 1, Ch. 16, L. 1921; re-en. Sec. 5148, R.C.M. 1921; amd. Sec. 1, Ch. 15, L. 1931; re-en. Sec. 5148, R.C.M. 1935; amd. Sec. 1, Ch. 118, L. 1945; amd. Sec. 2, Ch. 97, L. 1947; amd. Sec. 1, Ch. 75, L. 1953; amd. Sec. 1, Ch. 75, L. 1957; amd. Sec. 1, Ch. 48, L. 1959; amd. Sec. 1, Ch. 77, L. 1959; amd. Sec. 1, Ch. 49, L. 1963; amd. Sec. 1, Ch. 45, L. 1969; amd. Sec. 2, Ch. 81, L. 1977; R.C.M. 1947, 11-2008(part); amd. Sec. 1, Ch. 499, L. 2007; amd. Sec. 3, Ch. 74, L. 2019.

### **Compiler's Comments**

*2019 Amendment:* Chapter 74 in (1) inserted reference to 7-33-4115 and after "incorporated" inserted "second-class or"; in (2)(a) at beginning substituted "Subject to 7-33-4115, second-class or third-class" for "Third-class"; in (2)(b) at beginning inserted "Subject to 7-33-4115, a second-class or"; and made minor changes in style. Amendment effective March 20, 2019.

*Saving Clause:* Section 12, Ch. 74, L. 2019, was a saving clause.

*2007 Amendment:* Chapter 499 in (1) near beginning inserted "subject to subsection (2), incorporated third-class city or" and at end substituted "the owners of 40% or more of the real property in the proposed district and owners of property representing 40% or more of the taxable value of property in the proposed district" for "the owners of 50% or more of the area of the privately owned lands included within the proposed district who constitute a majority of the taxpayers who are freeholders of such area and whose names appear upon the last-completed assessment roll"; inserted (2) relating to third-class cities and towns. Amendment effective October 1, 2007.

*Interim Committee Bill:* The 2007 amendments to this section were a result of the "House Joint Resolution No. 10 Study of Wildland Fire Policy and Statutes", a Report to the Legislature by the Montana Environmental Quality Council, 2006.

### **Cross-References**

General authority of County Commissioners, 7-5-2101.

Assessment and map books, Title 15, ch. 8, part 7.

### **Attorney General's Opinions**

*Question of Rural Fire District as Taxing Unit:* A rural fire district operated by a board of trustees is a taxing unit within the meaning of 15-10-412 (now repealed); however, a rural fire district operated by the county and not by a board of trustees is not a taxing unit. 42 A.G. Op. 80 (1988).

*Three-Year Contract — Call-for-Bid Requirements:* Fire districts are not subject to the statutory 3-year contract and call-for-bid requirements. 36 A.G. Op. 73 (1976).

*Status of County Fire District Salaried Employees:* The county has authority to establish and equip a fire district, to levy taxes to fund the district, to contract for fire protection, or to appoint trustees to manage the district. Full-time salaried employees of the fire district are employees of the county in the absence of an intervening employer, such as a city, town, or private fire service, and not volunteers. As such they are entitled to vacation, sick leave, and group insurance benefits. They are subject to hours of employment as provided by statute for county employees and have tenure rights consistent with tenure rights of other paid fire companies. 35 A.G. Op. 71 (1974).