

§ 58-87-10. Workers' Compensation Fund for the benefit of certain safety workers.

(a) Definitions. – As used in this section, the following terms apply:

- (1) Eligible entity. – One of the following entities that support eligible units and members of eligible units:
 - a. North Carolina State Firefighters' Association.
 - b. The North Carolina Association of Fire Chiefs, Incorporated.
 - c. North Carolina Association of Rescue and Emergency Medical Services, Inc.
- (2) Eligible unit. – A fire department or rescue/EMS unit that (i) is not part of a unit of local government and (ii) is exempt from State income tax under G.S. 105-130.11.

(b) Creation. – The Workers' Compensation Fund is created in the Department of Insurance as an expendable trust fund. Accordingly, interest and other investment income earned by the Fund accrues to it, and revenue in the Fund at the end of a fiscal year remains in the Fund and does not revert.

(c) Use. – Revenue in the Workers' Compensation Fund shall be used to provide workers' compensation benefits to (i) members of eligible units and (ii) the employees and volunteers of eligible entities. Chapter 97 of the General Statutes governs the payment of benefits from the Fund. Benefits are payable for compensable injuries or deaths that occur on or after July 1, 1996.

(d) Administration. – The Office of the State Fire Marshal shall administer the Workers' Compensation Fund and shall perform this duty by contracting with a third-party administrator. The contracting procedure is not subject to Article 3C of Chapter 143 of the General Statutes. The reasonable and necessary expenses incurred by the Office in administering the Fund shall be paid out of the Fund by the State Treasurer. The Office may adopt rules to implement this section. The Office shall include all provisions of Section 2(d) of S.L. 2014-64 in its contracts with the third-party administrator.

(e) Revenue Source. – Revenue is credited to the Workers' Compensation Fund from a portion of the proceeds of the tax levied under G.S. 105-228.5(d)(3). In addition, every eligible unit and eligible entity that elects to participate shall pay into the Fund an amount set annually by the Office of the State Fire Marshal, in consultation with the State Fire and Rescue Commission, to ensure that the Fund will be able to meet its payment obligations under this section. The amount shall be set as an amount for each member of the roster of the eligible unit or for each employee or volunteer of an eligible entity, and the amount may vary based on whether an individual is a volunteer, a part-time employee, or a full-time employee. The payment shall be made to the Office on or before July 1 of each year. The Office shall remit the payments it receives to the State Treasurer, who shall credit the payments to the Fund.

(f) Funding Study. – The Office of the State Fire Marshal shall annually conduct an actuarial study that shall do all of the following:

- (1) Calculate the amount required to meet the needs of the Fund, projecting at least five years into the future.
- (2) Report on the nature of the claims paid by the Fund and any claims-related trends that impact the financial status of the Fund.
- (3) Calculate how much revenue from the State and from member premiums would be required to meet the needs of the Fund for each of the following scenarios:
 - a. **(Effective until July 1, 2025)** The Fund receives twenty percent (20%) of the net proceeds from the tax collected under G.S. 105-228.5(d)(3).
 - a. **(Effective July 1, 2025)** The Fund receives ten percent (10%) of the net proceeds from the tax collected under G.S. 105-228.5(d)(3).

- b. Member premiums do not change from the prior year.
- c. Member premiums fully fund the Fund without any State support.
- (4) Be published no later than February 1 of each year. Upon publishing the study, the Department shall notify the following of its publication:
 - a. The Office of State Budget and Management.
 - b. The House Appropriations Committee.
 - c. The Senate Appropriations/Base Budget Committee.
 - d. The Fiscal Research Division.

Additionally, beginning in 2016 and every five years thereafter, the study shall include (i) a comparison of Fund premium levels to the premium levels of employees of municipal fire and rescue departments and (ii) a calculation of the amount of revenue generated by experience-rating premium surcharges and, if necessary, recommend changes to experience-rating premium surcharges given claim trends. The Office may contract with a third party to conduct the study required under this section, and the cost of the study may be paid from the Fund. However, if the Office contracts with the same actuary that the Volunteer Safety Workers' Compensation Board contracts with to perform the study under this section, then the Office shall not pay the actuary for data collection and analysis that the actuary has already performed as part of its loss reserve analysis for the Board.

(g) **(Effective until July 1, 2025)** Allocation of Taxes. – On or before March 1 of each year, the Office of the State Fire Marshal must notify the Secretary of Revenue of the amount required to meet the needs of the Fund, as determined by the study conducted under subsection (f) of this section, for the upcoming fiscal year. The Secretary of Revenue shall remit that amount, subject to the twenty percent (20%) limitation in G.S. 105-228.5(d)(3), to the Fund.

(g) **(Effective July 1, 2025)** Allocation of Taxes. – The study conducted under subsection (f) of this section shall be reviewed by the Office of State Budget and Management. On or before March 1 of each year, the Office of State Budget and Management, in consultation with the Department of Insurance, must notify the Secretary of Revenue of the amount required to meet the needs of the Fund, as determined by the study, for the upcoming fiscal year. The Secretary of Revenue shall remit that amount, subject to the ten percent (10%) limitation in G.S. 105-228.5(d)(3), to the Fund.

(h) Reports. – The Office of the State Fire Marshal shall, on a quarterly basis, report to the State Fire and Rescue Commission on its activities conducted pursuant to this section. (1995, c. 507, s. 7.21A(a); 1999-132, s. 1.2; 2013-360, s. 20.2(d), (e); 2014-64, s. 2(a), (b), (d); 2016-51, s. 6; 2023-134, s. 30.3(a); 2023-151, s. 11.49(a); 2024-29, s. 10.3.)