

ENGROSSED HOUSE
BILL NO. 1329

BY: STEIDLEY of the HOUSE

and

TAYLOR of the SENATE

(COUNTIES AND COUNTY OFFICERS - AMENDING 19 O.S.,
SECTIONS 901.2, 901.3, 901.4, 901.5, 901.7,
901.21 AND 901.22 - FIRE PROTECTION DISTRICTS -
AMENDING 74 O.S. 1981, SECTION 317 - STATE
FIRE MARSHAL -

EMERGENCY)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 19 O.S. 1981, Section 901.2, is amended to read as follows:

Section 901.2 The petition shall set forth and particularly describe the proposed boundaries of such district and shall be accompanied by a map of such proposed district, drawn to a scale of not less than ~~six inches (6")~~ one (1) inch to the mile. The petitioners shall accompany such petition with a good and sufficient bond, the amount and sureties of which shall be approved by the board of county commissioners, ~~conditioned that~~ the sum of which is sufficient to cover the costs of the publications and of the election for the organization of the district will be paid in the event that such organization shall not be authorized or effected.

Such petition shall be filed with the county clerk of such county who shall present it to the board of county commissioners at their next regular or special meeting. Upon the presentation of

such petition, the board of county commissioners shall set the same for hearing at a time not less than twenty (20) days nor more than forty (40) days from the date of presentation and shall direct the county clerk to give notice of such hearing by publication in a newspaper of general circulation in the county in which such proposed district is located. Such notice shall be published for two (2) consecutive weeks next preceding the date of such hearing. Such notice shall describe the boundaries of the proposed district, shall state the time and place of the hearing, and shall state that any person may appear and protest the organization of the district or the proposed boundaries thereof.

The board of county commissioners shall hold the hearing described in said notice, and it shall have jurisdiction to hear and determine all protests to the creation of such district and all matters pertaining to the same. It may amend the plan of such district by excluding from within its boundaries any lands which it may deem will not be benefited by the formation of such district, or by including other lands as a part thereof upon application of the owners of such land; provided, however, it shall not exclude from such district any lands which are completely surrounded by lands which are included in the proposed district.

At the conclusion of such hearing, the board of county commissioners shall make an order determining the boundaries of the proposed district, particularly describing them, and shall determine whether the formation of such district will be conducive to the public safety of the area incorporated therein. If said board determines that such district will be conducive to the public safety of the area incorporated therein, then said board shall give such proposed district a name and shall call an election of the qualified electors in the territory comprising such proposed district on the question of whether said district shall be organized.

SECTION 2. AMENDATORY 19 O.S. 1981, Section 901.3, is amended to read as follows:

Section 901.3 The county clerk shall cause notice of the election to be given ~~for two (2) weeks~~ by publication once a week for two (2) successive weeks in ~~a newspaper~~ all newspapers of general circulation in the territory comprising the proposed district. Such notice shall state the time and place of holding the election and set forth the description of the boundaries of the proposed district and its general purpose and intention. Such notice shall require the electors to cast ballots which contain the words: "Fire Protection District - Yes", and "Fire Protection District - No", or words equivalent thereto. All persons resident of such proposed district, who are qualified electors in their respective precincts, shall be qualified to vote on such proposition.

SECTION 3. AMENDATORY 19 O.S. 1981, Section 901.4, is amended to read as follows:

Section 901.4 Such elections shall be conducted in accordance with the general election laws of the state and the regular election officials shall be in charge at the usual polling place of each regular precinct, or part of a precinct, which shall include lands within the boundaries of such proposed district. The returns of such election shall be made direct to the board of county commissioners who shall meet on the second Monday next following such election and proceed to canvass the vote cast thereat.

If, upon such canvass, it appears that at least three-fifths (3/5) of all the votes cast are "Fire Protection District - Yes", the board shall, by order declare such territory duly organized as a fire protection district under the name theretofore designated. Such order shall be filed for record in the office of the county clerk by the board of county commissioners and from that date such district shall be complete.

SECTION 4. AMENDATORY 19 O.S. 1981, Section 901.5, as last amended by Section 2, Chapter 150, O.S.L. 1987 (19 O.S. Supp. 1990, Section 901.5), is amended to read as follows:

Section 901.5 A. Directors of a fire protection district shall be the owners of real property in and residents of said district. At the time of making its order organizing the district, the board of county commissioners shall appoint three (3) directors who shall hold their office until the next General Election, at which time their successors shall be elected. At such election, the qualified person receiving the highest number of votes for member of board of directors of the district shall hold his respective office for the term of six (6) years. The qualified person receiving the next highest number of votes shall be elected for four (4) years, and the qualified person having the next highest number of votes shall be elected for two (2) years. Each two (2) years thereafter, there shall be elected for a term of six (6) years one member of said board of directors.

B. A board of directors may increase its membership to five (5) members by resolution of the board. If a board of directors adopts such a resolution, the position of the original board which will be up for election at the next General Election shall be for a five-year term. An additional two members shall be elected at a special election called for that purpose by the board of directors. The two qualified persons who receive the highest number of votes for the additional two positions shall be elected to serve until the next General Election. ~~The qualified person receiving the highest number of votes for the additional two positions shall be elected for a term of three (3) years and the qualified person receiving the next highest number of votes for the additional two positions shall be elected for a term of one (1) year.~~ All board members elected thereafter to a five-member board shall serve a term of five (5) years with elections held yearly.

C. The board of directors of the district shall submit, within fifteen (15) days before the filing period of any district election, a resolution to the secretary of the county election board conducting said election. The resolution shall contain the following:

1. The date of the election;
2. The offices to be filled or the questions to be voted upon at the election;
3. Qualifications for the offices;
4. The location of the polling place or places; and
5. Any other information necessary for conducting said election.

D. The regular election in the district shall be held at the same time as the General Election in this state or on the first Tuesday in November in those years that a General Election is not held. In those years that a General Election is not held the entire cost of the election shall be paid by the district. When the election is held at the same time as the General Election, the district shall pay only for the cost of the ballots required for the district election. All polling places of precincts, all or any part of which include areas within the boundaries of the district, shall be supplied ballots for the purpose of permitting electors of the district to vote for members of the board of directors of the district. Filing for the office of member of the board of directors shall be with the county election board and shall be done without the payment of a filing fee.

E. Vacancies on the board shall be filled by the board of directors. In the event a vacancy occurs and the remaining members of the board are unable to make a decision on such vacancy within ~~sixty (60)~~ thirty (30) calendar days, the board of county commissioners shall immediately appoint a member to fill the vacancy. In the event the vacancies on the board are so numerous as

to not provide a quorum, the board of county commissioners shall appoint as many members as are necessary to make a quorum. All vacancies filled pursuant to the provisions of this subsection shall be filled until the next regular election, at which time a member shall be elected to serve the remainder of the unexpired term.

SECTION 5. AMENDATORY 19 O.S. 1981, Section 901.7, as last amended by Section 21, Chapter 202, O.S.L. 1987 (19 O.S. Supp. 1990, Section 901.7), is amended to read as follows:

Section 901.7 The board of directors shall have the following powers and duties:

1. To manage and conduct the business affairs of such district;
2. To make and execute all necessary contracts;
3. To purchase or lease-purchase and maintain all necessary and convenient engines, hoses, hose carts or other appliances and supplies for the full equipment of a fire company or department;
4. To appoint fire company officers and employees, sufficient to maintain and operate the equipment owned by such district;
5. To take by grant, purchase, condemnation, gift, devise or lease, and to dispose of, real or personal property of every kind necessary for the operation of the district;
6. To construct or otherwise acquire suitable firehouses and other buildings or structures suitable for the housing of equipment and supplies of the district, or for carrying on its own business and affairs;
7. To employ such officers and employees as may be required, fix their compensation and prescribe their duties;
8. To establish rules and regulations for the district and for the prevention of fires and conflagrations within the district and for the protection of property at and during any fire;
9. To do any and all other things necessary and proper in the management and operation of the district for the purpose of protecting property within its boundaries from fire. In addition,

for purposes of this paragraph, a fire protection district, created pursuant to Section 901.1 et seq. of this title, shall be deemed a political subdivision of this state and the board may submit an application to include the fire fighters of the district in the Oklahoma Firefighters Pension and Retirement System. The application for affiliation shall be submitted in accordance with subsection A of Section 49-105.2 of Title 11 of the Oklahoma Statutes; and

10. To prepare an annual budget and follow existing laws pertaining to the budget process such as public notices, public hearings, protest periods and filing requirements in the same manner as they apply to other forms of government in Oklahoma.

SECTION 6. AMENDATORY 19 O.S. 1981, Section 901.21, is amended to read as follows:

Section 901.21 No claims shall be paid by the treasurer of said district until the same shall have been presented and allowed by the board of directors and only warrants signed by the president and countersigned by the clerk, and if the district treasurer has not sufficient money on hand to pay such warrants when presented, he shall endorse thereon "not paid for want of funds" and endorse thereon the date presented, over his signature, and from the time of such presentation until paid such warrant shall draw interest at the rate of ~~six percent (6%)~~ eleven percent (11%) per annum. All claims against the district shall be verified the same as is required in the case of claims filed against the counties in this state, and the clerk of the district is hereby authorized and empowered to administer oaths to the parties verifying such claims the same as a county clerk or a notary public might do. The district treasurer shall keep a register in which he shall enter each warrant presented for payment, showing the date and amount of such warrant, to whom payable, the date of the presentation for payment, the date of payment, and the amount paid in redemption thereof, and all warrants

shall be paid in the order of their presentation for payment to the district treasurer. All warrants shall be drawn and payable to the claimant or his assignee only.

SECTION 7. AMENDATORY 19 O.S. 1981, Section 901.22, as amended by Section 1, Chapter 71, O.S.L. 1982 (19 O.S. Supp. 1990, Section 901.22), is amended to read as follows:

Section 901.22 ~~Territory contiguous to any district and in~~ Any territory located within the same county of an existing district may be included in the limits of ~~the~~ such district by decision of the board of directors, certified to the board of county commissioners, with the written consent of twenty-five percent (25%) of the holders of title to the territory sought to be included, or in the same manner as provided for the organization of fire protection districts. Such territory shall not be included or added to the territory of the district without the consent of the board of directors and the board of county commissioners. In the event such territory is included by decision of the board of directors, with the consent of the board of county commissioners and the written consent of twenty-five percent (25%) of the holders of title to the territory sought to be included, the notice, hearing and order requirements of Section 901.2 of this title and the notice and election requirements of Sections 901.3 and 901.4 of this title shall be followed in the same manner as for the organization of fire protection districts. In case any such territory is added to the district the property therein shall immediately become subject to the lien for the payment of bonds theretofore authorized by the district in the same manner as property within the district at the time of authorization of such bonds.

SECTION 8. AMENDATORY Section 1, Chapter 70, O.S.L. 1986, as last amended by Section 1, Chapter 76, O.S.L. 1990 (19 O.S. Supp. 1990, Section 901.27), is amended to read as follows:

Section 901.27 A. The board of directors of each fire protection district with revenues of ~~Thirty-five Thousand Dollars (\$35,000.00)~~ Fifty Thousand Dollars (\$50,000.00) or more to its general fund during a fiscal year shall cause an audit to be made of, including but not limited to, the funds, accounts and fiscal affairs of such district. The audit shall be ordered within thirty (30) days of the close of each fiscal year of the district which shall commence July 1 and end on June 30.

B. Provided, any fire protection district may have its books audited and examined by the State Auditor and Inspector, upon petition signed by a number of registered voters, each registered at an address within the geographical boundaries of the fire protection district, equal to twenty-five percent (25%) of the number of persons voting for the office or question receiving the highest number of votes in the last annual election of the district according to certification from the county election board of the county wherein supervision of the district is located. The petition must be submitted to the office of the State Auditor and Inspector prior to the audit and examination. The cost of said audit or examination, which shall be borne by the district, shall be ascertained prior to the petitioning for the audit and shall be stated in the petition prior to the collection of any signatures.

SECTION 9. AMENDATORY Section 2, Chapter 70, O.S.L. 1986, as amended by Section 23, Chapter 202, O.S.L. 1987 (19 O.S. Supp. 1990, Section 901.28), is amended to read as follows:

Section 901.28 A. The audits required by Section 901.27 of this title shall be prepared by a certified public accountant or a licensed public accountant. The required audit shall adhere to standards set by the State Auditor and Inspector. One copy of the annual audit shall be filed with the State Auditor and Inspector, and one copy shall be filed with the appropriate county clerk not

more than one hundred twenty (120) days following the close of each fiscal year of the district.

B. In the event that a copy of the audit as required by this section is not filed with the State Auditor and Inspector within the time herein provided or for any other reason deemed expedient by him, the State Auditor and Inspector is authorized to either commence an audit or employ a certified public accountant or licensed public accountant to make the audit herein required at the cost and expense of the fire protection district.

C. Within one hundred eighty (180) days after the effective date of this act or within one hundred eighty (180) days after creation, whichever is first, each fire protection district organized pursuant to the provisions of Section 901.1 et seq. of ~~Title 19 of the Oklahoma Statutes~~ this title shall certify to the State Auditor and Inspector the date it was created.

D. Prior to the levying of any ~~ad valorem tax~~ special assessment by a fire protection district, there shall be filed with the Secretary of State an executed original or certified copy of a written instrument or election return declaring creation of such district and a notice of said filing with the Secretary of State shall be delivered to the State Auditor and Inspector.

SECTION 10. AMENDATORY 74 O.S. 1981, Section 317, is amended to read as follows:

Section 317. The State Fire Marshal, his assistants ~~and~~, the chief of the fire department of all the cities and towns where a fire department is established ~~and~~, the mayor of the cities and towns where no fire department exists, the chief of a fire protection district created pursuant to Sections 901.1 et seq. of Title 19 of the Oklahoma Statutes and the sheriff of all counties, upon the complaint of any person having an interest in any building or property adjacent, and without any complaint, shall have the right at all reasonable hours for the purpose of an examination to

enter into and upon all buildings and premises within their jurisdiction. The State Fire Marshal shall, at least once each year, make a fire inspection of all correctional facilities under the jurisdiction and control of any state agency, county, city or town. Said correctional facilities shall include, but not be limited to, institutions within the Department of Corrections as defined by Section 502 of Title 57 of the Oklahoma Statutes, juvenile institutions under the jurisdiction and control of the Department of Institutions, Social and Rehabilitative Services, as listed in Section 1401 of Title 10 of the Oklahoma Statutes, and jails. The State Fire Marshal shall issue a report containing findings of his inspection as to each facility under the jurisdiction and control of a state agency, to the director of such agency. As to any other correctional facility, the State Fire Marshal shall issue his report to the person immediately responsible for the administration of the facility inspected. Whenever any of said officers shall find any building or other structure which for the want of proper repair, or by reason of age and dilapidated condition, or for any cause it is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that a fire would endanger persons and property therein, such officers shall order such building or buildings to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied. If such officer finds in a building or upon any premises any combustible or explosive material, rubbish, rags, waste, oils, gasoline or inflammable conditions of any kind, dangerous to the safety of buildings or property, he shall order such materials removed or conditions remedied. Such order shall be made against the owner, lessee, agent or occupant of such buildings or premises and, thereupon, such order shall be complied with by the owner, lessee, agent or occupant, and within the time fixed in said order. If the owner, lessee, agent or occupant deems himself

aggrieved by an order of any of said officers, and desires a hearing, he may complain or appeal in writing to the State Fire Marshal within ten (10) days from the service of the order, and the State Fire Marshal shall at once investigate said complaint, and he shall fix a time in the county where such property is located, when and where said complaint will be heard by the State Fire Marshal. The State Fire Marshal may affirm, modify, revoke or vacate said order at said hearing, and unless such order is revoked or vacated by the State Fire Marshal, it shall remain in force and be complied with by such owner, lessee, agent or occupant within the time fixed in said order, or within such time as may be fixed by the State Fire Marshal at said hearing. If a person is aggrieved by the final order of the State Fire Marshal as made at the hearing aforesaid, such person may, within ten (10) days thereafter, appeal to the district court of the county in which the property is situated notifying the State Fire Marshal in writing, of such appeal, within three (3) days thereafter, which notice shall be in writing and delivered personally to the State Fire Marshal or by registered mail to the office of the State Fire Marshal at Oklahoma City, Oklahoma. The party so appealing shall, within three (3) days thereafter, file with the clerk of the district court in which such appeal is made, a bond in an amount to be fixed by the court but in no case less than One Hundred Dollars (\$100.00), with at least sufficient sureties to be approved by the court, conditioned to pay all costs on the appeal in case the appellant failed to sustain the same or the appeal be dismissed for any cause. The district court shall hear and determine said appeal de novo, in the same manner as other issues of law and fact are heard and tried in such courts, and the State Fire Marshal shall be plaintiff in said action. The district court shall hear and determine the appeal at the next regular term of district court in the county where the said order was issued, and may sustain, modify or annul the order of the State Fire Marshal, and

the decision of the district court shall be final. The State Fire Marshal shall execute the final order of the district court, and if said order is adverse to said appellant, the State Fire Marshal is empowered to cause such building or premises to be repaired, torn down, demolished, materials removed and all dangerous conditions remedied, as the case may be, at the expense of such appellant. If said appellant fails, refuses or neglects to comply with said order, or pay the expense incurred by the State Fire Marshal in executing the same within thirty (30) days thereafter, the said expense shall be certified by the State Fire Marshal to the county assessor of the county in which said property is situated and the said county assessor shall enter said expense on the tax list of said county as a special charge against the real estate on which said building is or was situated, and the same shall be collected as other taxes and, when collected, shall be paid to the county treasurer and credited to the general fund of the county in which the property is located. Any person being the owner, occupant, lessee or agent of buildings or premises, who willfully fails, neglects or refuses to comply with any order of any officer named in this section shall be guilty of a misdemeanor and shall be fined not more than Fifty Dollars (\$50.00) nor less than Ten Dollars (\$10.00) for each day's neglect.

SECTION 11. This act shall become effective July 1, 1991.

SECTION 12. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the House of Representatives the 27th day of February, 1991.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1991.

President of the Senate