

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 1401

By: Rice, Smith (Dale), Tyler  
and Stites of the House

and

Easley and Littlefield of  
the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to fire districts; amending 19 O.S. 1991, Sections 901.5, as last amended by Section 4, Chapter 316, O.S.L. 1993, 901.7, as amended by Section 5, Chapter 397, O.S.L. 1992, 901.19 and 901.25 (19 O.S. Supp. 1996, Sections 901.5 and 901.7), which relate to rural fire districts; clarifying and updating language; authorizing certain offices to be declared vacant; providing specific causes; providing for filling of a vacant office; requiring notice and opportunity for hearing; making certain determinations of vacancies specific agenda items; authorizing appeals; modifying powers and duties of boards of directors of rural fire districts; clarifying and updating language relating to annual budgets; providing for development of bylaws for performance of the duties of the Board of Directors; authorizing board of directors to compel attendance at meetings; authorizing increase of assessments upon approval by vote at an election; providing for contracting by cities and individual property owners with rural fire districts; amending 74 O.S. 1991, Section 85.34B, which relates to risk management; renaming Risk Management Participation Revolving Fund to Risk Management Fire Protection Revolving Fund; clarifying language; and providing an effective date.

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

SECTION 1. AMENDATORY 19 O.S. 1991, Section 901.5, as last amended by Section 4, Chapter 316, O.S.L. 1993 (19 O.S. Supp. 1996, Section 901.5), is amended to read as follows:

Section 901.5 A. Directors of a fire protection district shall be the surface owners of real property in and residents of ~~said~~ the district.

B. 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~~ the 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.~~ C. 1. 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.

2. 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.

3. All board members elected thereafter to a five-member board shall serve a term of five (5) years with elections held yearly.

~~C.~~ D. 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.~~ E. 1. 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.

2. 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 directly attributable to district election.

3. 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.

4. Filing for the office of member of the board of directors shall be with the county election board on a nonpartisan basis during the regular filing period for state and county offices in those years that a General Election is held.

5. In those years that a General Election is not held the filing time will be from 8 a.m. on the first Monday after Independence Day until 5 p.m. on the next succeeding Wednesday and shall be done without the payment of a filing fee.

~~E.~~ F. 1. 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 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.

2. 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.

G. 1. The office of a member of the board of directors may be declared vacant by the board of directors if such member:

- a. is absent from more than one-half (1/2) of all meetings of the board of directors, regular and special, held within any period of four (4) consecutive months,
- b. ceases to be eligible for office pursuant to this section,
- c. has a conviction in a court of any felony or crime involving moral turpitude,
- d. uses alcohol, any stimulant, any drug or other substance which impairs intellect, judgment or physical ability to such an extent as to incapacitate the member to such a degree that the member is prevented from performing duties pursuant to Chapter 21 of this title, and
- e. has a mental or physical weakness or inability which incapacitates the member to such a degree that the member is prevented from performing duties required pursuant to Chapter 21 of this title.

2. Vacancies determined pursuant to this subsection shall be filled pursuant to subsection F of this section after notice to the board member of such action and opportunity for a hearing.

3. Vacancies shall be determined at an official meeting of the board and shall be a specific agenda item.

4. Any appeal from a decision declaring an office vacant pursuant to this subsection shall be made to the district court within thirty (30) days of such determination.

SECTION 2. AMENDATORY 19 O.S. 1991, Section 901.7, as amended by Section 5, Chapter 397, O.S.L. 1992 (19 O.S. Supp. 1996, Section 901.7), is amended to read as follows:

Section 901.7 A. The board of directors shall have the ~~following powers and duties~~ power and duty to:

1. ~~To manage~~ Manage and conduct the business affairs of such district;

2. ~~To make~~ Make and execute all necessary contracts;

3. ~~To purchase~~ 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~~ Appoint fire company officers and employees, sufficient to maintain and operate the equipment owned by such district;

5. ~~To take~~ 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~~ 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~~ Employ such officers and employees as may be required, fix their compensation and prescribe their duties;

8. ~~To establish~~ 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~~ 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;

10. Determine vacancies of the board of directors, fill vacancies and conduct board elections in the event of a vacancy on the board of directors;

11. Develop bylaws for the due and orderly administration of the affairs of the board of directors and for its responsibilities specified pursuant to this chapter, and may compel the attendance of absent members in the manner and under penalties as the board may prescribe; and

12. 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~~

B. ~~A fire protection district, created pursuant to Section 901.1 et seq. of this title chapter,~~ shall be deemed a political subdivision of this state ~~and the.~~ 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 3. AMENDATORY 19 O.S. 1991, Section 901.19, is amended to read as follows:

Section 901.19 A. Each year the board shall levy an assessment sufficient to raise the annual interest on the outstanding bonds or other evidences of indebtedness, and, in addition thereto, an amount equal to the amount of the bonds to be retired in said year or the installment of principal to be amortized during said year. ~~The~~

B. 1. Except as otherwise provided by paragraph 2 of this subsection, the board shall also levy an annual assessment sufficient to care for the cost of operation of the district and the maintenance of the fire department and its equipment, and for payment of salaries of the officers and employees of the district, provided, that no such annual assessment for operation, maintenance, and salaries shall exceed seven (7) mills on the dollar of assessed value of the property in the district; ~~provided, if Article X, Section 8 of the Oklahoma Constitution requires one hundred percent (100%) of fair cash value to be taxable for purposes of ad valorem taxation, the maximum number of mills authorized by this section shall be one (1) mill.~~

2. The board may levy an assessment over seven (7) mills but not to exceed ten (10) mills upon approval for such at an election held at such time and in such manner as provided by Section 901.5 of this title for election of board members.

C. All assessments levied under the authority of Sections 901.1 through 901.50 of this title, shall be a lien against the tract of land on which they have been levied, until paid, and said lien shall be coequal with the lien of ad valorem and other taxes, including special assessments, and prior and superior to all other liens.

SECTION 4. AMENDATORY 19 O.S. 1991, Section 901.25, is amended to read as follows:

Section 901.25 A. Any city or town located in the same county as any fire protection district may contract, for one (1) year or more, for fire protection service by the district throughout or within part of the area of the city or town. During the term of the contract, without curtailing the rights, powers and duties of the city, the area covered by the contract may in accordance with express terms of the contract be construed as part of the district territory for all fire protection purposes under this act.

B. Owners or occupants of property in the vicinity of the district not included within the territory of any city or town or other fire protection district, and such district may contract, for one (1) year or more, for fire protection service by the district for the property described in the contract, which such contract shall provide for a fixed annual payment of an agreed amount by the owner or occupant of the property to the district to be paid annually in advance at the date of the making of such contract, and on the even date thereof for each subsequent year covered by the contract.

C. The contract shall be in writing and shall be set forth in full in the minutes of the respective governing bodies of the contracting parties and a duplicate original shall be filed with the records of the district in the office of the county clerk.

D. Upon the filing of the contract, the district shall be an independent contractor.

~~During the term of the contract, without in anywise curtailing the rights, powers and duties of the city, the area covered by the~~

~~contract shall be construed as part of the district territory for all fire protection purposes under this act.~~

SECTION 5. AMENDATORY 74 O.S. 1991, Section 85.34B, is amended to read as follows:

Section 85.34B There is hereby created in the State Treasury a revolving fund for the ~~Office of Public Affairs~~ Department of Central Services, to be designated the "Risk Management ~~Participation~~ Fire Protection Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies transferred thereto by an act of the Legislature and any fees collected by the ~~Office of Public Affairs~~ Department of Central Services in accordance with the provisions of Section 1 of Enrolled House Bill No. 1137 of the 1st Session of the 41st Oklahoma Legislature. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the ~~Office of Public Affairs~~ Department of Central Services for the purposes of the Comprehensive Professional Risk Management Program provided for in Section 85.34 of ~~Title 74 of the Oklahoma Statutes~~ this title, including the salaries and administrative expenses of support staff responsible for administering said fund. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 6. This act shall become effective November 1, 1997.

46-1-7568 KSM