

SB 47

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THE STATE SENATE  
Tuesday, February 20, 2001

Senate Bill No. 47  
As Amended

SENATE BILL NO. 47 - By: MARTIN of the Senate and MCCARTER of the House.

[ county fire departments - firefighting services - effective date ]

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

SECTION 1. AMENDATORY 19 O.S. 1991, Section 351, as last amended by Section 3, Chapter 299, O.S.L. 1998 (19 O.S. Supp. 2000, Section 351), is amended to read as follows:

Section 351. A. The board of county commissioners of each county of this state is hereby authorized to provide firefighting service in the county and for such purpose to use county funds to rent, lease or purchase firefighting equipment and to rent or construct and equip and operate fire stations and to employ necessary personnel to provide such service. The board of county commissioners shall also have the authority to determine and collect charges for firefighting services performed by the county from any person to whom such services are provided.

B. The board of county commissioners of each county of this state shall have the power to take by grant, purchase, gift, devise or lease, and to dispose of, any real property for the purpose of

(Bold face denotes Committee Amendments)

1 acquiring right-of-ways and easements necessary in providing  
2 firefighting services to the county, including the construction and  
3 maintenance of roads and the installation of dry hydrants. The  
4 board may use county funds and equipment to construct and maintain  
5 such roads and to install such dry hydrants. Provided, nothing in  
6 this subsection shall be construed to prohibit the installation of  
7 dry hydrants on privately owned property by the owner thereof at the  
8 expense of the owner.

9 C. The board of county commissioners of each county of this  
10 state shall have the authority to use county personnel operating  
11 county equipment to fight fires in situations where an emergency is  
12 determined to exist, provided the firefighting service is requested  
13 by the county civil defense director or upon a request of a rural  
14 fire department.

15 D. 1. A corporate fire department organized pursuant to the  
16 provisions of Section 592 of Title 18 of the Oklahoma Statutes or a  
17 county fire department organized pursuant to the provisions of  
18 subsection A of this section may petition the board of county  
19 commissioners of the county in which the fire department provides  
20 protection to convert to a county fire department organized pursuant  
21 to the provisions of this subsection. The petition shall set forth  
22 and particularly describe the proposed boundaries of such county  
23 fire department and shall be accompanied by a map of such proposed

1 fire department, drawn to a scale of not less than one (1) inch to a  
2 mile. The petition shall also set forth the administration, control  
3 and ownership of all the corporate fire department's assets in the  
4 event such petition is approved. Such petition shall be filed with  
5 the county clerk of such county who shall present it to the board of  
6 county commissioners at their next regular or special meeting. Upon  
7 presentation of such petition, the board of county commissioners  
8 shall set the same for hearing at a time not less than twenty (20)  
9 days nor more than forty (40) days from the date of presentation and  
10 shall direct the county clerk to give notice of such hearing by  
11 publication in a newspaper of general circulation in the county in  
12 which the proposed county fire department is located. Such notice  
13 shall describe the boundaries of the proposed county fire  
14 department, shall state the time and place of the hearing, and shall  
15 state that any person may appear and protest the organization of the  
16 county fire department or the proposed boundaries thereof. The  
17 board of county commissioners shall hold the hearing described in  
18 said notice, and it shall have jurisdiction to hear and determine  
19 all protests to the creation of such county fire department and all  
20 matters pertaining to the same. It may amend the plan of such  
21 proposed county fire department by excluding from within its  
22 boundaries any lands which it may deem will not be benefited by the  
23 formation of such county fire department, or by including other

1 lands as a part thereof upon application of the owners of such land;  
2 provided, however, it shall not exclude from such district any  
3 unincorporated lands which are completely surrounded by lands which  
4 are included in the proposed county fire department. If the board  
5 of county commissioners determines that the conversion of such  
6 corporate fire department to a county fire department will be  
7 conducive to the public safety of the affected area therein, then  
8 said board shall give such proposed county fire department a name  
9 and shall authorize and approve the organization of said county fire  
10 department.

11 2. To be eligible to convert to a county fire department formed  
12 pursuant to this subsection, a fire department shall have a Public  
13 Protection Classification of nine (9) or better from ISO Commercial  
14 Risk Services, Inc., limit the size of such volunteer county fire  
15 department to not less than six or more than twenty members per fire  
16 station, and shall be subject to the laws of the State of Oklahoma  
17 regarding the administration and operation of a fire department,  
18 including, but not limited to, the laws of the State Department of  
19 Labor and the State Fire Marshal Commission. For purposes of this  
20 subsection, a volunteer fire department is one which has in its  
21 employ not more than two full-time salaried firefighters.

22 3. Directors of a county fire department organized pursuant to  
23 this subsection shall be owners of real property in and residents of

1 said district. At the time of making its order organizing such  
2 county fire department, the board of county commissioners shall  
3 appoint five directors, one of which shall hold his or her  
4 respective office for a term of five (5) years, one of which shall  
5 hold his or her respective office for a term of four (4) years, one  
6 of which shall hold his or her respective office for a term of three  
7 (3) years, one of which shall hold his or her respective office for  
8 a term of two (2) years, and one of which shall hold his or her  
9 respective office for a term of one (1) year. On or before January  
10 1, 2002, the board of county commissioners shall, for fire  
11 departments which operate more than five fire stations, appoint  
12 additional directors of a county fire department until the number of  
13 directors equals the number of fire stations operated by that county  
14 fire department. Each additional director shall be appointed by the  
15 board of county commissioners for a term that matches the term of  
16 one of the first five directors appointed. Whenever a new fire  
17 station is added to a county fire department which has five or more  
18 fire stations, the board of county commissioners shall appoint an  
19 additional director from that district in which the new fire station  
20 has been added. Each year thereafter, there shall be appointed by  
21 the board of county commissioners for a term of five (5) years ~~one~~  
22 ~~member of said~~ so many members as are necessary to replace all

1 members whose terms are expiring on the board of directors for such  
2 county fire department.

3 4. The board of directors of a county fire department organized  
4 pursuant to this subsection shall select one of its members to serve  
5 as ~~chairman~~ chair and shall appoint a clerk and a treasurer. The  
6 board of directors shall fix the term and duties of the ~~chairman~~  
7 chair , clerk and treasurer. The ~~chairman~~ chair and members of the  
8 board of directors shall serve without compensation. The treasurer  
9 shall give an official bond, in an amount fixed and with sureties  
10 approved by the board of county commissioners, conditioned upon the  
11 faithful accounting for all money pertaining to the county fire  
12 department and coming into his or her hands.

13 5. The board of directors of a county fire department organized  
14 pursuant to this subsection shall have the following powers and  
15 duties:

- 16 a. to manage and conduct the business affairs of such  
17 county fire department,  
18 b. to make and execute all necessary contracts,  
19 c. to purchase or lease-purchase and maintain all  
20 necessary and convenient engines, hoses, hose carts or  
21 other appliances and supplies for the full equipment  
22 of a fire company or department from available funds,

- 1           d.    to appoint the fire chief, fire company officers and  
2                   employees (whether paid or volunteer), sufficient to  
3                   maintain and operate the equipment owned by the county  
4                   fire department,
- 5           e.    to take by grant, purchase, gift, devise or lease, and  
6                   to dispose of real or personal property of every kind  
7                   necessary for the operation of the county fire  
8                   department,
- 9           f.    to construct or otherwise acquire from available funds  
10                   suitable firehouses and other buildings or structures  
11                   suitable for the housing of equipment and supplies of  
12                   the county fire department, or for carrying on its own  
13                   business and affairs,
- 14           g.    to employ such officers and employees as may be  
15                   required from available funds, fix their compensation  
16                   and prescribe their duties,
- 17           h.    to establish rules ~~and regulations~~ for such county  
18                   fire department and for the prevention of fires and  
19                   conflagrations within the department's boundaries and  
20                   for the protection of property at and during any fire,
- 21           i.    to do any and all other things necessary and proper in  
22                   the management and operation of the county fire

1 department for the purpose of protecting property  
2 within its boundaries from fire, and  
3 j. to prepare an annual budget and follow existing laws  
4 pertaining to the budget process such as public  
5 notice, public hearings, protest periods and filing  
6 requirements in the same manner as they apply to other  
7 forms of government in Oklahoma.

8 6. The board of directors of a county fire department organized  
9 pursuant to this subsection may submit an application to include the  
10 firefighters of such county fire department in the Oklahoma  
11 Firefighters Pension and Retirement System. The application for  
12 participation in the Oklahoma Firefighters Pension and Retirement  
13 System shall be submitted in accordance with subsection A of Section  
14 49-105.2 of Title 11 of the Oklahoma Statutes. For purposes of  
15 complying with Sections 49-103 and 49-104 of Title 11 of the  
16 Oklahoma Statutes, the ~~chairman~~ chair, clerk and treasurer of the  
17 board of directors of the county fire department shall serve on the  
18 local firefighters pension and retirement board along with three  
19 firefighters of such county fire department elected by the members  
20 of the county fire department. The ~~chairman~~ chair of the board of  
21 directors of the county fire department shall be the ~~chairman~~ chair  
22 of the local board of the county fire department and the clerk of  
23 the board of directors of the county fire department shall be the

1 secretary of the local board of the county fire department. The  
2 ~~chairman~~ chair of the local board of the county fire department  
3 shall have a casting vote with the members of the local board of the  
4 county fire department only when necessary to avoid a tie vote. The  
5 local board of the county fire department shall promulgate such  
6 rules as may be necessary to ensure the orderly conduct of a local  
7 board meeting. While participating in the Oklahoma Firefighters  
8 Pension and Retirement System, the board of directors, local board  
9 and fire chief of the county fire department shall perform all  
10 administrative requirements of the pension system.

11 7. Any board of directors of a county fire department organized  
12 pursuant to this subsection having volunteers enrolled as members of  
13 such county fire department shall adopt a code of minimum rules and  
14 regulations in substantial compliance with the following:

15 a. Fire chief.

16 (1) The fire chief shall be at the head of the  
17 department, subject to the laws of the State of  
18 Oklahoma, rules of the board of directors, and  
19 the rules and regulations herein adopted.

20 (2) The fire chief shall be held responsible for the  
21 general condition and efficient operation of the  
22 department, the training of members, and the

1 performance of all other duties imposed upon him  
2 or her by law or the board of directors.

3 (3) The fire chief may inspect or cause to be  
4 inspected by members of the department, the fire  
5 hydrants, cisterns and other sources of water  
6 supply at least twice a year.

7 (4) The fire chief shall maintain a library or file  
8 of publications on fire prevention and fire  
9 protection and shall make use of the library or  
10 file to the best advantage of all members.

11 (5) The fire chief shall make every effort to attend  
12 all fires and direct the officers and members of  
13 the fire department in the performance of their  
14 duties.

15 (6) The fire chief shall see that the citizens are  
16 kept informed on fire hazards within the  
17 boundaries of the department and on the  
18 activities of the department.

19 (7) The fire chief shall see that each fire is  
20 carefully investigated to determine its cause,  
21 and in the case of suspicion of incendiarism  
22 shall notify proper authorities. The fire chief  
23 shall secure and preserve all possible evidence

1 for future use in the case of a suspicious  
2 incendiaryism.

3 (8) The fire chief shall file the appropriate  
4 activity report forms with the Office of the  
5 State Fire Marshal in Oklahoma City on an annual  
6 basis. The activity report forms shall be  
7 designed by the State Fire Marshal and shall  
8 include, but not be limited to, the amount of  
9 property and vehicle fire loss, types of fires,  
10 inspections and investigations. The report shall  
11 include notification of all fire-related civilian  
12 deaths and injuries in the respective  
13 jurisdiction and of firefighter deaths in the  
14 line of duty and of firefighter injuries in the  
15 line of duty requiring the services of a hospital  
16 or physician or both.

17 b. Assistant fire chief.

18 In the absence of the fire chief, the assistant fire  
19 chief on duty shall command the department and be held  
20 responsible therefore in all respects with the full  
21 powers and responsibilities of the fire chief.

22 c. Company officers.

1 The company officers shall be selected upon their  
2 ability to meet the following requirements:

- 3 (1) their knowledge of firefighting,
- 4 (2) their leadership ability, and
- 5 (3) their knowledge of firefighting equipment.

6 d. Secretary-treasurer.

7 One member elected by the fire department shall be  
8 secretary-treasurer. His or her duties shall consist  
9 of the following:

- 10 (1) calling the roll at the opening of each meeting,
- 11 (2) keeping the minutes of each meeting, and
- 12 (3) collecting any money due the department by the  
13 members.

14 e. New members.

- 15 (1) An applicant of a participating county fire  
16 department of the Oklahoma Firefighters Pension  
17 and Retirement System shall meet the membership  
18 requirements of the Oklahoma Firefighters Pension  
19 and Retirement System before he or she may be  
20 appointed as a new member of the county fire  
21 department.
- 22 (2) A new member shall be on probation for one (1)  
23 year after his or her appointment.

1 (3) A new member of a participating county fire  
2 department of the Oklahoma Firefighters Pension  
3 and Retirement System shall be immediately  
4 enrolled as a member of the Oklahoma Firefighters  
5 Pension and Retirement System regardless of  
6 whether such member has completed his or her  
7 probation period.

8 (4) The majority of the fire department members must  
9 approve new volunteer members upon completion of  
10 their probation period.

11 f. Bylaws.

12 The bylaws of the department shall include:

13 (1) All volunteer firefighters are required, when  
14 notified, to respond to fire alarms and other  
15 emergencies.

16 (2) A volunteer firefighter is required to be present  
17 at all regular meetings, call meetings and  
18 schools presented for the benefit of the  
19 firefighters.

20 (3) There shall be at least one regular business  
21 meeting each month.

22 (4) Any volunteer firefighter having two unexcused  
23 absences in succession or three unexcused

1 absences in a period of three (3) months will be  
2 dropped from the fire department rolls.

3 (5) Volunteer firefighters leaving the boundaries of  
4 the department for an extended period of time  
5 will be required to notify the fire chief.

6 (6) Any volunteer firefighter refusing to attend  
7 training classes provided for him or her will be  
8 dropped from the fire department rolls.

9 (7) Any volunteer member of the fire department shall  
10 be dropped from the fire department rolls for the  
11 following offenses:

12 (a) conduct unbecoming a firefighter,

13 (b) any act of insubordination,

14 (c) neglect of duty,

15 (d) any violation of rules and regulations  
16 governing the fire department, or

17 (e) conviction of a felony.

18 8. a. A county fire department organized pursuant to the  
19 provisions of this subsection shall maintain,  
20 according to its own accounting needs, some or all of  
21 the funds and account groups in its system of accounts  
22 that are consistent with legal and operating  
23 requirements and as prescribed by the State Auditor

1 and Inspector. The required funds may include, but  
2 not be limited to:

3 (1) a general fund, to account for all monies  
4 received and disbursed for general department  
5 purposes, including all assets, liabilities,  
6 reserves, fund balances, revenues and  
7 expenditures which are not accounted for in any  
8 other fund or special ledger account,

9 (2) special revenue funds, as required, to account  
10 for the proceeds of specific revenue sources that  
11 are restricted by law to expenditures for  
12 specific purposes,

13 (3) a capital improvement fund, to account for  
14 financial resources segregated for acquisition,  
15 construction or other improvement related to  
16 capital facilities, and

17 (4) a ledger or group of accounts in which to record  
18 the details relating to the general fixed assets  
19 of the county or department.

20 b. Funds raised by a nonprofit organization for the  
21 purpose of supporting the fire protection services of  
22 a county fire department organized pursuant to the  
23 provisions of this subsection, whether such funds were

1 raised before or after a corporate fire department  
2 converts to a county fire department, shall not be  
3 commingled with public funds and shall be used only  
4 for designated benevolent or charitable purposes,  
5 including, but not limited to, fire protection  
6 purposes.

7 c. No expenditure may be authorized or made by any  
8 employee or member of the board of directors of a  
9 county fire department organized pursuant to the  
10 provisions of this subsection which exceeds any fund  
11 balance of any fund of the budget as adopted or  
12 amended or which exceeds the appropriation for any  
13 fund of the budget as adopted or amended. Any balance  
14 remaining in a fund at the end of the budget year  
15 shall be carried forward to the credit of the fund for  
16 the next budget year. It shall be unlawful for any  
17 employee or member of the board of directors of a  
18 county fire department organized pursuant to the  
19 provisions of this subsection in any budget year to  
20 create or authorize creation of a deficit in any fund.

21 SECTION 2. This act shall become effective November 1, 2001.

22 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 2-12-01  
23 - DO PASS, As Amended and Coauthored.