

STATE OF OKLAHOMA

1st Session of the 48th Legislature (2001)

SENATE BILL 348

By: Milacek

AS INTRODUCED

An Act relating to fire protection; amending 11 O.S. 1991, Section 29-105, as amended by Section 1, Chapter 241, O.S.L. 1993 (11 O.S. Supp. 2000, Section 29-105), which relates to municipal fire protection services; granting municipalities authority to enter into certain contracts or agreements; specifying certain terms thereof; amending 18 O.S. 1991, Section 593, as amended by Section 1, Chapter 8, O.S.L. 1993 (18 O.S. Supp. 2000, Section 593), which relates to corporations; granting certain fire department authority to enter into certain contracts or agreements; specifying certain terms thereof; amending 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), which relates to county fire protection services; granting certain counties authority to enter into certain contracts or agreements; specifying certain terms thereof; and declaring an emergency.

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

SECTION 1. AMENDATORY 11 O.S. 1991, Section 29-105, as amended by Section 1, Chapter 241, O.S.L. 1993 (11 O.S. Supp. 2000, Section 29-105), is amended to read as follows:

Section 29-105. A municipality may:

1. Provide protection from fire for all persons and property within its boundaries;
2. Contract to give or receive such protection to or from one or more municipalities or private organizations;
3. Provide fire protection jointly with one or more municipalities or private organizations;
4. Contribute toward the support of any fire department in return for fire protection service;

5. Create fire protection districts within the limits of the municipality encompassing areas served by fire protection services;
~~or~~

6. Provide fire protection for persons and property outside its corporate limits ~~provided that said~~ if such fire protection has been authorized by the governing body of the municipality;

7. Except as otherwise provided in Section 901.1 et seq. of Title 19 of the Oklahoma Statutes, enter into written contracts or mutual aid agreements with other political subdivisions of this state in order to provide fire protection outside the corporate limits of the municipality or to provide fire protection jointly with other political subdivisions of this state for any adjoining county. Written contracts and agreements entered into pursuant to the provisions of this paragraph shall:

- a. set forth the terms and conditions for providing fire protection services, area coverage and a method for assessing costs and reimbursement for providing fire protection services,
- b. be approved by the governing bodies of the participating political subdivisions prior to the provisions of services, notwithstanding the provisions of Section 593 of Title 18 of the Oklahoma Statutes, Section 351 of Title 19 of the Oklahoma Statutes and Section 4-1-101 of Title 27A of the Oklahoma Statutes, and
- c. shall otherwise comply with the Oklahoma Emergency Response Act.

SECTION 2. AMENDATORY 18 O.S. 1991, Section 593, as amended by Section 1, Chapter 8, O.S.L. 1993 (18 O.S. Supp. 2000, Section 593), is amended to read as follows:

Section 593. A. Any charitable corporation formed for the purpose of providing either a volunteer or a full-time fire

department, pursuant to Section 592 of this title, shall have authority to establish a reasonable schedule of fees to be charged for its services in extinguishing fires of its members and nonmembers who utilize ~~such~~ the fire department to extinguish or control a fire either within or without the unincorporated area wherein it is situated. ~~Such~~ The schedule of fees may contain one fee for members and another fee for nonmembers, except that no fee shall be established in excess of the approximate cost of providing the service. Any member or nonmember utilizing the services of such a fire department to extinguish or control a fire shall be liable to ~~said~~ the corporation in the amount of the established fee. However, no fee shall be charged by a fire department for merely appearing at the scene of a controlled fire unless called by the person setting the fire or at ~~such~~ the person's request. If it is necessary for suit to be brought for collection of ~~such~~ the amount due, ~~such~~ the liability shall include costs of suit and a reasonable attorney's fee.

B. If insurance coverage is provided for the fee specified in subsection A of this section or for the cost of providing the service rendered by the fire department and an insurer makes payment for the service, it shall be the duty of the insured party or the responding fire department to notify the insurer of services rendered. The instrument of payment for the services of the fire department shall be made to the order of the responding fire department and the insured.

C. Except as otherwise provided by Section 901.1 et seq. of Title 19 of the Oklahoma Statutes, a fire department organized pursuant to the provisions of Section 592 of this title may enter into written contracts or mutual aid agreements with political subdivisions of this state in order to provide fire protection outside the territory ordinarily served or to provide fire protection jointly with other political subdivisions of this state

for any adjoining county. Written contracts and agreements entered into pursuant to the provisions of this paragraph shall:

1. Set forth the terms and conditions for providing fire protection services, area coverage and a method for assessing costs and reimbursement for providing fire protection services;

2. Be approved by the governing bodies of the fire department and the participating political subdivisions prior to the provisions of services, notwithstanding the provisions of Section 29-105 of Title 11 of the Oklahoma Statutes, Section 351 of Title 19 of the Oklahoma Statutes and Section 4-1-101 of Title 27A of the Oklahoma Statutes, and

3. Shall otherwise comply with the Oklahoma Emergency Response Act.

SECTION 3. 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~~ the 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~~ the 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 acquiring right-of-ways and easements necessary in providing firefighting services to the county, including the construction and maintenance of roads and the installation of dry hydrants. The board may use county funds and equipment to construct and maintain

~~such~~ the roads and to install ~~such~~ the dry hydrants. Provided, nothing in this subsection shall be construed to prohibit the installation of dry hydrants on privately owned property by the owner thereof at the expense of the owner.

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

D. 1. A corporate fire department organized pursuant to the provisions of Section 592 of Title 18 of the Oklahoma Statutes or a county fire department organized pursuant to the provisions of subsection A of this section may petition the board of county commissioners of the county in which the fire department provides protection to convert to a county fire department organized pursuant to the provisions of this subsection. The petition shall set forth and particularly describe the proposed boundaries of ~~such~~ the county fire department and shall be accompanied by a map of ~~such~~ the proposed fire department, drawn to a scale of not less than one (1) inch to a mile. The petition shall also set forth the administration, control and ownership of all the corporate fire department's assets in the event ~~such~~ the petition is approved. ~~Such~~ The petition shall be filed with the county clerk of ~~such~~ the county who shall present it to the board of county commissioners at ~~their~~ its next regular or special meeting. Upon presentation of ~~such~~ the 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~~ the hearing by publication in a newspaper of general circulation in the county in which the proposed county fire department is located. ~~Such~~ The notice shall

describe the boundaries of the proposed county fire department, shall state the time and place of the hearing, and shall state that any person may appear and protest the organization of the county fire department or the proposed boundaries thereof. The board of county commissioners shall hold the hearing described in ~~said~~ the notice, and it shall have jurisdiction to hear and determine all protests to the creation of ~~such~~ the county fire department and all matters pertaining to the same. It may amend the plan of ~~such~~ the proposed county fire department by excluding from within its boundaries any lands which it may deem will not be benefited by the formation of ~~such~~ the county fire department, 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~~ the district any unincorporated lands which are completely surrounded by lands which are included in the proposed county fire department. If the board of county commissioners determines that the conversion of ~~such~~ the corporate fire department to a county fire department will be conducive to the public safety of the affected area therein, then ~~said~~ the board shall give such proposed county fire department a name and shall authorize and approve the organization of ~~said~~ the county fire department.

2. To be eligible to convert to a county fire department formed pursuant to this subsection, a fire department shall have a Public Protection Classification of nine ~~(9)~~ or better from ISO Commercial Risk Services, Inc., limit the size of ~~such~~ the volunteer county fire department to not less than six or more than twenty members per fire station, and shall be subject to the laws of ~~the State of Oklahoma~~ this state regarding the administration and operation of a fire department, including, but not limited to, the laws of the State Department of Labor and the State Fire Marshal Commission. For purposes of this subsection, a volunteer fire department is one

which has in its employ not more than two full-time salaried firefighters.

3. Directors of a county fire department organized pursuant to this subsection shall be owners of real property in and residents of ~~said~~ the district. At the time of making its order organizing ~~such~~ the county fire department, the board of county commissioners shall appoint five directors, one of which shall hold ~~his or her~~ respective office for a term of five (5) years, one of which shall hold ~~his or her~~ respective office for a term of four (4) years, one of which shall hold ~~his or her~~ respective office for a term of three (3) years, one of which shall hold ~~his or her~~ respective office for a term of two (2) years, and one of which shall hold ~~his or her~~ respective office for a term of one (1) year. Each year thereafter, there shall be appointed by the board of county commissioners for a term of five (5) years one member of ~~said~~ the board of directors for such county fire department.

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

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

- a. to manage and conduct the business affairs of ~~such~~ the county fire department,
- b. to make and execute all necessary contracts,

- c. 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 from available funds,
- d. to appoint the fire chief, fire company officers and employees (, whether paid or volunteer), sufficient to maintain and operate the equipment owned by the county fire department,
- e. to take by grant, purchase, gift, devise or lease, and to dispose of real or personal property of every kind necessary for the operation of the county fire department,
- f. to construct or otherwise acquire from available funds suitable firehouses and other buildings or structures suitable for the housing of equipment and supplies of the county fire department, or for carrying on its own business and affairs,
- g. to employ such officers and employees as may be required from available funds, fix their compensation and prescribe their duties,
- h. to establish rules ~~and regulations~~ for ~~such~~ the county fire department and for the prevention of fires and conflagrations within the department's boundaries and for the protection of property at and during any fire,
- i. to do any and all other things necessary and proper in the management and operation of the county fire department for the purpose of protecting property within its boundaries from fire, and
- j. to prepare an annual budget and follow existing laws pertaining to the budget process such as public notice, public hearings, protest periods and filing

requirements in the same manner as they apply to other forms of government in ~~Oklahoma~~ this state.

6. The board of directors of a county fire department organized pursuant to this subsection may submit an application to include the firefighters of such county fire department in the Oklahoma Firefighters Pension and Retirement System. The application for participation in the Oklahoma Firefighters Pension and Retirement System shall be submitted in accordance with subsection A of Section 49-105.2 of Title 11 of the Oklahoma Statutes. For purposes of complying with Sections 49-103 and 49-104 of Title 11 of the Oklahoma Statutes, the ~~chairman~~ chair, clerk and treasurer of the board of directors of the county fire department shall serve on the local firefighters pension and retirement board along with three firefighters of ~~such~~ the county fire department elected by the members of the county fire department. The ~~chairman~~ chair of the board of directors of the county fire department shall be the ~~chairman~~ chair of the local board of the county fire department and the clerk of the board of directors of the county fire department shall be the secretary of the local board of the county fire department. The ~~chairman~~ chair of the local board of the county fire department shall have a casting vote with the members of the local board of the county fire department only when necessary to avoid a tie vote. The local board of the county fire department shall promulgate ~~such~~ rules as may be necessary to ensure the orderly conduct of a local board meeting. While participating in the Oklahoma Firefighters Pension and Retirement System, the board of directors, local board and fire chief of the county fire department shall perform all administrative requirements of the pension system.

7. Any board of directors of a county fire department organized pursuant to this subsection having volunteers enrolled as members of

~~such~~ the county fire department shall adopt a code of minimum rules and regulations in substantial compliance with the following:

a. Fire chief-:

- (1) ~~The~~ the fire chief shall be at the head of the department, subject to the laws of ~~the State of Oklahoma~~ this state, rules of the board of directors, and the rules ~~and regulations~~ herein adopted-.
- (2) ~~The~~ the fire chief shall be held responsible for the general condition and efficient operation of the department, the training of members, and the performance of all other duties imposed ~~upon him or her~~ by law or the board of directors-.
- (3) ~~The~~ the fire chief may inspect or cause to be inspected by members of the department, the fire hydrants, cisterns and other sources of water supply at least twice a year-.
- (4) ~~The~~ the fire chief shall maintain a library or file of publications on fire prevention and fire protection and shall make use of the library or file to the best advantage of all members-.
- (5) ~~The~~ the fire chief shall make every effort to attend all fires and direct the officers and members of the fire department in the performance of their duties-.
- (6) ~~The~~ the fire chief shall see that the citizens are kept informed on fire hazards within the boundaries of the department and on the activities of the department-.
- (7) ~~The~~ the fire chief shall see that each fire is carefully investigated to determine its cause, and in the case of suspicion of incendiarism

shall notify proper authorities. The fire chief shall secure and preserve all possible evidence for future use in the case of a suspicious incendiarism, and

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

b. Assistant fire chief-;

In the absence of the fire chief, the assistant fire chief on duty shall command the department and be held responsible therefore in all respects with the full powers and responsibilities of the fire chief- l

c. Company officers-;

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

- (1) their knowledge of firefighting,
- (2) their leadership ability, and
- (3) their knowledge of firefighting equipment-l

d. Secretary-treasurer-;

One member elected by the fire department shall be secretary-treasurer. ~~His or her,~~ whose duties shall consist of the following:

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

e. New members:

- (1) ~~An~~ an applicant of a participating county fire department of the Oklahoma Firefighters Pension and Retirement System shall meet the membership requirements of the Oklahoma Firefighters Pension and Retirement System before ~~he or she may be~~ being appointed as a new member of the county fire department. ~~.,~~
- (2) ~~A~~ a new member shall be on probation for one (1) year after ~~his or her~~ appointment. ~~.,~~
- (3) ~~A~~ a new member of a participating county fire department of the Oklahoma Firefighters Pension and Retirement System shall be immediately enrolled as a member of the Oklahoma Firefighters Pension and Retirement System regardless of whether ~~such~~ the member has completed ~~his or her~~ the probation period. ~~.,~~ and
- (4) ~~The~~ the majority of the fire department members must approve new volunteer members upon completion of their probation period. ~~.,~~

f. Bylaws:

The bylaws of the department shall include:

- (1) ~~All~~ all volunteer firefighters are required, when notified, to respond to fire alarms and other emergencies. ~~.,~~

- (2) ~~A~~ a volunteer firefighter is required to be present at all regular meetings, call meetings and schools presented for the benefit of the firefighters.~~.,~~
- (3) ~~There~~ there shall be at least one regular business meeting each month.~~.,~~
- (4) ~~Any~~ any volunteer firefighter having two unexcused absences in succession or three unexcused absences in a period of three (3) months will be dropped from the fire department rolls.~~.,~~
- (5) ~~Volunteer~~ volunteer firefighters leaving the boundaries of the department for an extended period of time will be required to notify the fire chief.~~.,~~
- (6) ~~Any~~ any volunteer firefighter refusing to attend training classes provided ~~for him or her~~ will be dropped from the fire department rolls.~~.,~~ and
- (7) ~~Any~~ any volunteer member of the fire department shall be dropped from the fire department rolls for the following offenses:
 - (a) conduct unbecoming a firefighter,
 - (b) any act of insubordination,
 - (c) neglect of duty,
 - (d) any violation of rules ~~and regulations~~ governing the fire department, or
 - (e) conviction of a felony.

8. a. A county fire department organized pursuant to the provisions of this subsection shall maintain, according to its own accounting needs, some or all of the funds and account groups in its system of accounts that are consistent with legal and operating

requirements and as prescribed by the State Auditor and Inspector. The required funds may include, but shall not be limited to:

- (1) a general fund, to account for all monies received and disbursed for general department purposes, including all assets, liabilities, reserves, fund balances, revenues and expenditures which are not accounted for in any other fund or special ledger account,
- (2) special revenue funds, as required, to account for the proceeds of specific revenue sources that are restricted by law to expenditures for specific purposes,
- (3) a capital improvement fund, to account for financial resources segregated for acquisition, construction or other improvement related to capital facilities, and
- (4) a ledger or group of accounts in which to record the details relating to the general fixed assets of the county or department.

b. Funds raised by a nonprofit organization for the purpose of supporting the fire protection services of a county fire department organized pursuant to the provisions of this subsection, whether ~~such~~ the funds were raised before or after a corporate fire department converts to a county fire department, shall not be commingled with public funds and shall be used only for designated benevolent or charitable purposes, including, but not limited to, fire protection purposes.

c. No expenditure may be authorized or made by any employee or member of the board of directors of a

county fire department organized pursuant to the provisions of this subsection which exceeds any fund balance of any fund of the budget as adopted or amended or which exceeds the appropriation for any fund of the budget as adopted or amended. Any balance remaining in a fund at the end of the budget year shall be carried forward to the credit of the fund for the next budget year. It shall be unlawful for any employee or member of the board of directors of a county fire department organized pursuant to the provisions of this subsection in any budget year to create or authorize creation of a deficit in any fund.

E. Except as otherwise provided by Section 901.1 et seq. of Title 19 of the Oklahoma Statutes, a county with a fire department organized pursuant to the provisions of this section may enter into written contracts or mutual aid agreements with political subdivisions of this state in order to provide fire protection outside the county or to provide fire protection jointly with other political subdivisions of this state for any adjoining county. Written contracts and agreements entered into pursuant to the provisions of this paragraph shall:

1. Set forth the terms and conditions for providing fire protection services, area coverage and a method for assessing costs and reimbursement for providing fire protection services;

2. Be approved by the governing bodies of the fire department and the participating political subdivisions prior to the provisions of services, notwithstanding the provisions of Section 29-105 of Title 11 of the Oklahoma Statutes, Section 593 of Title 18 of the Oklahoma Statutes and Section 4-1-101 of Title 27A of the Oklahoma Statutes, and

3. Shall otherwise comply with the Oklahoma Emergency Response Act.

SECTION 4. 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.

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