

SB 605

Senate Bill No. 605
As Amended

SENATE BILL NO. 605 - By: BINGMAN of the Senate and PETERS and ARMES of the House.

[cities and towns - enacting the Local Fire Protection District Act - codification - effective date]

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 29-401 of Title 11, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Local Fire Protection District Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 29-402 of Title 11, unless there is created a duplication in numbering, reads as follows:

A. The governing body of a municipality may create a Local Fire Protection District for the purpose of providing fire protection or both fire protection and **fire department-based** emergency medical service within the boundaries of the district in the manner set forth in the Local Fire Protection District Act.

B. If approved by the voters within the district, the governing body of the municipality may make an assessment annually on the

1 value of property for the purposes set forth in the Local Fire
2 Protection District Act.

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 29-403 of Title 11, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The governing body of a municipality may approve, by
7 majority vote, a resolution to create a Local Fire Protection
8 District and set the matter for hearing at a time not less than
9 twenty (20) days nor more than forty (40) days from the date of the
10 resolution.

11 B. The resolution shall set forth and particularly describe the
12 proposed boundaries of the district and shall be accompanied by a
13 map of the proposed district, drawn to a scale of not less than one
14 (1) inch to the mile.

15 C. The resolution shall direct the city clerk to give notice of
16 the hearing by publication in a newspaper of general circulation in
17 the county in which the proposed district is located. The notice
18 shall be published for two (2) consecutive weeks next preceding the
19 date of the hearing. The notice shall describe the boundaries of
20 the proposed district, state the time and place of the hearing, and
21 state that any person may appear and protest the organization of the
22 district or the proposed boundaries of the district.

1 D. The governing body of the municipality shall hold the
2 hearing described in the notice, and shall have jurisdiction to hear
3 and determine all protests to the creation of the district and all
4 matters pertaining to the district. The governing body may amend
5 the plan of the district by excluding from within its boundaries any
6 lands which it may not be benefited by the formation of the
7 district, or by including other land as a part of the district upon
8 application of the owners of the land. The governing body shall not
9 exclude from the district any land which is completely surrounded by
10 land which is included in the proposed district.

11 E. At the conclusion of the hearing, the governing body of the
12 municipality may approve or disapprove the creation of the district,
13 and alter the boundaries of the district. If the governing body
14 approves the creation of a district, it shall make an order
15 determining the boundaries of the proposed district, particularly
16 describing the boundaries, and shall determine whether the formation
17 of the district will be in the best interests of the citizens within
18 the district. The governing body shall call an election of the
19 qualified electors residing in the area comprising the proposed
20 district on the question of whether the district shall be organized.
21 The election date shall be set within one (1) year of the order
22 organizing the district.

1 F. The boundaries of a Local Fire Protection District may
2 include all land inside the municipal corporate limits, or any
3 portion thereof as the governing body of the municipality deems
4 appropriate.

5 SECTION 4. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 29-404 of Title 11, unless there
7 is created a duplication in numbering, reads as follows:

8 The city clerk shall cause notice of the election to be given by
9 publication once a week for two (2) successive weeks in a newspaper
10 of general circulation in the area comprising the proposed district.
11 The notice shall state the time and place of holding the election
12 and set forth the description of the boundaries of the proposed
13 district and its general purpose and intention. The notice shall
14 require the electors to cast ballots which contain the words: "Local
15 Fire Protection District - Yes", and "Local Fire Protection District
16 - No", or words equivalent thereto. All persons who reside in the
17 proposed district, who are qualified electors in their respective
18 precincts, shall be qualified to vote on the proposition.

19 SECTION 5. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 29-405 of Title 11, unless there
21 is created a duplication in numbering, reads as follows:

22 A. The election shall be conducted in accordance with the
23 general election laws of this state and the regular election

1 officials shall be in charge at the usual polling place of each
2 regular precinct, or part of a precinct, which cover the land within
3 the boundaries of the proposed district.

4 B. The returns of the election shall be made directly to the
5 governing body of the municipality which shall meet at its next
6 regularly scheduled meeting following the election to canvass the
7 vote cast. If upon the canvass, it appears that over fifty percent
8 (50%) of the votes cast are "Local Fire Protection District - Yes",
9 the district shall be approved.

10 SECTION 6. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 29-406 of Title 11, unless there
12 is created a duplication in numbering, reads as follows:

13 A. Each fiscal year, during the regular course of drafting a
14 municipal budget, after separate hearing, the governing body of the
15 municipality shall levy an annual assessment, sufficient to meet the
16 costs of providing fire protection or both fire protection and **fire**
17 **department-based** emergency medical service, or such portion of the
18 costs that the governing body deems advisable.

19 B. No annual assessment for operations shall exceed seven (7)
20 mills on the dollar of net assessed value of the property in the
21 district. The governing body may levy an assessment over seven (7)
22 mills but not to exceed ten (10) mills upon approval for the

1 increase at an election held at such time and in such manner as
2 provided by Section 5 of this act.

3 C. Until paid, any assessment levied pursuant to this section
4 shall be a lien against the tract of land on which the assessment
5 has been levied. The lien shall be coequal with the lien of ad
6 valorem and other taxes, including special assessments, and prior
7 and superior to all other liens.

8 SECTION 7. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 29-407 of Title 11, unless there
10 is created a duplication in numbering, reads as follows:

11 A. If any assessment remains unpaid for six (6) months after
12 the assessment is due, the governing body of the municipality may
13 institute an action in the district court to foreclose the lien of
14 the assessment and penalty and for reasonable attorney fees. All or
15 any portion of the delinquent properties may be joined in one
16 action. The summons shall be issued upon such petition as in other
17 civil action and the cause tried by the district court. Judgment
18 shall be entered for the amount of the unpaid assessment and
19 penalty, and reasonable attorney fees. The judgment shall bear
20 interest at the rate of six percent (6%) per annum.

21 B. If the judgment together with interest and costs and
22 attorney fees is not paid within thirty (30) days from the date of
23 the judgment, an order of sale shall be issued by the clerk of the

1 court directing the sheriff of the county to sell the real estate in
2 the manner and form as in the case of the foreclosure of mortgages
3 on real estate, without appraisalment. The sale shall be subject to
4 existing taxes and special assessments.

5 C. If the governing body of the municipality does not institute
6 action to foreclose a delinquent assessment within one (1) year from
7 the date the assessment is due, the holder of any bond or coupon
8 issued under the provisions of the Local Fire Protection District
9 Act may institute an action for and on the behalf of the local fire
10 protection district to foreclose the lien of the assessment and
11 penalty. All such actions to foreclose shall be commenced within
12 three (3) years from the maturity of the assessment.

13 SECTION 8. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 29-408 of Title 11, unless there
15 is created a duplication in numbering, reads as follows:

16 If a local fire protection district includes all the land
17 located inside a municipality, and the municipality annexes new
18 land, the newly annexed portion shall be subject to the assessment
19 that is in effect for the municipality at the time of the
20 annexation.

21 SECTION 9. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 29-409 of Title 11, unless there
23 is created a duplication in numbering, reads as follows:

1 A. The governing body of the municipality may issue revenue
2 bonds based upon the projected assessment revenues for facilities or
3 equipment as may be deemed necessary. The issuance shall be
4 pursuant to a resolution approved by three-fourths (3/4) of the
5 governing body.

6 B. The county treasurer in the county or counties in which the
7 local fire protection district is located shall collect and remit to
8 the clerk of the governing body of the municipality the assessments
9 proved for in the Local Fire Protection District Act within thirty
10 (30) days from December 31st of each year for those payments received
11 by the county treasurer by December 31st, and within thirty (30)
12 days after March 31st for those payments received between January
13 1st and March 31st of each year.

14 C. Until paid, all assessments levied pursuant to the
15 provisions of Section 6 of this act, shall be a lien against the
16 tract of land on which they have been levied. The lien shall be
17 coequal with the lien of ad valorem and other taxes, including
18 special assessment, and prior and superior to all other liens, and
19 shall be collected by the county treasurer in the same manner as
20 delinquent ad valorem taxes.

21 SECTION 10. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 29-410 of Title 11, unless there
23 is created a duplication in numbering, reads as follows:

1 The governing body of the municipality shall cause an annual
2 audit to be made of, including but not limited to, the funds,
3 accounts, and fiscal affairs of the local fire protection district.
4 The audit shall be ordered within thirty (30) days of the close of
5 each fiscal year of the district which shall commence July 1, and
6 end on June 30. The audit may be made in conjunction with other
7 audits required by law or ordinances.

8 SECTION 11. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 29-411 of Title 11, unless there
10 is created a duplication in numbering, reads as follows:

11 A. Nothing in the Local Fire Protection District Act shall
12 prohibit a municipality from entering into Interlocal Agreements
13 pursuant to the Interlocal Cooperation Act for the purpose of
14 providing fire protection or both fire protection and **fire**
15 **department-based** emergency medical service.

16 B. Nothing in the Local Fire Protection District Act shall
17 prohibit or prevent a public body, authority, jurisdiction, or
18 municipality from receiving third-party reimbursement for services
19 provided for fire protection or both fire protection and **fire**
20 **department-based** emergency medical service.

21 SECTION 12. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 29-412 of Title 11, unless there
23 is created a duplication in numbering, reads as follows:

1 Any combination of cities, towns, counties, or rural fire
2 protection districts organized pursuant to Section 901.1 et seq., of
3 Title 19 of the Oklahoma Statutes or municipal fire protection
4 districts organized pursuant to the Oklahoma Volunteer Firefighters
5 Act, may by resolution of their governing bodies jointly petition
6 the board of county commissioners to create a local fire protection
7 district. If more than one county has joined in the petition, the
8 petition must be presented to each county commission pursuant to the
9 terms of the Local Fire Protection District Act.

10 SECTION 13. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 29-413 of Title 11, unless there
12 is created a duplication in numbering, reads as follows:

13 A. The petition to form a local fire protection district
14 pursuant to Section 12 of this act shall set forth and particularly
15 describe the proposed boundaries of the district and shall be
16 accompanied by a map of the proposed district, drawn to a scale of
17 not less than one (1) inch to the mile. The proposed boundaries
18 shall not include any territory of any jurisdiction that is not a
19 petitioner.

20 B. The petitioners shall accompany the petition with a good and
21 sufficient bond, the amount and sureties of which shall be approved
22 by the board of county commissioners, the sum of which is sufficient
23 to cover the costs of the publications and of the election. The

1 petitioners shall share the cost of the bond in proportion equal to
2 its population compared to the population of the district as a
3 whole.

4 C. The petition shall also be accompanied by an agreement
5 creating a Local Fire District Public Trust Authority drafted in
6 conformity with Section 17 of this act. The agreement creating the
7 Authority shall be duly executed by the governing body of each
8 petitioner according to the terms of Section 176 et seq. of Title 60
9 of the Oklahoma Statutes.

10 D. The petition shall be filed with the county clerk who shall
11 present it to the board of county commissioners at their next
12 regular or special meeting. Upon the presentation of the petition,
13 the board of county commissioners shall set the petition for hearing
14 at a time not less than twenty (20) days nor more than forty (40)
15 days from the date of presentation and shall direct the county clerk
16 to give notice of the hearing by publication in a newspaper of
17 general circulation in the county in which the proposed district is
18 located. The notice shall be published for two (2) consecutive
19 weeks next preceding the date of the hearing. The notice shall
20 describe the boundaries of the proposed district, state the time and
21 place of the hearing, and state that any person may appear and
22 protest the organization of the district or the proposed boundaries
23 of the district.

1 E. The board of county commissioners shall hold the hearing
2 described in the notice, and shall have jurisdiction to hear and
3 determine all protests to the creation of the district and all
4 matters pertaining to the district. The board of county
5 commissioners may alter the boundaries of the district only in the
6 unincorporated areas inside the county. At the conclusion of the
7 hearing the board of county commissioners shall enter an order
8 organizing the district, and call for an election of the qualified
9 electors residing in the area comprising the proposed district on
10 the question of whether the district shall be organized. The
11 election date must be set within one (1) year of the order
12 organizing the district.

13 SECTION 14. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 29-414 of Title 11, unless there
15 is created a duplication in numbering, reads as follows:

16 The boundaries of the proposed local fire protection district
17 may include all or part of the territory within the county
18 boundaries. The boundaries of a local fire protection district
19 shall not overlap with the boundaries of another local fire
20 protection district.

21 SECTION 15. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 29-415 of Title 11, unless there
23 is created a duplication in numbering, reads as follows:

1 The county clerk shall cause notice of the election to be given
2 by publication once a week for two (2) successive weeks in a
3 newspaper of general circulation in the area comprising the proposed
4 district. The notice shall state the time and place of holding the
5 election and set forth the description of the boundaries of the
6 proposed district and its general purpose and intention. The notice
7 shall require the electors to cast ballots which contain the words:
8 "Local Fire Protection District - Yes", and "Local Fire Protection
9 District - No", or words equivalent thereto. All persons who reside
10 in the proposed district, who are qualified electors in their
11 respective precincts, shall be qualified to vote on the proposition.

12 SECTION 16. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 29-416 of Title 11, unless there
14 is created a duplication in numbering, reads as follows:

15 The election shall be conducted in accordance with the general
16 election laws of this state and the regular election officials shall
17 be in charge at the usual polling place of each regular precinct, or
18 part of a precinct, which include the land within the boundaries of
19 the proposed district. The returns of the election shall be made
20 direct to the board of county commissioners which shall meet at its
21 next regularly scheduled meeting following the election to canvass
22 the vote cast. If upon the canvass, it appears that over fifty (50)

1 percent of the votes cast are "Local Fire Protection District -
2 Yes", the district shall be approved.

3 SECTION 17. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 29-417 of Title 11, unless there
5 is created a duplication in numbering, reads as follows:

6 A. At the time of submitting the petition to the board of
7 county commissioners, petitioners shall also submit a duly executed
8 agreement creating a public trust for the purpose of administering
9 the local fire protection district if approved by the voters. The
10 public trust shall have the powers granted pursuant to the
11 provisions of Section 176 of Title 60 of the Oklahoma Statutes in
12 addition to the powers and duties granted pursuant to the Local Fire
13 Protection District Act. The boundaries of the Local Fire
14 Protection District Public Trust Authority shall be coterminous with
15 the boundaries of the proposed local fire protection district. The
16 terms of the trust shall provide:

17 1. Each jurisdiction that petitioned for the creation of the
18 local fire protection district must be a beneficiary of the public
19 trust;

20 2. Only petitioning jurisdictions may be beneficiaries or
21 trustees of the public trust;

22 3. Each petitioning political sub-division must have one (1)
23 trustee that serves on the Board of Trustees of the public trust;

1 4. Each trustee of the public trust shall have only one (1)
2 vote;

3 5. Trustees shall serve for a term determined by the by-laws of
4 the trust. The by-laws shall provide for staggered terms of the
5 trustees so that only a pre-defined subset of the board of trustees
6 shall be newly elected each year;

7 6. In the event of a tie vote, any measure before the board of
8 trustees shall fail; and

9 7. In case the voters do not approve the creation of the local
10 fire protection district, the trust agreement shall provide terms
11 for the orderly dissolution of the trust.

12 B. The trust agreement may contain other terms as the
13 petitioning jurisdictions decide.

14 C. The Local Fire Protection District Public Trust Authority
15 shall be a political subdivision pursuant to the terms of The
16 Governmental Tort Claims Act.

17 SECTION 18. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 29-418 of Title 11, unless there
19 is created a duplication in numbering, reads as follows:

20 A. The purpose of the Local Fire Protection District Public
21 Trust Authority shall be to assess, receive, and disburse an annual
22 assessment as provided in this section. The Authority may have such
23 other duties as the trustees may agree to by unanimous vote.

1 B. Each year during the regular course of drafting the budget
2 of the Local Fire Protection District Public Trust Authority, after
3 public hearing, the board of trustees of the Authority shall levy an
4 annual assessment sufficient to meet the cost of providing fire
5 protection or both fire protection and **fire department-based**
6 emergency medical service or such portion of the costs that the
7 board of trustees deems advisable.

8 C. No annual assessment for operations shall exceed seven (7)
9 mills on the dollar of net assessed value of the property in the
10 district. The Authority may levy an assessment over seven (7) mills
11 but not to exceed ten (10) mills upon approval for the increase at
12 an election held at such time and in such manner as provided by
13 Section 15 of this act.

14 D. All assessments levied pursuant to this section shall be a
15 lien against the tract of land on which they have been levied, until
16 paid, and the lien shall be coequal with the lien of ad valorem and
17 other taxes, including special assessments, and prior and superior
18 to all other liens.

19 SECTION 19. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 29-419 of Title 11, unless there
21 is created a duplication in numbering, reads as follows:

22 A. The board of trustees of the Local Fire Protection District
23 Public Trust Authority may issue revenue bonds based upon the

1 projected assessment revenues for facilities or equipment as may be
2 deemed necessary. The issuance shall be pursuant to a resolution
3 approved by three-fourths (3/4) of the board of trustees.

4 B. The county treasurer in the county or counties in which the
5 local fire protection district is located shall collect and remit to
6 the clerk of the governing body, the assessments provided for herein
7 within thirty (30) days from December 31st of each year for those
8 payments received by the county treasurer by December 31st, and
9 within thirty (30) days after March 31st for those payments received
10 between January 1st and March 31st of each year.

11 C. Until paid, all assessments levied under the authority of
12 the provisions of Section 18 of this act, shall be a lien against
13 the tract of land on which they have been levied. The lien shall be
14 coequal with the lien of ad valorem and other taxes, including
15 special assessments, and prior and superior to all other liens, and
16 shall be collected by the county treasurer in like fashion as
17 delinquent ad valorem taxes.

18 SECTION 20. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 29-420 of Title 11, unless there
20 is created a duplication in numbering, reads as follows:

21 A. If any assessment remains unpaid for six (6) months after
22 the assessment is due, the Local Fire Protection District Public
23 Trust Authority may institute an action in the district court to

1 foreclose the lien of the assessment and penalty and for reasonable
2 attorney fees. All or any portion of the delinquent properties may
3 be joined in one action. The summons shall be issued upon such
4 petition as in other civil action and the cause tried by the
5 district court. Judgment shall be entered for the amount of the
6 unpaid assessment and penalty, and reasonable attorney fees. The
7 judgment shall bear interest at the rate of six percent (6%) per
8 annum.

9 B. If the judgment together with interest and costs and
10 attorney fees is not paid within thirty (30) days from the date of
11 the judgment, an order of sale shall be issued by the clerk of the
12 court directing the sheriff of the county to sell the real estate in
13 manner and form as in the case of the foreclosure of mortgages on
14 real estate, without appraisalment. The sale shall be subject to
15 existing taxes and special assessments.

16 C. If the Authority does not institute an action to foreclose
17 the delinquent assessment within one (1) year from the date the
18 assessment is due, the holder of any bond or coupon issued under the
19 provisions of the Local Fire Protection District Act may institute
20 an action for and on the behalf of the local fire protection
21 district to foreclose the lien of the assessment and penalty. All
22 such actions to foreclose shall be commenced within three (3) years
23 from the maturity of the assessment.

1 SECTION 21. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 29-421 of Title 11, unless there
3 is created a duplication in numbering, reads as follows:

4 The Local Fire Protection District Public Trust Authority shall
5 annually determine the total net assessed value of property of each
6 beneficiary jurisdiction of the local fire protection district. It
7 shall distribute the proceeds from the annual assessment set
8 pursuant to Section 18 of this act, in the proportion of net
9 assessed value of each beneficiary bears to the total net assessed
10 value of the entire local fire protection district.

11 SECTION 22. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 29-422 of Title 11, unless there
13 is created a duplication in numbering, reads as follows:

14 Municipal or rural fire districts may join as petitioners for
15 the creation of a local fire protection district under the terms of
16 the Local Fire Protection District Act. No municipal or rural fire
17 District assessment shall be affected by any provision of the Local
18 Fire Protection District Act. If a municipal or rural fire district
19 expands into a local fire protection district or chooses to
20 participate in a local fire protection district, the rural or
21 municipal fire districts shall receive an assessment in that
22 overlapping territory in an amount that equals the difference

1 between the municipal or rural fire district assessment and the
2 local fire protection district assessment, if any.

3 SECTION 23. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 29-423 of Title 11, unless there
5 is created a duplication in numbering, reads as follows:

6 A Local Fire Protection District Public Trust Authority shall
7 annually cause an audit to be made of, including but not limited to,
8 the funds, accounts, and fiscal affairs of the Authority. The audit
9 shall be ordered within thirty (30) days of the close of each fiscal
10 year of the Authority which shall commence July 1 and end on June
11 30.

12 SECTION 24. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 29-424 of Title 11, unless there
14 is created a duplication in numbering, reads as follows:

15 A. Nothing in the Local Fire Protection District Act prohibits
16 public bodies from entering into Interlocal Agreements pursuant to
17 the Interlocal Cooperation Act for the purpose of providing fire
18 protection or both fire protection and **fire department-based**
19 emergency medical services.

20 B. Nothing in the Local Fire Protection District Act shall
21 prohibit or prevent any public body, authority, or jurisdiction from
22 receiving third-party reimbursement for services provided for fire

1 protection or both fire protection and **fire department-based**
2 emergency medical services.

3 SECTION 25. This act shall become effective November 1, 2007.

4 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 2-19-07
5 - DO PASS, As Amended and Coauthored.