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THE STATE SENATE
Wednesday, February 17, 2010

Committee Substitute for
Senate Bill No. 1656

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 1656 - By: Sweeden of the Senate and Christian of the House.

[municipal fire protection districts - providing petition procedure for formation of fire protection district - authorizing the board of directors to levy certain annual assessments - requiring audits - 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 40-201 of Title 11, unless there is created a duplication in numbering, reads as follows:

Whenever twenty-five percent (25%) of the holders of title to lands inside of the corporate limits of any incorporated city or town shall petition the municipal governing body of the city or town in which such area owned by them is located for the formation of a fire protection district, and compliance is had with the provisions of this act, or if a municipal governing body proposes a resolution for a fire protection district and approves the resolution by a majority vote, the municipal governing body shall enter its order organizing such district, and when so organized the district shall have the powers conferred herein or such as hereafter may be conferred by law upon such fire protection districts.

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 40-202 of Title 11, unless there
3 is created a duplication in numbering, reads as follows:

4 The petition or resolution shall set forth and particularly
5 describe the proposed boundaries of the district and shall be
6 accompanied by a map of the proposed district, drawn to a scale of
7 not less than one (1) inch to one (1) mile. The petitioners shall
8 accompany the petition with a good and sufficient bond, the amount
9 and sureties of which shall be approved by the municipal governing
10 body. The sum of the bond shall be sufficient to cover the costs of
11 the publications and of the election for the organization of the
12 district. The costs shall be paid in the event that the
13 organization is not authorized or effected.

14 The petition or resolution shall be filed with the city clerk of
15 the city or town who shall present it to the municipal governing
16 body at their next regular or special meeting. Upon the
17 presentation of the petition or resolution, the municipal governing
18 body shall set the same for hearing at a time not less than twenty
19 (20) days nor more than forty (40) days from the date of
20 presentation and shall direct the city clerk to give notice of the
21 hearing by publication in a newspaper of general circulation in the
22 county in which the proposed district is located. The notice shall
23 be published for two (2) consecutive weeks next preceding the date

1 of the hearing. The notice shall describe the boundaries of the
2 proposed district, shall state the time and place of the hearing,
3 and shall state that any person may appear and protest the
4 organization of the district or the proposed boundaries.

5 The municipal governing body shall hold the hearing described in
6 the notice, and it shall have jurisdiction to hear and determine all
7 protests to the creation of the district and all matters pertaining
8 to the same. All lands inside the municipal fence line and any
9 lands within five (5) miles of the nearest municipal fence line, if
10 the land is not incorporated by another city or fire district, shall
11 be eligible for a proposed district. The municipal governing body
12 may amend the plan of the district by excluding from within its
13 boundaries any lands which it may deem will not be benefited by the
14 formation of a district, or by including other lands as a part
15 thereof upon application of the owners of the land; provided,
16 however, it shall not exclude from a district any lands which are
17 completely surrounded by lands which are included in the proposed
18 district.

19 At the conclusion of the hearing, the municipal governing body
20 shall make an order determining the boundaries of the proposed
21 district, particularly describing them, and shall determine whether
22 the formation of a district will be conducive to the public safety
23 of the area incorporated therein. If the municipal governing body

1 determines that a district will be conducive to the public safety of
2 the area incorporated therein, then the municipal governing body
3 shall give the proposed district a name and shall call an election
4 of the qualified electors in the territory comprising the proposed
5 district on the question of whether the district shall be organized.

6 SECTION 3. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 40-203 of Title 11, unless there
8 is created a duplication in numbering, reads as follows:

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

21 SECTION 4. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 40-204 of Title 11, unless there
23 is created a duplication in numbering, reads as follows:

1 The elections shall be conducted in accordance with the general
2 election laws of the state and the regular election officials shall
3 be in charge at the usual polling place of each regular precinct, or
4 part of a precinct, which shall include lands within the boundaries
5 of the proposed district. The returns of the election shall be made
6 directly to the municipal governing body, which shall meet on the
7 second Monday next following the election and proceed to canvass the
8 vote cast.

9 If, upon such canvass, it appears that at least sixty percent
10 (60%) plus one (1) of all the votes cast are "Fire Protection
11 District - Yes", the municipal governing body shall by order
12 transfer all fire department equipment, supplies and facilities to
13 the district and declare the territory duly organized as a fire
14 protection district under the name designated. The order shall be
15 filed for record in the office of the city clerk by the municipal
16 governing body and from that date the district shall be complete.

17 SECTION 5. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 40-205 of Title 11, unless there
19 is created a duplication in numbering, reads as follows:

20 Directors of a fire protection district shall be the elected
21 municipal governing body of the city or town of the district. This
22 body conducting such necessary business of the district shall be
23 known as the board of directors.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 40-206 of Title 11, unless there
3 is created a duplication in numbering, reads as follows:

4 The municipal governing body shall act as the board of directors
5 of the district. The mayor shall serve as chair. The chair and
6 members of the board shall serve without additional compensation.

7 SECTION 7. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 40-207 of Title 11, unless there
9 is created a duplication in numbering, reads as follows:

10 A. The board of directors shall have the power and duty to:

11 1. Appoint a fire chief as prescribed in the current charter or
12 ordinances of the municipality;

13 2. Take by grant, purchase, condemnation, gift, devise or
14 lease, and to dispose of real or personal property of every kind
15 necessary for the operation of the district;

16 3. Construct or otherwise acquire suitable firehouses and other
17 buildings or structures suitable for the housing of equipment and
18 supplies of the district, or for carrying on its own business and
19 affairs;

20 4. Employ such officers, firefighters and employees as may be
21 required, fix their compensation and prescribe their duties. All
22 employees of the municipal fire districts shall retain their
23 collective bargaining rights as provided by law;

1 5. Establish rules for the district and for the preservation of
2 life and for the prevention of fires and conflagrations within the
3 district and for the protection of life and property at and during
4 any fire or emergency;

5 6. Prepare an annual budget and follow existing laws pertaining
6 to the budget process such as public notices, public hearings,
7 protest periods and filing requirements in the same manner as they
8 apply to other forms of government in this state;

9 7. Determine vacancies of the board of directors, fill
10 vacancies and conduct board elections under existing rules and
11 ordinances in the event of a vacancy on the board of directors;

12 8. Develop bylaws for the due and orderly administration of the
13 affairs of the board of directors and for its responsibilities
14 specified pursuant to this section, and may compel the attendance of
15 absent members in the manner and under penalties as the board may
16 prescribe; and

17 9. Do any and all other things necessary and proper in the
18 management and operation of the district for the purpose of
19 protecting life and property within its boundaries from fire.

20 B. The fire chief shall have the power and duty to:

21 1. Manage and conduct the business affairs of the district;

22 2. Make and execute all necessary contracts;

1 3. Purchase or lease-purchase and maintain all necessary and
2 convenient engines, ladders, hoses, hose carts or other appliances
3 and supplies for the full equipping of a fire company, ambulance or
4 department; and

5 4. Appoint fire company officers and sworn and nonsworn
6 employees in accordance with the current municipal charter or
7 ordinances and, as otherwise provided by law, sufficient to maintain
8 and operate the equipment owned by the district.

9 C. A fire protection district, created pursuant to this act,
10 shall be deemed a political subdivision of this state. The board
11 shall include the existing firefighters of the municipality in the
12 district and submit an application for membership all existing and
13 new hires in the Oklahoma Firefighters Pension and Retirement
14 System. The application for affiliation shall be submitted in
15 accordance with subsection A of Section 49-105.2 of Title 11 of the
16 Oklahoma Statutes.

17 SECTION 8. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 40-208 of Title 11, unless there
19 is created a duplication in numbering, reads as follows:

20 The board of directors shall establish a time and place for
21 regular meetings and in addition shall hold special meetings as may
22 be required for the proper transaction of business. A quorum for
23 the transaction of business shall be the same as required by the

1 municipal governing body for the transaction of all other municipal
2 business. All records of the board must be open to the inspection
3 of any elector during business hours.

4 The board shall have the power by general regulation, published
5 in the manner provided for the publication of ordinances in
6 incorporated towns, to regulate the construction of and order the
7 suspension, discontinuance, removal, repair or cleaning of
8 fireplaces, chimneys, stoves, stove pipes, flues, ovens, boilers or
9 any other apparatus used in any building, factory, or business which
10 might be dangerous in causing or promoting fires, and prescribe
11 limits within which no business dangerous in causing or promoting
12 fires may be carried on. In similar manner it may order the
13 clearing of litter or removal of dry brush and rubbish or other
14 inflammable material, endangering the public safety by creating a
15 fire hazard within the district, and provide for action on the part
16 of the State Fire Marshal or the sheriff, or by civil action, for
17 the prevention of hazards as provided by law.

18 SECTION 9. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 40-209 of Title 11, unless there
20 is created a duplication in numbering, reads as follows:

21 The board of directors is authorized and empowered to institute
22 and maintain, or appear and defend, any and all actions and
23 proceedings, suits at law or in equity, necessary or proper to fully

1 carry out the provisions of this act, or to enforce, maintain,
2 protect or preserve any and all rights or privileges conferred
3 hereby, or acquired in pursuance hereof. Actions and proceedings
4 shall be prosecuted and defended in the corporate name of the
5 district, and the board is empowered to employ attorneys to
6 represent the district in any such actions or proceedings, or to
7 advise the board in respect of its duties under this act.

8 SECTION 10. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 40-210 of Title 11, unless there
10 is created a duplication in numbering, reads as follows:

11 As soon as practicable after organization of a district, the
12 board of directors shall, by resolution entered on its record,
13 formulate a general plan of proposed operation for the district in
14 which shall be stated the cost of operation and maintenance of the
15 district, what property, real or personal, is proposed to be
16 purchased and the cost of purchasing the same, and what amount of
17 construction is proposed to be done and the cost of doing the same.

18 SECTION 11. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 40-211 of Title 11, unless there
20 is created a duplication in numbering, reads as follows:

21 The evidence of indebtedness and the interest thereon shall be
22 paid by revenue derived from an annual assessment upon the ad
23 valorem taxed property of the district pursuant to Section 10C of

1 Article X of the Constitution of the State of Oklahoma, and all the
2 ad valorem taxed property of the district, including the ad valorem
3 taxed property of public service corporations, shall be and remain
4 liable to be assessed for such payments as herein provided.

5 SECTION 12. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 40-212 of Title 11, unless there
7 is created a duplication in numbering, reads as follows:

8 No claims shall be paid by the treasurer of the district until
9 the same shall have been presented and allowed by the board of
10 directors and only warrants signed by the president and
11 countersigned by the clerk, and if the district treasurer has not
12 sufficient money on hand to pay the warrants when presented, the
13 treasurer shall endorse thereon "not paid for want of funds" and
14 endorse thereon the date presented, over the signature, and from the
15 time of such presentation until paid the warrant shall draw interest
16 at the rate of eleven percent (11%) per annum. All claims against
17 the district shall be verified the same as is required in the case
18 of claims filed against the counties in this state, and the clerk of
19 the district is authorized and empowered to administer oaths to the
20 parties verifying such claims the same as a county clerk or a notary
21 public might do. The district treasurer shall keep a register in
22 which the treasurer shall enter each warrant presented for payment,
23 showing the date and amount of the warrant, to whom payable, the

1 date of the presentation for payment, the date of payment, and the
2 amount paid in redemption thereof, and all warrants shall be paid in
3 the order of their presentation for payment to the district
4 treasurer. All warrants shall be drawn and payable to the claimant
5 or an assignee of the claimant only.

6 SECTION 13. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 40-213 of Title 11, unless there
8 is created a duplication in numbering, reads as follows:

9 In the event of the dissolution of a district, the board of
10 directors of the district shall be trustees for the disposition of
11 the property and the proceeds of the disposition of the property and
12 all funds remaining on hand shall be deposited with the county
13 treasurer who shall thereupon succeed to the powers and duties of
14 the district treasurer and who shall annually collect from all of
15 the property which shall have been in the district at the time of
16 the authorization of any bond, an annual assessment sufficient to
17 pay the interest and amount necessary to retire the outstanding
18 bonds as the same may become due. The annual assessment shall be
19 based upon the district appraisal record at the time of dissolution.
20 When all of the property of the district has been disposed of and
21 the funds of the district deposited with the county treasurer, the
22 powers and functions of the district board, as trustees for
23 dissolution, shall cease and the municipal governing body of the

1 city or town in which a district is located shall succeed to all of
2 the powers and duties of the district insofar as it shall be
3 necessary for them to wind up and conclude the affairs of the
4 district.

5 SECTION 14. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 40-214 of Title 11, unless there
7 is created a duplication in numbering, reads as follows:

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

17 B. The contract shall be in writing and shall be set forth in
18 full in the minutes of the respective governing bodies of the
19 contracting parties and a duplicate original shall be filed with the
20 records of the district in the office of the city clerk.

21 C. Upon the filing of the contract, the district shall be an
22 independent contractor.

1 SECTION 15. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 40-215 of Title 11, unless there
3 is created a duplication in numbering, reads as follows:

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

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

1 for the audit and shall be stated in the petition prior to the
2 collection of any signatures.

3 SECTION 16. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 40-216 of Title 11, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The audits required by Section 16 of this act shall be
7 prepared by a certified public accountant or a licensed public
8 accountant. The required audit shall adhere to standards set by the
9 State Auditor and Inspector. One copy of the annual audit shall be
10 filed with the State Auditor and Inspector, and one copy shall be
11 filed with the appropriate county clerk not more than one hundred
12 twenty (120) days following the close of each fiscal year of the
13 district.

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

21 C. Within one hundred eighty (180) days after the effective
22 date of this act or within one hundred eighty (180) days after
23 creation, whichever is first, each fire protection district

1 organized pursuant to the provisions of Sections 1 through 4 of this
2 act shall certify to the State Auditor and Inspector the date it was
3 created.

4 SECTION 17. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 40-217 of Title 11, unless there
6 is created a duplication in numbering, reads as follows:

7 The necessary expense of audits required by Section 16 of this
8 act shall be paid from funds of the fire protection district.

9 SECTION 18. This act shall become effective November 1, 2010.

10 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated 2-15-10
11 - DO PASS, As Amended and Coauthored.