

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1389

By: Pederson

6 AS INTRODUCED

7 An Act relating to counties and county officers;
8 amending 19 O.S. 2011, Section 901.5, as amended by
9 Section 5, Chapter 380, O.S.L. 2015 (19 O.S. Supp.
10 2017, Section 901.5), which relates to fire
11 protection districts; modifying terms of board
12 membership; establishing duties and qualifications of
13 fire chiefs; amending 19 O.S. 2011, Section 901.22,
14 which relates to fire protection district
15 territories; establishing certain conditions for the
16 addition of territory; establishing conditions for
17 the annexation of fire protection district territory;
18 amending 19 O.S. 2011, Section 901.27, which relates
19 to requirement of audits; granting certain authority;
20 providing for codification; and providing an
21 effective date.

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

23 SECTION 1. AMENDATORY 19 O.S. 2011, Section 901.5, as
24 amended by Section 5, Chapter 380, O.S.L. 2015 (19 O.S. Supp. 2017,
25 Section 901.5), is amended to read as follows:

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

1 B. At the time of making its order organizing the district, the
2 board of county commissioners shall appoint three directors who
3 shall hold their office until the next General Election, at which
4 time their successors shall be elected. At the election, the
5 qualified person receiving the highest number of votes for member of
6 board of directors of the district shall hold office for the term of
7 six (6) years. The qualified person receiving the next highest
8 number of votes shall be elected for four (4) years, and the
9 qualified person having the next highest number of votes shall be
10 elected for two (2) years. Each two (2) years thereafter, there
11 shall be elected for a term of six (6) years one member of said
12 board of directors.

13 C. 1. A board of directors may increase its membership to
14 better insure both geographic and population representation to five
15 (5), seven (7) or nine (9) members by resolution of the board. The
16 size of the board may also be increased by a petition signed by
17 fifty-one percent (51%) of the eligible members of the district. If
18 a board of directors adopts such a resolution, the position of the
19 original board which will be up for election at the next General
20 Election shall be for a five-year term.

21 2. An additional two members shall be elected at a special
22 election called for that purpose by the board of directors. The two
23 qualified persons who receive the highest number of votes for the
24

1 additional two positions shall be elected to serve until the next
2 General Election.

3 3. All board members elected thereafter to a five-member board
4 shall serve a term of five (5) years with elections held yearly.
5 After the initial election of new board members, the terms shall be
6 staggered so that no more than two member's terms expire per year.

7 D. The board of directors of the district shall submit, within
8 fifteen (15) days before the filing period of any district election,
9 a resolution to the secretary of the county election board
10 conducting ~~said~~ the election. The resolution shall contain the
11 following:

12 1. The date of the election;

13 2. The offices to be filled or the questions to be voted upon
14 at the election;

15 3. Qualifications for the offices;

16 4. The location of the polling place or places; and

17 5. Any other information necessary for conducting ~~said~~ the
18 election.

19 E. 1. The regular election in the district shall be held at
20 the same time as the General Election in this state or on the second
21 Tuesday in November in those years that a General Election is not
22 held.

23 2. In those years that a General Election is not held the
24 entire cost of the election shall be paid by the district. When the

1 election is held at the same time as the General Election, the
2 district shall pay only for the cost directly attributable to
3 district election.

4 3. All polling places of precincts, all or any part of which
5 include areas within the boundaries of the district, shall be
6 supplied ballots for the purpose of permitting electors of the
7 district to vote for members of the board of directors of the
8 district.

9 4. Filing for the office of member of the board of directors
10 shall be with the county election board on a nonpartisan basis from
11 8 a.m. on the first Monday after Independence Day until 5 p.m. on
12 the next succeeding Wednesday each year. The payment of a filing
13 fee shall not be required.

14 F. 1. Vacancies on the board shall be filled by the board of
15 directors. In the event a vacancy occurs and the remaining members
16 of the board are unable to make a decision on such vacancy within
17 sixty (60) calendar days, the board of county commissioners shall
18 immediately appoint a member to fill the vacancy. In the event the
19 vacancies on the board are so numerous as to not provide a quorum,
20 the board of county commissioners shall appoint as many members as
21 are necessary to make a quorum.

22 2. All vacancies filled pursuant to the provisions of this
23 subsection shall be filled until the next regular election, at which
24

1 time a member shall be elected to serve the remainder of the
2 unexpired term.

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

- 5 a. is absent from more than one-half (1/2) of all
6 meetings of the board of directors, regular and
7 special, held within any period of four (4)
8 consecutive months,
- 9 b. ceases to be eligible for office pursuant to this
10 section,
- 11 c. has a conviction in a court of any felony or crime
12 involving moral turpitude,
- 13 d. uses alcohol, any stimulant, any drug or other
14 substance which impairs intellect, judgment or
15 physical ability to such an extent as to incapacitate
16 the member to such a degree that the member is
17 prevented from performing duties pursuant to Chapter
18 21 of this title, and
- 19 e. has a mental or physical weakness or inability which
20 incapacitates the member to such a degree that the
21 member is prevented from performing duties required
22 pursuant to Chapter 21 of this title.

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

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

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

9 SECTION 2. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 901.7a of Title 19, unless there
11 is created a duplication in numbering, reads as follows:

12 All fire protection districts having more than two full-time
13 paid firefighters shall have one full-time fire chief who shall
14 supervise and administer the fire department in accordance with the
15 policies and procedures prescribed by the board of directors. The
16 fire department shall be under the direction and control of the fire
17 chief. The fire chief, whether permanent or interim, of any paid or
18 combination fire department shall have had at least three-years'
19 actual experience as a paid firefighter before assuming the position
20 of fire chief or at least five-years' experience as a Volunteer Fire
21 Chief Officer. The board may add additional requirements to the
22 position as necessary.

23 1. Fire chief.
24

- 1 a. the fire chief shall be at the head of the department,
2 subject to the laws of the State of Oklahoma, rules of
3 the board of directors and the rules and regulations
4 herein adopted,
- 5 b. the fire chief shall be held responsible for the
6 general condition and efficient operation of the
7 department, the training of members and the
8 performance of all other duties imposed upon him or
9 her by law or the board of directors,
- 10 c. the fire chief may inspect or cause to be inspected by
11 members of the department, the fire hydrants, cisterns
12 and other sources of water supply at least twice a
13 year,
- 14 d. the fire chief shall maintain a library or file of
15 publications on fire prevention and fire protection
16 and shall make use of the library or file to the best
17 advantage of all members,
- 18 e. the fire chief shall make every effort to attend all
19 fires and direct the officers and members of the fire
20 department in the performance of their duties,
- 21 f. the fire chief shall see that the citizens are kept
22 informed on fire hazards within the boundaries of the
23 department and on the activities of the department,
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1 g. the fire chief shall see that each fire is carefully
2 investigated to determine its cause, and in the case
3 of suspicion of incendiarism shall notify proper
4 authorities. The fire chief shall secure and preserve
5 all possible evidence for future use in the case of a
6 suspicious incendiarism, and

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

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

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

- 3 a. their knowledge of firefighting,
- 4 b. their leadership ability, and
- 5 c. their knowledge of firefighting equipment.

6 SECTION 3. AMENDATORY 19 O.S. 2011, Section 901.22, is
7 amended to read as follows:

8 Section 901.22. Any territory located within the same county of
9 an existing district may be included in the limits of such district
10 by decision of the board of directors, certified to the board of
11 county commissioners, with the written consent of twenty-five
12 percent (25%) of the holders of title to the territory sought to be
13 included, or in the same manner as provided for the organization of
14 fire protection districts. Such territory shall not be included or
15 added to the territory of the district without the consent of the
16 board of directors and the board of county commissioners. In the
17 event such territory is included by decision of the board of
18 directors, with the consent of the board of county commissioners and
19 the written consent of twenty-five percent (25%) of the holders of
20 title to the territory sought to be included, the notice, hearing
21 and order requirements of Section 901.2 of this title and the notice
22 and election requirements of Sections 901.3 and 901.4 of this title
23 shall be followed in the same manner as for the organization of fire
24 protection districts. In case any such territory is added to the

1 district the property therein shall immediately become subject to
2 the lien for the payment of bonds theretofore authorized by the
3 district in the same manner as property within the district at the
4 time of authorization of such bonds.

5 Any territory adjacent to the existing district but within
6 another county may be included in the limits of such district by
7 decision of the board of directors, certified to the board of county
8 commissioners of both counties, with the written consent of twenty-
9 five percent (25%) of the holders of title to the territory sought
10 to be included, or in the same manner as provided for the
11 organization of fire protection districts. Such territory shall not
12 be included or added to the territory of the district without the
13 consent of the board of directors and the board of county
14 commissioners of each county. In the event such territory is
15 included by decision of the board of directors, with the consent of
16 the board of county commissioners of each county and the written
17 consent of twenty-five percent (25%) of the holders of title to the
18 territory sought to be included, the notice, hearing and order
19 requirements of Section 901.2 of this title and the notice and
20 election requirements of Sections 901.3 and 901.4 of this title
21 shall be followed in the same manner as for the organization of fire
22 protection districts. In case any such territory is added to the
23 district the property therein shall immediately become subject to
24 the lien for the payment of bonds theretofore authorized by the

1 district in the same manner as property within the district at the
2 time of authorization of such bonds.

3 Any landowner whose property is within the response area of the
4 district as assigned by the county commissioners but is not within
5 the fire protection district itself may elect to opt into the
6 district by paying the assessment to the district. The landowner
7 then becomes a member of the district with full voting rights.

8 SECTION 4. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 901.23a of Title 19, unless
10 there is created a duplication in numbering, reads as follows:

11 In the case of a municipality annexing a portion of or all of
12 the fire protection district as established by this section the
13 following shall apply:

14 1. The delivery of fire protection services shall meet or
15 exceed the current levels and standards of fire protection services
16 being provided by the fire protection district, pursuant to the
17 provisions of Section 324.8 of Title 74 of the Oklahoma Statutes, in
18 order for a municipality, private entity, organization, corporation
19 or company to provide fire protection services to a fire protection
20 district;

21 2. A vote of fifty-one percent (51%) of those paying the
22 current assessment is required to withdraw from the fire protection
23 district. The municipality is responsible for the cost of the
24 election;

1 3. The fire protection district and the board of the county
2 commissioners shall be notified by certified mail ninety (90) days
3 prior to the municipality taking final action on the annexation;

4 4. Existing debt service shall either be assumed by the
5 annexing municipality based on the share of the percent of revenue
6 the area annexed generated or the assessment shall be continued
7 until the debt is paid in full. The municipality must include this
8 provision in the final annexation resolution;

9 5. The municipality may elect continuing with the effected fire
10 protection district provided that the fire protection district
11 continues to receive the assessment without restrictions.
12 Additional support may be provided by the municipality in the sole
13 discretion of the municipality;

14 6. If in the judgment of the board of county commissioners the
15 exodus of the territory sought to be withdrawn from the district and
16 is contained within the proposed annexation of the municipality,
17 will make further existence of the district impracticable, the board
18 shall proceed to order dissolution of the district. In the case of
19 withdrawal of any property from the district as herein provided,
20 such property shall remain subject to the payment of its
21 proportionate part of any bonds theretofore authorized by the
22 district and shall remain subject to annual assessment for the
23 payment of the principal and interest thereof in the same manner and
24 to the same extent as if such property had not been withdrawn. Such

1 annual assessments, however, shall be computed upon the appraisal
2 shown on the district appraisal record at the time of the withdrawal
3 of such property;

4 7. The municipality may through negotiations with the board of
5 county commissioners and the fire protection district acquire the
6 assets and liabilities of the district if it ensures the best fire
7 protection for the citizens of the district and protects the best
8 use of the investment which has been made by the citizens of the
9 district; and

10 8. If the municipality may elect to contract for fire
11 protection with the fire protection district. The contract shall
12 address enforcement of fire code, building permits, level of
13 service, billing, relationship with existing municipal fire
14 department (i.e. mutual aid agreement, subordinate role, direct
15 supervision, etc.), additional funding and other issues agreed to by
16 the two parties.

17 SECTION 5. AMENDATORY 19 O.S. 2011, Section 901.27, is
18 amended to read as follows:

19 Section 901.27. A. The board of directors of each fire
20 protection district with revenues of Two Hundred Fifty Thousand
21 Dollars (\$250,000.00) or more to its general fund during a fiscal
22 year shall cause an audit to be made of, including but not limited
23 to, the funds, accounts and fiscal affairs of such district. The
24 audit shall be ordered within thirty (30) days of the close of each

1 fiscal year of the district which shall commence July 1 and end on
2 June 30. The Board of Directors may choose to have a fiscal year
3 which shall commence on January 1 and end on June 30.

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

18 SECTION 6. This act shall become effective November 1, 2018.
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