

1 **SENATE FLOOR VERSION**

2 February 21, 2019

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 164

By: Pederson

6
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 2018, 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. 2018,
Section 901.5), is amended to read as follows:

Section 901.5. A. Directors of a fire protection district
shall be the surface owners of real property in and residents of the
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 the
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
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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 protection district in accordance
15 with the policies and procedures prescribed by the board of
16 directors. The fire protection district shall be under the
17 direction and control of the fire chief. The fire chief, whether
18 permanent or interim, of any paid or combination fire protection
19 district shall have had at least three (3) years actual experience
20 as a paid firefighter before assuming the position of fire chief.
21 During the initial transition from a volunteer fire protection
22 district to one having more than two full-time firefighters, the
23 paid fire chief shall have had at least three (3) years of
24 experience as a paid firefighter or at least five (5) years of

1 experience as a volunteer fire chief officer with that department
2 before assuming the position of paid fire chief. The board may add
3 additional requirements to the position as necessary.

4 1. The fire chief:

- 5 a. shall be at the head of the department, subject to the
6 laws of the State of Oklahoma, rules of the board of
7 directors and the rules and regulations herein
8 adopted,
- 9 b. shall be held responsible for the general condition
10 and efficient operation of the department, the
11 training of members and the performance of all other
12 duties imposed upon him or her by law or the board of
13 directors,
- 14 c. may inspect or cause to be inspected by members of the
15 department, the fire hydrants, cisterns and other
16 sources of water supply at least twice a year,
- 17 d. shall maintain a library or file of publications on
18 fire prevention and fire protection and shall make use
19 of the library or file to the best advantage of all
20 members,
- 21 e. shall make every effort to attend all fires and direct
22 the officers and members of the fire department in the
23 performance of their duties,
- 24

- 1 f. shall see that the citizens are kept informed on fire
2 hazards within the boundaries of the department and on
3 the activities of the department,
- 4 g. shall see that each fire is carefully investigated to
5 determine its cause, and in the case of suspicion of
6 incendiarism shall notify proper authorities. The
7 fire chief shall secure and preserve all possible
8 evidence for future use in the case of a suspicious
9 incendiarism, and
- 10 h. shall file the appropriate activity report forms with
11 the Office of the State Fire Marshal in Oklahoma City
12 on an annual basis. The activity report forms shall
13 be designed by the State Fire Marshal and shall
14 include, but not be limited to, the amount of property
15 and vehicle fire loss, types of fires, inspections and
16 investigations. The report shall include notification
17 of all fire-related civilian deaths and injuries in
18 the respective jurisdiction and of firefighter deaths
19 in the line of duty and of firefighter injuries in the
20 line of duty requiring the services of a hospital or
21 physician or both.

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

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

- 5 a. knowledge of firefighting,
- 6 b. leadership ability, and
- 7 c. knowledge of firefighting equipment.

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

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

1 shall be followed in the same manner as for the organization of fire
2 protection districts. In case any such territory is added to the
3 district the property therein shall immediately become subject to
4 the lien for the payment of bonds theretofore authorized by the
5 district in the same manner as property within the district at the
6 time of authorization of such bonds.

7 Any territory adjacent to the existing district but within
8 another county may be included in the limits of such district by
9 decision of the board of directors, certified to the board of county
10 commissioners of both counties, with the written consent of twenty-
11 five percent (25%) of the holders of title to the territory sought
12 to be included, or in the same manner as provided for the
13 organization of fire protection districts. Such territory shall not
14 be included or added to the territory of the district without the
15 consent of the board of directors and the board of county
16 commissioners of each county. In the event such territory is
17 included by decision of the board of directors, with the consent of
18 the board of county commissioners of each county and the written
19 consent of twenty-five percent (25%) of the holders of title to the
20 territory sought to be included, the notice, hearing and order
21 requirements of Section 901.2 of this title and the notice and
22 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 landowner whose property is within the response area of the
6 district as assigned by the county commissioners but is not within
7 the fire protection district itself may elect to opt into the
8 district by paying the assessment to the district. The landowner
9 then becomes a member of the district with full voting rights.

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

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

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

23 2. A vote of fifty-one percent (51%) of those paying the
24 current assessment is required to withdraw from the fire protection

1 district. The municipality is responsible for the cost of the
2 election;

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

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

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

16 6. If, in the judgment of the board of county commissioners,
17 the exodus of the territory sought to be withdrawn from the district
18 and is contained within the proposed annexation of the municipality,
19 will make further existence of the district impracticable, the board
20 shall proceed to order dissolution of the district. In the case of
21 withdrawal of any property from the district as herein provided,
22 such property shall remain subject to the payment of its
23 proportionate part of any bonds theretofore authorized by the
24 district and shall remain subject to annual assessment for the

1 payment of the principal and interest thereof in the same manner and
2 to the same extent as if such property had not been withdrawn. Such
3 annual assessments, however, shall be computed upon the appraisal
4 shown on the district appraisal record at the time of the withdrawal
5 of such property;

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

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

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

21 Section 901.27. A. The board of directors of each fire
22 protection district with revenues of Two Hundred Fifty Thousand
23 Dollars (\$250,000.00) or more to its general fund during a fiscal
24 year shall cause an audit to be made of, including but not limited

1 to, the funds, accounts and fiscal affairs of such district. The
2 audit shall be ordered within thirty (30) days of the close of each
3 fiscal year of the district which shall commence July 1 and end on
4 June 30. The board of directors may choose to have a fiscal year
5 which shall commence on January 1 and end on December 31.

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

20 SECTION 6. This act shall become effective November 1, 2019.

21 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT
22 February 21, 2019 - DO PASS AS AMENDED
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