

COMMITTEE ON BANKING AND INSURANCE

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1259

(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 48-851, Arizona Revised Statutes, is amended to  
3 read:

4 48-851. Noncontiguous county island fire district; formation;  
5 definition

6 A. A noncontiguous county island fire district shall be formed by the  
7 following procedures:

8 1. One or more persons who wish to petition for a noncontiguous county  
9 island fire district shall request and the county assessor shall provide a  
10 map of all of the county island areas that are contained within the municipal  
11 planning area of a city.

12 2. Within thirty days after receiving a map from the county assessor,  
13 the person shall submit a revised map that indicates those county island  
14 areas that are proposed to be included in the noncontiguous county island  
15 fire district and shall submit the names and addresses of three persons who  
16 are proposed to serve as the organizing board of the district.

17 3. On receipt of the revised map and the proposed organizing board's  
18 membership, the board of supervisors shall set a day for a hearing on the  
19 proposed district formation.

20 4. The clerk of the board of supervisors shall mail, by first class  
21 mail, written notice of the statement, its purpose and notice of the day,  
22 hour and place of the hearing on the proposed district to each owner of  
23 taxable property and to each household in which a qualified elector resides  
24 within the boundaries of the proposed district. The clerk of the board of  
25 supervisors shall post the notice in at least three conspicuous public places  
26 in the area of the proposed district and shall publish twice in a daily  
27 newspaper of general circulation in the area of the proposed district, at  
28 least ten days before the hearing, or, if no daily newspaper of general

1 circulation exists in the area of the proposed district, at least twice at  
2 any time before the date of the hearing, a notice setting forth the purpose  
3 of the proposed district formation, the description of the area of the  
4 proposed district and the day, hour and place of the hearing.

5 5. At the hearing called pursuant to paragraph 3 of this subsection,  
6 the board of supervisors shall hear those who appear for and against the  
7 proposed district and shall determine whether the creation of the district  
8 will promote public health, comfort, convenience, necessity or welfare. If  
9 the board of supervisors determines that the public health, comfort,  
10 convenience, necessity or welfare will be promoted, it shall authorize the  
11 persons proposing the district to circulate petitions as provided in this  
12 subsection. The order of the board of supervisors shall be final, but if the  
13 request to circulate petitions is denied, a subsequent request for a similar  
14 district may be refiled with the board of supervisors after six months from  
15 the date of the denial.

16 6. Within fifteen days after receiving the approval of the board of  
17 supervisors as prescribed by paragraph 5 of this subsection, the clerk of the  
18 board shall determine the minimum number of signatures required for  
19 compliance with paragraph 8, subdivision (b) of this subsection. After  
20 making that determination, that number of signatures shall remain fixed,  
21 notwithstanding any subsequent changes in voter registration records.

22 7. After receiving the approval of the board of supervisors as  
23 provided in paragraph 5 of this subsection, any adult person may circulate  
24 and present petitions to the board of supervisors of the county in which the  
25 district is located. All petitions circulated shall be returned to the board  
26 of supervisors within one year from the date of the approval of the board of  
27 supervisors pursuant to paragraph 5 of this subsection. Any petition that is  
28 returned more than one year from that date is void. ON AUTHORIZATION OF THE  
29 BOARD OF SUPERVISORS TO CIRCULATE PETITIONS, THE ORGANIZING BOARD OF THE  
30 DISTRICT ESTABLISHED PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION MAY ENTER  
31 INTO WRITTEN AGREEMENTS WITH THIRD PARTIES TO PROVIDE SERVICES RELATED TO THE  
32 FORMATION OF THE DISTRICT THAT MAY INCLUDE THE COST OF CIRCULATING PETITIONS

1 AND ASSOCIATED EXPENSES. THE DISTRICT SHALL REIMBURSE THIRD PARTIES SUBJECT  
2 TO THE SUCCESSFUL FORMATION OF THE DISTRICT AND ON RECEIPT OF SECONDARY  
3 PROPERTY TAX REVENUES BY THE DISTRICT.

4 8. The petitions presented pursuant to paragraph 7 of this subsection  
5 shall comply with the provisions regarding verification in section 48-266 and  
6 shall:

7 (a) At all times, contain a legal description of the boundaries of the  
8 proposed district and a detailed, accurate map of the proposed district and  
9 the names, addresses and occupations of the proposed members of the  
10 district's organizing board of directors. No alteration of the proposed  
11 district shall be made after receiving the approval of the board of  
12 supervisors as provided in paragraph 5 of this subsection.

13 (b) Be signed by more than one-half of the aggregate number of  
14 property owners in the county island areas contained in the proposed  
15 district.

16 9. On receipt of the petitions, the board of supervisors shall set a  
17 day, not more than thirty days from that date, for a hearing on the petition.

18 10. Before the hearing called pursuant to paragraph 9 of this  
19 subsection, the board of supervisors shall determine the validity of the  
20 petition signatures presented. At the hearing called pursuant to paragraph 9  
21 of this subsection, the board of supervisors, if the petitions are valid,  
22 shall order the formation of the district. The board of supervisors shall  
23 enter its order setting forth its determination in the minutes of the  
24 meeting, not later than ten days from the day of the hearing, and a copy of  
25 the order shall be filed in the county recorder's office. The order of the  
26 board of supervisors shall be final, and the proposed district is formed  
27 thirty days after the board of supervisors votes to form the district. A  
28 decision of the board of supervisors under this subsection is subject to  
29 judicial review under title 12, chapter 7, article 6.

30 B. For the purpose of determining the validity of the petitions  
31 presented pursuant to subsection A, paragraph 7 of this section property held  
32 in multiple ownership shall be treated as if it had only one property owner,

1 so that the signature of only one of the owners of property held in multiple  
2 ownership is required on the formation petition.

3 C. If a district is formed pursuant to this section, the cost of  
4 publication of the notice of hearing and the mailing of notices to electors  
5 and property owners and all other costs incurred by the county as a result of  
6 this section shall be a charge against the district.

7 D. A district organized pursuant to this section shall have an  
8 organizing board of directors to administer the affairs of the district until  
9 a duly constituted board of directors is elected as provided in this title.  
10 The organizing board shall have all the powers, duties and responsibilities  
11 of an elected board. The organizing board shall consist of the three  
12 individuals named in the petitions presented pursuant to subsection A of this  
13 section. If a vacancy occurs on the organizing board, the remaining board  
14 members shall fill the vacancy by appointing an interim member. Members of  
15 the organizing board shall serve without compensation but may be reimbursed  
16 for actual expenses incurred in performing their duties. The organizing  
17 board shall elect from its members a chairperson and a clerk. For any  
18 challenge to the formation of the district, the district board is a proper  
19 party to the challenge and any petition circulators are not proper parties.

20 E. For the purposes of this article, "noncontiguous county island fire  
21 district" means a district that is formed pursuant to this section in a  
22 county that has a population of at least one million five hundred thousand  
23 persons and for which ~~all of the following apply~~ EITHER APPLIES:

24 1. The district consists of only noncontiguous county islands in a  
25 geographic boundary area that is contained in a municipal planning area and:  
26 ~~within the boundaries of an automatic aid consortium where there is no~~  
27 ~~private provider of fire protection service at the time of the district's~~  
28 ~~formation.~~

29 (a) IS WITHIN THE BOUNDARIES OF AN AUTOMATIC AID CONSORTIUM IN WHICH  
30 THERE IS NO PRIVATE PROVIDER OF FIRE PROTECTION SERVICE AT THE TIME OF THE  
31 DISTRICT'S FORMATION.

1           ~~2.~~ (b) Fire protection services are not funded pursuant to section  
2 48-807 at the time of the district's formation.

3           ~~3.~~ (c) There is only one fire district within the geographic area of  
4 the municipal planning area for any one city or town.

5           2. THE DISTRICT CONSISTS OF ONLY ONE OR MORE NONCONTIGUOUS COUNTY  
6 ISLANDS THAT ARE NOT CONTAINED IN A MUNICIPAL PLANNING AREA IN WHICH THE  
7 GEOGRAPHIC BOUNDARY AREA OF THE DISTRICT IS SURROUNDED BY ANY COMBINATION OF  
8 FEDERAL, STATE, MUNICIPAL OR FIRE DISTRICT JURISDICTIONAL BOUNDARIES AND:

9           (a) THE AREA IS CURRENTLY SERVED BY A PRIVATE FIRE PROTECTION SERVICE  
10 PROVIDER.

11           (b) FIRE PROTECTION SERVICES ARE NOT FUNDED PURSUANT TO SECTION 48-807  
12 AT THE TIME OF THE DISTRICT'S FORMATION.

13           Sec. 2. Section 48-853, Arizona Revised Statutes, is amended to read:

14           48-853. District board; powers and duties; intergovernmental  
15 agreements; contract; administration; definition

16           A. A fire district formed pursuant to this article, through its board,  
17 shall:

18           1. Hold public meetings at least once each calendar month.

19           2. Prepare an annual budget that contains detailed estimated  
20 expenditures for each fiscal year and that clearly shows expenses of the  
21 district. The budget shall be posted in three public places and published in  
22 a newspaper of general circulation in the district thirty days before a  
23 public hearing at a meeting called by the board or fire chief to adopt the  
24 budget. Copies of the budget shall also be available to members of the  
25 public on written request to the district. Following the public hearing, the  
26 district board or appointed chief shall adopt a budget.

27           3. Require probationary employees in a paid sworn firefighter  
28 position, a reserve firefighter position or a volunteer firefighter position  
29 of a provider of fire protection and emergency medical services to submit a  
30 full set of fingerprints to the fire district. The fire district shall  
31 submit the fingerprints to the department of public safety for the purpose of  
32 obtaining a state and federal criminal records check pursuant to section

1 41-1750 and Public Law 92-544. The department of public safety may exchange  
2 this fingerprint data with the federal bureau of investigation. This  
3 paragraph does not apply to personnel that are provided to a fire district by  
4 any public or private entity that provides fire protection and emergency  
5 medical services to the fire district and that has already fully complied  
6 with fingerprint submittal requirements as otherwise provided by law.

7 4. Appoint the fire chief of the fire service provider selected  
8 pursuant to paragraph 8 of this subsection, either public or private, as the  
9 fire chief for the district.

10 5. Adopt the fire code of the municipality whose municipal planning  
11 area includes the district except that the fire district's authority to  
12 conduct inspections shall apply only to commercial and industrial properties  
13 and shall not apply to residential properties.

14 6. Keep three copies of the applicable fire code, amendments and  
15 revisions on file for public inspection.

16 7. Notify the county board of supervisors of the cost of providing  
17 fire protection service and emergency medical service for each household or  
18 other structure in the district if the district provides service pursuant to  
19 paragraph 8, subdivision (a) or ~~(b)~~ (c) of this subsection.

20 8. Act within sixty days after the formation of the district to do any  
21 of the following:

22 (a) IF THE DISTRICT IS FORMED PURSUANT TO SECTION 48-851,  
23 SUBSECTION E, PARAGRAPH 1, enter into an intergovernmental agreement with a  
24 municipal provider for fire protection services for the district. A  
25 municipal provider seeking to enter into AN agreement with the district  
26 FORMED PURSUANT TO SECTION 48-851, SUBSECTION E, PARAGRAPH 1 shall make a  
27 formal expression of intent to enter into an agreement with the district  
28 within twenty-one days of district formation.

29 (b) IF THE DISTRICT IS FORMED PURSUANT TO SECTION 48-851,  
30 SUBSECTION E, PARAGRAPH 2, ENTER INTO A CONTRACT WITH A PRIVATE FIRE  
31 PROTECTION SERVICE PROVIDER FOR A DISTRICT FORMED PURSUANT TO SECTION 48-851,  
32 SUBSECTION E, PARAGRAPH 2. THE PRIVATE FIRE PROTECTION SERVICE PROVIDER

1 SEEKING TO ENTER INTO A CONTRACT WITH THE DISTRICT SHALL MAKE A FORMAL  
2 EXPRESSION OF INTENT WITHIN TWENTY-ONE DAYS OF DISTRICT FORMATION TO ENTER  
3 INTO THE CONTRACT WITH THE DISTRICT. IF THE PRIVATE FIRE PROTECTION SERVICE  
4 PROVIDER MAKES A FORMAL EXPRESSION OF INTENT TO ENTER INTO A CONTRACT WITH  
5 THE DISTRICT, THE PROVIDER SHALL HAVE A RIGHT OF FIRST REFUSAL TO CONTRACT  
6 WITH THE DISTRICT ON TERMS ESTABLISHED BY THE DISTRICT PURSUANT TO  
7 SUBSECTION A, PARAGRAPH 8, SUBDIVISION (c) OF THIS SECTION.

8 ~~(b)~~ (c) Issue a request for proposals for nonmunicipal private  
9 providers of fire protection services for the district. ~~A request for~~  
10 ~~proposals may be issued only if no municipal providers of fire protection~~  
11 ~~services have made an expression of intent seeking to enter into a fire~~  
12 ~~protection agreement with the district~~ IF THE CURRENT PRIVATE PROVIDER FAILS  
13 TO NOTIFY THE DISTRICT OF ITS INTENTION TO ENTER INTO A CONTRACT WITH THE  
14 DISTRICT OR FOR ANY CONTRACT TO BE AWARDED PURSUANT TO SUBSECTION A,  
15 PARAGRAPH 8, SUBDIVISION (b) OF THIS SECTION. Notwithstanding any other law,  
16 municipal annexation shall not be undertaken during the term of any contract  
17 entered into between the district and a private fire service provider, except  
18 that in the one hundred eighty day period before the end of the contract, the  
19 municipality shall notify the residents of the opportunity to annex into the  
20 municipality. A resident shall notify the district and the municipality  
21 within ninety days before the end of the contract that the resident is  
22 annexing into the municipality and shall complete the annexation within ten  
23 days after the completion of the contract. If no district residents notify  
24 the municipality that the resident is annexing, the district may renew the  
25 contract automatically. If a resident proposes to annex into the  
26 municipality, the district shall issue a request for proposals again as  
27 prescribed in this subdivision.

28 ~~(e)~~ (d) Before applying this subdivision, ~~the district shall~~ request  
29 an independent review by the county attorney of the negotiations, if any,  
30 that were conducted as prescribed in subdivision (a) of this paragraph and  
31 the request for proposals and resulting bids. After the independent review,  
32 the county attorney shall certify whether the negotiations and proposals were

1 based on commercially reasonable assumptions. If the county attorney  
2 certifies that any one or more of the provisions are not commercially  
3 reasonable, the district and the other party to the negotiations have ten  
4 days to cure and continue negotiations before resubmitting information on the  
5 negotiations and proposals to the county attorney for certification.  
6 Notwithstanding any other law, the county attorney shall have access to  
7 sealed bids for purposes of this subdivision. The county attorney shall  
8 review and issue a certification pursuant to this subdivision within thirty  
9 days after the information and documents regarding negotiations and proposals  
10 are submitted to the county attorney. If a fire district **AS DEFINED IN**  
11 **SECTION 48-851, SUBSECTION E, PARAGRAPH 1** does not enter into an  
12 intergovernmental agreement pursuant to subdivision (a) of this paragraph or  
13 enter into a contract pursuant to subdivision ~~(b)~~ (c) of this paragraph, the  
14 surrounding municipality shall provide fire protection and emergency medical  
15 services except for services regulated pursuant to title 36, chapter 21.1 in  
16 the district immediately on request by the district, following final  
17 certification by the county attorney. The municipality shall be compensated  
18 by the district as follows:

19 (i) A three person board shall set the secondary property tax rate for  
20 the district. The district shall appoint one person to the board, the  
21 surrounding municipality shall appoint one person to the board, and the two  
22 appointees shall agree on a third person for the board. If the two  
23 appointees cannot agree on a third appointee within five days after the two  
24 persons are appointed, the county board of supervisors shall appoint the  
25 third person to the board.

26 (ii) The three person board shall meet and set the tax rate within  
27 thirty days after the third person is appointed to the board.

28 (iii) The district shall levy the tax at the rate as determined by the  
29 three person board and the tax shall be collected as other property taxes are  
30 collected. On receipt of monies from the property tax levied, the district  
31 shall reimburse the county for the costs associated with the formation of the

1 district, including administrative expenses, and shall transfer the remaining  
2 monies to the surrounding municipality.

3 (e) ON FORMATION AND SUBJECT TO THE AVAILABILITY OF FUNDS, REIMBURSE  
4 THIRD PARTIES FOR SERVICES RENDERED PURSUANT TO SECTION 48-851, SUBSECTION A,  
5 PARAGRAPH 7.

6 9. Require that any intergovernmental agreement or contract between  
7 the district and a provider of fire protection services ~~to~~ include:

8 (a) A term of duration between three and five years.

9 (b) A provision setting forth the cost of service and performance  
10 criteria.

11 (c) An acknowledgment of the right of the municipality to determine  
12 the location of future infrastructure if the district is in the  
13 municipality's planning area at the time of the execution of the contract.

14 10. If necessary, issue a request for proposals for providers of  
15 emergency medical services and enter into an intergovernmental agreement or  
16 contract with a provider of emergency medical services except for those  
17 services regulated by title 36, chapter 21.1.

18 11. Assess and levy a secondary property tax to pay for the costs of  
19 the fire protection service or emergency medical service except for those  
20 services regulated by title 36, chapter 21.1. A secondary property tax  
21 assessed pursuant to this section is not subject to the levy limitation  
22 prescribed by section 48-807.

23 12. Defend, indemnify and hold harmless a municipal provider or any  
24 other provider of fire protection from and against any claims or expenses to  
25 which it may be subjected by reason of injury or death of any person or loss  
26 or damage to any property directly attributable to the provision of the  
27 services unless the services were provided in a grossly negligent manner.  
28 The fire district shall secure insurance sufficient to cover liability  
29 exposure.

30 B. A fire district formed pursuant to this article, through its board,  
31 may:

1           1. Contract for administrative staff services, if any, deemed  
2 necessary or appropriate to carry out its powers and duties, but a member of  
3 a district board, ~~—~~ shall not be an employee of the district.

4           2. Retain a certified public accountant to perform an annual audit of  
5 district books.

6           3. Retain private legal counsel.

7           4. Sue and be sued.

8           5. Accept gifts, contributions, bequests and grants and comply with  
9 any requirements of such gifts, contributions, bequests and grants not  
10 inconsistent with this article.

11           6. Appropriate and expend annually such monies as are necessary for  
12 the purpose of fire districts belonging to and paying dues in the Arizona  
13 fire district association and other professional affiliations or entities.

14           C. The county attorney may advise and represent the district when in  
15 the county attorney's judgment such advice and representation are appropriate  
16 and not in conflict with the county attorney's duties under section 11-532.  
17 If the county attorney is unable to advise and represent the district due to  
18 a conflict of interest, the district may retain private legal counsel or may  
19 request the attorney general to represent it, or both.

20           D. The chairperson and clerk of the district board or their respective  
21 designees, as applicable, shall draw warrants on the county treasurer for  
22 money required to operate the district in accordance with the budget and, as  
23 so drawn, the warrants shall be sufficient to authorize the county treasurer  
24 to pay from the fire district fund.

25           E. The district shall not incur any debt or liability in excess of  
26 taxes levied and to be collected and the money actually available and  
27 unencumbered at the time in the fund, except as provided in section 48-807.

28           F. If a district formed under section 48-851 agrees to provide fire  
29 and emergency medical services in a county island where a private provider of  
30 fire or emergency services already has facilities or provides service, the  
31 district and the private provider shall enter into an agreement covering the  
32 roles and relationships regarding mutual aid or backup and any services for

1           which the district wishes to contract and any reimbursement or billing and  
2           collection practices. The agreement shall be executed before the district  
3           begins providing service in the county island. A district may enter into an  
4           intergovernmental agreement with appropriate regional automatic aid dispatch  
5           systems.

6           G. This section does not require a fire district or a city or town to  
7           provide fire protection or emergency medical services to an area of the  
8           county that is receiving services from a private provider, except as provided  
9           by a mutual aid or backup agreement pursuant to this section.

10           H. For the purposes of this article, "fire service" and "fire  
11           protection" include fire prevention, emergency medical services, inspection  
12           of commercial or industrial property where a known code violation exists and  
13           enforcement."

14 Amend title to conform

and, as so amended, it do pass

NANCY McLAIN  
Chairman

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