REFERENCE TITLE: fire districts; electronic funds transfers

State of Arizona
Senate
Fifty-third Legislature
First Regular Session
2017

SB 1176

Introduced by
Senator Burges

AN ACT

AMENDING SECTIONS 11-605, 48-805, 48-805.02, 48-807 AND 48-853, ARIZONA REVISED STATUTES; RELATING TO FIRE DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 11-605, Arizona Revised Statutes, is amended to read:

11-605. Warrants, substitute checks or electronic funds transfers drawn on fund

Warrants, SUBSTITUTE CHECKS OR ELECTRONIC FUNDS TRANSFERS drawn by a political subdivision on the county treasurer shall be paid in the order of presentation to the treasurer. If the fund is insufficient to pay a warrant, SUBSTITUTE CHECK OR ELECTRONIC FUNDS TRANSFER, it shall be paid from monies obtained by the treasurer on behalf of each political subdivision pursuant to this article. If no agreement has been entered into under this article, the fiscal provisions prescribed in section 11-635 are applicable.

Sec. 2. Section 48-805, Arizona Revised Statutes, is amended to read:

48-805. Fire district; powers and duties; definition

A. A fire district, through its board, shall:

1. Hold public meetings at least once each calendar month unless a board consists of three members and the fire district levies less than five hundred thousand dollars annually then the board shall meet in July and at least every two months thereafter. A board for a district organized pursuant to article 3 of this chapter shall hold public meetings at least every two months.

2. Determine the compensation payable to district personnel.

3. Require probationary employees in a paid sworn firefighter position, a reserve firefighter position or a volunteer firefighter position to submit a full set of fingerprints to the fire district. The fire district shall submit the fingerprints to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

B. A fire district, through its board, may:

1. Employ any personnel and provide services deemed necessary for fire protection, for preservation of life and for carrying out its other powers and duties, including providing ambulance transportation services when authorized to do so pursuant to title 36, chapter 21.1, article 2, but a member of a district board shall not be an employee of the district. The merger of two or more fire districts pursuant to section 48-820 or the consolidation with one or more fire districts pursuant to section 48-822 shall not expand the boundaries of an existing certificate of necessity unless authorized pursuant to title 36, chapter 21.1, article 2.

2. Construct, purchase, lease, lease-purchase or otherwise acquire the following or any interest therein and, in connection with the
construction or other acquisition, purchase, lease, lease-purchase or
grant a lien on any or all of its present or future property, including:

(a) Apparatus, water and rescue equipment, including ambulances and
equipment related to any of the foregoing.
(b) Land, buildings, equipment and furnishings to house equipment
and personnel necessary or appropriate to carry out its purposes.

3. Finance the acquisition of property as provided in this section
and costs incurred in connection with the issuance of bonds as provided in
section 48-806. Bonds shall not be issued without the consent of a
majority of the electors of the district voting at an election held for
that purpose. For the purposes of an election held under this paragraph,
all persons who are eligible to vote in fire district elections under
section 48-802 are eligible to vote.

4. Enforce the fire code adopted by the district, if any, and
assist the state fire marshal in the enforcement of fire protection
standards of this state within the fire district including enforcement of
a nationally recognized fire code if expressly authorized by the state
fire marshal.

5. After the approval of the qualified electors of the fire
district voting at a regular district election or at a special election
called for that purpose by the district board, as appropriate, or at any
election held in the county that encompasses the fire district, adopt the
fire code, which is a nationally recognized fire code approved by
the state fire marshal. The words appearing on the ballots shall be
"should ________ fire district adopt the ________ fire code, which is
a nationally recognized fire code approved by the state fire
marshal--yes", "should ________ fire district adopt the ________
fire code, which is a nationally recognized fire code approved by the
state fire marshal--no". The code shall be enforced by the county
attorney in the same manner as any other law or ordinance of the
county. Any inspection or enforcement costs are the responsibility of the
fire district involved. The district shall keep the code on file, which
shall be open to public inspection for a period of thirty days before any
election for the purpose of adopting a fire code. Copies of the order of
election shall be posted in three public places in the district at least
twenty days before the date of the election, and if a newspaper is
published in the county having a general circulation in the district, the
order shall be published in the newspaper at least once a week during each
of the three calendar weeks preceding the calendar week of the election.

6. Amend or revise the adopted fire code, including replacement of
the adopted fire code with an alternative nationally recognized fire code,
with the approval of the state fire marshal and after a hearing held
pursuant to posted and published notice as prescribed by section
48-805.02, subsection A. The district shall keep three copies of the
adopted code, amendments and revisions on file for public inspection.
7. Enter into an agreement procuring the services of an organized private fire protection company or a fire department of a neighboring city, town, district or settlement without impairing the fire district's powers.

8. Contract with a city or town for fire protection services for all or part of the city or town area until the city or town elects to provide regular fire department services to the area.

9. Retain a certified public accountant to perform an annual audit of district books.

10. Retain private legal counsel.

11. Accept gifts, contributions, bequests and grants and comply with any requirements of those gifts, contributions, bequests and grants that are not inconsistent with this article.

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

13. Adopt resolutions establishing fee schedules both within and outside of the jurisdictional boundaries of the district for providing fire protection services and services for the preservation of life, including emergency fire and emergency medical services, plan reviews, standby charges, fire cause determination, users' fees or facilities benefit assessments or any other fee schedule that may be required.

14. With the approval of two of the three members of a three-member board, four of the five members of a five-member board or five of the seven members of a seven-member board, change the district's name and on so doing shall give written notice to the board of supervisors of the change. The governing board of a fire district may place a question on the general election ballot as to whether the fire district shall change its name.

15. Require all employees to submit a full set of fingerprints as prescribed by subsection A, paragraph 3 of this section.

16. Enter into intergovernmental agreements or contracts as follows:
    (a) Enter into an intergovernmental agreement with another political subdivision for technical or administrative services or to provide fire services to the property owned by the political subdivision, including property that is outside the district boundary.
    (b) Enter into a contract with individuals to provide technical or administrative services.
    (c) Enter into a contract with individuals to provide fire protection services or emergency medical services, or both, to the extent not regulated by title 36, chapter 21.1 to property owned by the individual located outside the district boundaries if the individual's property is not located in a county island as defined in section 11-251.12 and at least one of the following apply:
(i) The existing fire service provider where the individual's property is located has issued a notice to the individual that the provider plans to discontinue service.

(ii) Fire service is not available to the individual's property.

(iii) Fire service is offered pursuant to a contract or subscription and the individual has not obtained service for a period of twenty-four months before the date of the contract with the district.

(d) Enter into a contract with individuals to provide fire services to property owned by the individual located outside the district boundaries, where the individual's property is located in a county island as defined in section 11-251.12, if both of the following apply:

(i) The existing fire service provider where the individual's property is located has issued a notice to the residents of the county island and the individual that the provider plans to discontinue or substantially reduce service.

(ii) The district offers contracts to all residents and property owners of the county island who will be affected by the discontinuance or substantial reduction in service by the current fire service provider.

(e) For the purposes of subdivision (a), (b), (c) or (d) of this paragraph, a district may contract with any public or private fire service provider to provide some or all of the contractual services the district is contracting to deliver.

(f) Any contract entered into pursuant to subdivisions (b), (c) and (d) of this paragraph shall include a provision setting forth the cost of service and performance criteria.

17. Sell or otherwise dispose of any real property, facilities or equipment if the district board determines the real property, facilities or equipment to be surplus.

C. A fire district may not administratively add or annex additional property or delete property or otherwise modify its boundaries except in a merger or consolidation pursuant to this chapter or in a boundary change made pursuant to section 48-262. This subsection does not apply to a district organized pursuant to article 3 of this chapter.

D. The chairman and clerk of the district board or their respective designees, as applicable, shall draw warrants, SUBSTITUTE CHECKS OR ELECTRONIC FUNDS TRANSFERS on the county treasurer for money required to operate the district in accordance with the budget and, as so drawn, the warrants, SUBSTITUTE CHECKS OR ELECTRONIC FUNDS TRANSFERS shall be sufficient to authorize the county treasurer to pay from the fire district fund.

E. For any fire district that designates one or more board members to have access to the financial books and records of the district, those board members are authorized by law to have full access to those financial books and records.
F. The district board may assess and levy a secondary property tax pursuant to this article to pay for the costs of fire protection services or emergency medical services except for services regulated pursuant to title 36, chapter 21.1.

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

H. If a district's fire code requires the use of a fire watch, an employee who works at the building in which a fire watch is required may serve as the fire watch. A person who is designated as a fire watch shall be equipped with the means to contact the local fire department, and the person's only duty while keeping watch for fires shall be to perform constant patrols of the protected premises. The district shall provide the fire watch with printed instructions from the state fire marshal and may provide a free training session before the person's deployment as the fire watch begins.

I. For the purposes of this section, "fire watch" means a person who is stationed in a building or in a place relative to a building to observe the building and its openings when the fire protection system for the building is temporarily nonoperational or absent.

Sec. 3. Section 48-805.02, Arizona Revised Statutes, is amended to read:

48-805.02. Fire district annual budget; levy; requirements

A. A fire district shall prepare an annual budget that contains detailed estimated expenditures for each fiscal year and that clearly shows salaries payable to employees of the district. The budget summary shall be posted in three public places and a complete copy of the budget shall be published on the district's official website for twenty days before a public hearing at a meeting called by the board to adopt the budget. Copies of the budget shall also be available to members of the public on written request to the district. Following the public hearing, the district board shall adopt a budget. A complete copy of the adopted budget shall be posted in a prominent location on the district's official website within seven business days after final adoption and shall be retained on the website for at least sixty months. For any fire district that does not maintain an official website, the fire district may comply with this subsection by posting on a website of an association of fire districts in this state.

B. Not more than ten days after the organization of a fire district and not later than August 1 of each year thereafter, the chairman of the district board shall submit to the county board of supervisors a budget
estimate that contains certifications by item and that specifies the amount of money required for the maintenance and operation of the district for the ensuing year.

C. Based on the budget submitted by the district, the board of supervisors shall levy the tax as prescribed in section 48-807, subsection F.

D. Every budget adopted by a fire district shall include the following:

1. A certification by the chairman and clerk of the district board as to both of the following:
   (a) That the district has not incurred any debt or liability in excess of taxes levied and to be collected and the money actually available and unencumbered at that time in the district general fund, except for those liabilities as prescribed in section 48-805, subsection B, paragraph 2 and sections 48-806 and 48-807.
   (b) That the district complies with subsection F of this section.

2. For each of the items listed in the budget summary approved pursuant to subsection A of this section, the district shall estimate the revenue or expense for the next two fiscal years. Estimates shall be based on the average increase or decrease of the item for the previous two fiscal years unless more certain information is available to the district. Estimates shall include any applicable levy or rate limitations.

3. If a district's total estimate of expenses exceeds its total estimate of revenues for any fiscal year, the district shall undertake a study of merger, consolidation or joint operating alternatives. The study required by this paragraph shall be presented to the fire district board in a special public meeting called for the sole purpose of evaluating the study. The study shall include an identification of districts available for merger, consolidation or joint operations, an analysis of the level of service and cost of service that may be provided to the residents of a merged, consolidated or jointly operated district as compared to the level and cost of service to the residents of the districts without any merger, consolidation or joint operations.

E. For any district that amends its budget after its initial adoption, the district board shall hold at least two hearings on the revision of the budget and the revised budget must be considered and adopted in a special meeting that is called for the adoption of the revised budget. The special meeting must be held one week after the consideration of the revision of the budget at a regularly scheduled meeting of the board of directors of the district. This subsection does not apply to a district organized pursuant to article 3 of this chapter.

F. When a fire district has adopted a budget and the board of supervisors has levied a fire district tax as provided in subsection C of this section and the district has insufficient monies in its general fund with the county treasurer to operate the district, the chairman of the
fire district board of directors, on or after August 1 of each year, may
draw warrants, SUBSTITUTE CHECKS OR ELECTRONIC FUNDS TRANSFERS for the
purposes prescribed in section 48-805 on the county treasurer, payable on
November 1 of that year or on April 1 of the succeeding year. The
aggregate amounts of the warrants, SUBSTITUTE CHECKS OR ELECTRONIC FUNDS
TRANSFERS may not exceed ninety percent of the taxes levied by the county
for the district's current fiscal year. If the treasurer cannot pay a
warrant, SUBSTITUTE CHECK OR ELECTRONIC FUNDS TRANSFER for lack of monies
in the fire district general fund, the warrant, OR SUBSTITUTE CHECK shall
be endorsed, OR THE ELECTRONIC FUNDS TRANSFER SHALL BE
RECORDED, AND THE WARRANT, SUBSTITUTE CHECK OR ELECTRONIC FUNDS TRANSFER
SHALL bear interest and be redeemed as provided by law for county
warrants, SUBSTITUTE CHECKS OR ELECTRONIC FUNDS TRANSFERS, except that the
warrants, SUBSTITUTE CHECKS OR ELECTRONIC FUNDS TRANSFERS are payable only
from the fire district general fund.

G. Any audit, report or review of a fire district made pursuant to
section 48-253 shall be presented to the district board by the auditor
telephonically or in another live electronic format during a public
meeting of the board or, as directed by the board, in person at a public
meeting of the board. The district board shall take formal action at the
public meeting to review and receive the audit, report or review. The
audit, report or review shall include an attestation by the auditor of the
district as to all of the following:

1. That the district has not incurred any debt or liability in
excess of taxes levied and to be collected and the monies actually
available and unencumbered at that time in the district general fund
except for those liabilities as prescribed in section 48-805, subsection
B, paragraph 2 and sections 48-806 and 48-807.

2. That the district complies with subsection F of this section.

3. Whether the audit, report or review disclosed any information
contrary to the certification made as prescribed by subsection D,
paragraph 1 of this section.

Sec. 4. Section 48-807, Arizona Revised Statutes, is amended to
read:

48-807. County fire district assistance tax; annual budget;
override

A. The board of supervisors of a county shall levy, at the time of
levying other property taxes, a county fire district assistance tax on the
taxable property in the county of not more than ten cents per one hundred
dollars of assessed valuation. The tax levy provided for in this
subsection shall be a levy of secondary property taxes and shall not be
subject to title 42, chapter 17, article 2. The county treasurer shall
pay to each fire district, including a fire district formed pursuant to
section 48-851, in the county from the proceeds of the tax an amount equal
to twenty percent of the property tax levy adopted by the district for the
fiscal year in which the tax will be levied, except that:

1. The amount of assistance from the county to a fire district
shall be reduced as follows:

   (a) Through the fiscal year that ends June 30, 2012, by the dollar
   amount that the fire district receives from the fire district assistance
   tax that exceeds three hundred thousand dollars from and after June 30 of
   each fiscal year.

   (b) Beginning with the fiscal year that starts July 1, 2012, by the
dollar amount that the fire district receives from the fire district
assistance tax that exceeds four hundred thousand dollars from and after
June 30 of each fiscal year, without regard to whether the district is
located in more than one county.

   (c) Except as provided in paragraph 2 of this subsection, if the
   total amount to be paid to all districts in the county under this
   paragraph exceeds the amount to be raised by the levy of ten cents per one
   hundred dollars assessed valuation, then the county treasurer shall pay an
   amount less than twenty percent of the property tax levy of each
district. The amount to be paid by the county treasurer to each district
shall be determined by multiplying the proceeds of the county fire
district assistance tax against the proportion that twenty percent of the
property tax levy of each district bears to the total of twenty percent of
the property tax levies of all fire districts in the county.

2. For fiscal years beginning from and after July 1, 1992, the
amount of assistance from the county to a fire district shall not be less
than the assistance provided from and after June 30, 1991 through June 30,
1992, if, for the fiscal year in which the tax will be levied, the
district levies a tax, in addition to any tax levied under section 48-806,
of three dollars per one hundred dollars of assessed valuation and the
assessed valuation is at least ninety percent of the assessed valuation
for the 1991 tax year. This paragraph does not apply to fire districts
subject to paragraph 1, subdivision (a) or (b) of this subsection.

B. For the purpose of subsection A of this section, the property
tax levy of the fire district shall include in lieu contributions pursuant
to chapter 1, article 8 of this title but shall not include property tax
levies to be applied to the payment of principal and interest on bonds
issued pursuant to section 48-806.

C. Beginning with the fiscal year that starts July 1, 2016, a
consolidated district shall not receive more than the maximum allowable
amount in fire district assistance tax monies as prescribed in subsection
D of this section, without regard to whether the consolidated district is
located in more than one county.

D. Beginning with the fiscal year that starts July 1, 2016, for any
two or more fire districts that merge or consolidate to form a
consolidated district on or after July 1, 2014, the consolidated district
may continue to receive monies in an amount not to exceed the sum of the average of the amount of fire district assistance tax monies received by each of the consolidating or merging districts in the five fiscal years immediately preceding the merger or consolidation as prescribed in subsection A of this section, without regard to whether the consolidated district is located in more than one county.

E. For a consolidated district that is formed in any fiscal year beginning July 1, 2014 or later and that is receiving fire district assistance tax monies that are reduced as prescribed in subsection A, paragraph 1, subdivision (c) of this section, if the total amount of fire district assistance tax monies that would be paid to all districts in the county pursuant to subsection A of this section is less than the amount of monies that would be raised by the levy of ten cents per one hundred dollars assessed valuation, the COUNTY treasurer shall pay the consolidated district the amount of fire district assistance tax monies prescribed by subsection A of this section that would have been paid to the districts at the time the districts merged or consolidated.

F. The board, based on the budget submitted by the district, shall levy, in addition to any tax levied as provided in section 48-806, a tax not to exceed three dollars twenty-five cents per one hundred dollars of assessed valuation, or the amount of the levy in the preceding tax year multiplied by 1.08, whichever levy is less, and minus any amounts required to reduce the levy pursuant to subsection I of this section, against all property situated within the district boundaries and appearing on the last assessment roll. The levy shall be made and the taxes collected in the manner, at the time and by the officers provided by law for the collection of general county taxes.

G. The qualified electors of the district, voting in an election as prescribed by subsection H of this section, may authorize the board to levy a tax exceeding the limits prescribed by subsection F of this section under one, but not both, of the following options:

1. The electors may authorize a permanent override allowing annual levies without reference to the levy in the preceding tax year, but remaining subject to the tax rate limit of three dollars twenty-five cents per one hundred dollars of assessed valuation. An election for the purposes of this paragraph must be held at a regularly scheduled general election held on the first Tuesday following the first Monday in November as prescribed by section 16-204, subsection F.

2. If the net assessed valuation of all property in the district declines by a combined total of twenty percent or more over two consecutive valuation years, the electors voting at the next regularly scheduled general election held on the first Tuesday following the first Monday in November as prescribed by section 16-204, subsection F may authorize an override for five consecutive tax years allowing annual levies that are exempt from the tax rate limit of three dollars
twenty-five cents, but subject to an annual levy limit of the amount of
the levy in the preceding tax year multiplied by 1.05. After the fifth
tax year, the district is again subject to the limits prescribed by
subsection F of this section, computed by multiplying the levy beginning
in the year preceding the override by 1.08 for each year through the
current tax year.

H. The call for an override election held for the purposes of
subsection G of this section must state:

1. The purpose for requesting additional secondary property tax
revenue for the district.

2. If the voters approve the levy:
   (a) The maximum dollar amount of secondary property tax that may be
   collected in the first year compared to the existing maximum secondary
   property tax levy prescribed in subsection F of this section.
   (b) The estimated secondary property tax rate to fund the proposed
   levy under subdivision (a) of this paragraph in the first tax year
   compared to the secondary property tax rate levied in the current year.

I. If the district annexes additional territory, the limit under
subsection F of this section shall be adjusted by applying the district's
tax rate to the assessed valuation of the annexed property in the
preceding tax year. If districts are merged or consolidated under this
chapter, the limitation under this subsection in the first year after the
districts are merged or consolidated is the total of the levies of the
merged or consolidated districts in the preceding tax year multiplied by
1.08 or the amount of the levies allowed by the maximum rate prescribed by
subsection F of this section, whichever is less.

J. The district shall maintain any property tax revenues collected
in excess of the sum of the amounts of taxes collectible pursuant to
section 42-17054 and the allowable levy determined under subsection F of
this section in a separate fund and used to reduce the property tax levy
in the following tax year.

K. The levy limit under this section is considered to be increased
each year to the maximum limit permissible under subsection F of this
section regardless of whether the district actually levies taxes up to the
maximum permissible amount in that year.

L. The county treasurer shall keep the money received from taxes
levied pursuant to subsection F of this section in a separate fund known
as the "fire district general fund" of the district for which collected.
Any surplus remaining in the fire district general fund at the end of the
fiscal year shall be credited to the fire district general fund of the
district for which it was collected for the succeeding fiscal year and
after subtraction of accounts payable and encumbrances, shall be used to
reduce the property tax levy in the following tax year.

M. A fire district may maintain separate accounts with a financial
institution that is authorized to do business in this state for the
purpose of operating a payroll account or for holding special revenues or
ambulance revenues, or both, as necessary to fulfill the district's
fiduciary responsibilities.

N. A fire district, through the county treasurer, shall establish
the relevant governmental funds necessary for the proper management and
fiscal accountability of district monies from property taxes, grants,
contributions and donations, as defined by the government accounting
standards board. Unless the monies received are legally restricted by
contract, agreement or law, those monies may be transferred between fund
accounts according to the original or amended budget of the fire district.

O. A fire district shall reconcile all balance sheet accounts for
accounts for each calendar month of the fiscal year within thirty days
after the end of that calendar month. The fire district board shall
review the reconciled balance sheet accounts monthly, except that for a
fire district that is governed by a three-member board, the board may
review the reconciled balance sheet accounts every two months.

P. A fire district shall produce monthly financial reports to
include a register of checks, SUBSTITUTE CHECKS, warrants and deposits, A
RECORD OF ELECTRONIC FUNDS TRANSFERS, a statement of financial activities
and a statement of net assets for each calendar month. A fire district
shall produce a cash flow projection report for each fiscal year. The
cash flow projection report shall be updated monthly with the actual
revenues and expenditures from the preceding month. Each month, the fire
district board shall review the financial reports, the updated cash flow
projections report and all month-end fund statements and reports of the
preceding month to include those reports provided by the county treasurer
and each of the financial institutions in which the district maintains an
account, except that for a fire district that is governed by a
three-member board, the board may review the reports and statements
prescribed by this subsection every two months. Any financial report or
cash flow projection report that would indicate that the district is
likely to violate section 48-805.02, subsection D, paragraph 1 or that
would indicate an adverse impact on the ongoing operations or liquidity of
the district shall be reported by the fire district board chairman in
writing and delivered by certified mail to the county treasurer and the
county board of supervisors within ten days after the discovery.

Q. Notwithstanding section 11-605, a fire district may register OR
RECORD warrants, SUBSTITUTE CHECKS OR ELECTRONIC FUNDS TRANSFERS only if
separate accounts are maintained by the county treasurer for each
governmental fund of a fire district. Warrants, SUBSTITUTE CHECKS OR
ELECTRONIC FUNDS TRANSFERS may only be registered OR RECORDED ONLY on the
maintenance and operation account, the unrestricted capital outlay account
and the special revenue account, and only if the total cash balance of all
three accounts is insufficient to pay the warrants, SUBSTITUTE CHECKS OR
ELECTRONIC FUNDS TRANSFERS and after any revolving line of credit has been expended as prescribed in section 11-635.

R. When a fire district has adopted a budget and the board of supervisors has levied a fire district tax as provided in subsection F of this section and the district has insufficient money in its THE DISTRICT'S general fund with the county treasurer to operate the district, the chairman of the board, on or after August 1 of each year, may draw warrants, SUBSTITUTE CHECKS OR ELECTRONIC FUNDS TRANSFERS for the purposes prescribed in section 48-805 on the county treasurer, payable on November 1 of that year or on April 1 of the succeeding year. The aggregate amounts of the warrants, SUBSTITUTE CHECKS OR ELECTRONIC FUNDS TRANSFERS may not exceed ninety percent of the taxes levied by the county for the district's current fiscal year. If the treasurer cannot pay a warrant, SUBSTITUTE CHECK OR ELECTRONIC FUNDS TRANSFER for lack of funds in the fire district general fund, the warrant OR SUBSTITUTE CHECK shall be endorsed. be AND registered. OR THE ELECTRONIC FUNDS TRANSFER SHALL BE RECORDED, AND THE WARRANT, SUBSTITUTE CHECK OR ELECTRONIC FUNDS TRANSFER SHALL bear interest and be redeemed as provided by law for county warrants, SUBSTITUTE CHECKS OR ELECTRONIC FUNDS TRANSFERS, except that the warrants, SUBSTITUTE CHECKS OR ELECTRONIC FUNDS TRANSFERS are payable only from the fire district general fund.

Sec. 5. Section 48-853, Arizona Revised Statutes, is amended to read:

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

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

1. Hold public meetings as necessary to carry out its powers and duties but at least once every ninety days.

2. Prepare an annual budget that contains detailed estimated expenditures for each fiscal year and that clearly shows expenses of the district. The budget shall be posted in three public places and published in a newspaper of general circulation in the district twenty days before a public hearing at a meeting called by the board to adopt the budget. The budget shall be posted in a prominent location on the official website no later than seven business days after the estimates of revenues and expenses are tentatively adopted. A complete copy of the approved estimates of revenues and expenses shall be posted in a prominent location on the official website no later than seven business days after final adoption. Copies of the budget shall also be available to members of the public on written request to the district. Following the public hearing, the district board shall adopt a budget. Both the tentatively adopted estimates of revenues and expenses and the budget finally adopted under this section shall be retained and accessible in a prominent location on the official website for at least sixty months.
3. Maintain a website for the purpose of providing access to public records. The district shall post permanent public records to its website.

4. Maintain and store all permanent public records in an electronic media or digital imaging format according to standards for the storage of permanent public records established by the director of the Arizona state library, archives and public records. The director of the Arizona state library, archives and public records shall approve an acceptable electronic media or digital imaging format for the district. The county in which the district is located shall maintain an official copy of the permanent public records of the district. The copy of the permanent public records shall be provided to the county by the district annually no later than ninety days after the end of the fiscal year.

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

6. Adopt the fire code of the municipality whose municipal planning area includes the district except that the fire district’s authority to conduct inspections shall apply only to commercial and industrial properties and shall not apply to residential properties.

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

8. Notify the county board of supervisors of the cost of providing fire protection service and emergency medical service for each household or other structure in the district if the district provides service pursuant to paragraph 9, subdivision (a) or (b) of this subsection.

9. Act within sixty days after the formation of the district to do any of the following:
   (a) Enter into an intergovernmental agreement with a municipal provider for fire protection services for the district. A municipal provider seeking to enter into an agreement with the district shall make a formal expression of intent to enter into an agreement with the district within twenty-one days of the district formation.
   (b) Issue a request for proposals for nonmunicipal private providers of fire protection services for the district. Notwithstanding any other law, municipal annexation shall not be undertaken during the term of any contract entered into between the district and a private fire service provider, except that in the one hundred eighty day period before the end of the contract, the municipality shall notify the residents of the opportunity to annex into the municipality. A resident shall notify the district and the municipality within ninety days before the end of the contract that the resident is annexing into the municipality and shall complete the annexation within ten days after the completion of the contract. If no district residents notify the municipality that the resident is annexing, the district may renew the contract automatically.
If a resident proposes to annex into the municipality, the district shall issue a request for proposals again as prescribed in this subdivision.

(c) Before applying this subdivision, request an independent review by the county attorney of the negotiations, if any, that were conducted as prescribed in subdivision (a) of this paragraph and the request for proposals and resulting bids. After the independent review, the county attorney shall certify whether the negotiations and proposals were based on commercially reasonable assumptions. If the county attorney certifies that any one or more of the provisions are not commercially reasonable, the district and the other party to the negotiations have ten days to cure and continue negotiations before resubmitting information on the negotiations and proposals to the county attorney for certification. Notwithstanding any other law, the county attorney shall have access to sealed bids for purposes of this subdivision. The county attorney shall review and issue a certification pursuant to this subdivision within thirty days after the information and documents regarding negotiations and proposals are submitted to the county attorney. If a fire district does not enter into an intergovernmental agreement pursuant to subdivision (a) of this paragraph or enter into a contract pursuant to subdivision (b) of this paragraph, the surrounding municipality shall provide fire protection and emergency medical services except for services regulated pursuant to title 36, chapter 21.1 in the district immediately on request by the district, following final certification by the county attorney. The municipality shall be compensated by the district as follows:

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

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

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

10. Require that any intergovernmental agreement or contract between the district and a provider of fire protection services include:

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

(b) A provision setting forth the cost of service and performance criteria.
(c) An acknowledgment of the right of the municipality to determine the location of future infrastructure if the district is in the municipality's planning area at the time of the execution of the contract.

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

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

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

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

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

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

3. Retain private legal counsel.

4. Sue and be sued.

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

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

7. Expand its boundaries pursuant to the requirements of section 48-262 to include unincorporated parcels within a city's or a town's municipal planning area with the permission of the city or town.

C. The county attorney may advise and represent the district when in the county attorney's judgment such advice and representation are appropriate and not in conflict with the county attorney's duties under section 11-532. If the county attorney is unable to advise and represent the district due to a conflict of interest, the district may retain private legal counsel or may request the attorney general to represent it, or both.
D. The chairperson and clerk of the district board or their respective designees, as applicable, shall draw warrants, SUBSTITUTE CHECKS OR ELECTRONIC FUNDS TRANSFERS on the county treasurer for money required to operate the district in accordance with the budget and, as so drawn, the warrants, SUBSTITUTE CHECKS OR ELECTRONIC FUNDS TRANSFERS shall be sufficient to authorize the county treasurer to pay from the fire district fund.

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

F. If a district formed under section 48-851 agrees to provide fire and emergency medical services in a county island where a private provider of fire or emergency services has facilities and provides fire service, or where the private provider is the closest responding fire service provider, the district and the private provider shall enter into an agreement covering the roles and relationships regarding mutual aid or backup and any services for which the district wishes to contract. The agreement shall include an allocation of the district's property tax revenues to the municipal contractor or the private provider, or both, based on the proportionate share of the fire services each contractor will provide to the district. The agreement shall be executed before the district begins providing service in the county island. If an agreement is not reached within ninety days after the district requests the private provider to establish a plan, either party may request that the matter be arbitrated pursuant to title 12, chapter 21.

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

H. For the purposes of this article, "fire service" and "fire protection" include fire prevention, emergency medical services and inspection of commercial or industrial property.