

REFERENCE TITLE: fire districts; amendments

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SB 1307

Introduced by
Senator Borrelli

AN ACT

AMENDING SECTIONS 48-803, 48-804, 48-814, 48-822 AND 48-853, ARIZONA
REVISED STATUTES; RELATING TO FIRE DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 48-803, Arizona Revised Statutes, is amended to
3 read:

4 48-803. District administered by a district board; report

5 A. In a district that the board of supervisors estimates has a
6 population of ~~fewer~~ LESS than four thousand inhabitants, the district
7 board may consist of three or five members. In a district that the board
8 of supervisors estimates has a population of four thousand or more
9 inhabitants, the district board shall consist of five members, and for a
10 noncontiguous county island fire district formed pursuant to section
11 48-851, the board shall consist of five members. The estimate of
12 population by the board of supervisors is conclusive and shall be based on
13 available census information, school attendance statistics, election or
14 voter registration statistics, estimates provided by state agencies or the
15 county assessor, or other information as deemed appropriate by the board
16 of supervisors. If the board of supervisors determines, at any time prior
17 to one hundred twenty days before the next regular scheduled election for
18 members of a district board, that the population of a fire district
19 administered by a district board consisting of three members exceeds four
20 thousand inhabitants, estimated as provided in this section, the board of
21 supervisors shall order an increase in the number of members of the
22 district board. If the board of supervisors determines at any time prior
23 to one hundred eighty days before the next regularly scheduled election
24 for members of a district board that the population of a fire district
25 administered by a district board that consists of five members exceeds
26 fifty thousand inhabitants as prescribed in this section, the board of
27 supervisors shall inform the district board that it may expand to seven
28 members. Any expansion to seven members shall occur by majority vote of
29 the district board. The increase is effective for the election of the
30 additional members at the next regular election of members of the district
31 board.

32 B. If a vacancy occurs on the district board other than from
33 expiration of a term, a quorum of the board members shall fill the vacancy
34 by appointment of an interim member and, except for a district formed
35 pursuant to article 3 of this chapter, a quorum of the board members shall
36 fill the vacancy within ninety days after the date the vacancy occurs.
37 Except for a district formed pursuant to article 3 of this chapter, if the
38 quorum of district board members ~~do~~ DOES not appoint an interim member
39 within that ninety-day period, the board of supervisors shall appoint an
40 interim member to the district board within sixty days after expiration of
41 the ninety-day period, and if the district is located in more than one
42 county, the board of supervisors of the county in which the majority of
43 the assessed valuation of the district is located shall make the
44 appointment after the expiration of the ninety-day period. If the entire
45 board resigns or for any reason cannot fulfill its duties, or does not

1 have A NUMBER OF remaining board members sufficient to constitute a quorum
2 of the board, the board of supervisors shall appoint interim district
3 board members to fill the vacancies, or an administrator to administer the
4 district with the same duties and obligations of the elected board to
5 serve until the next election. A majority of the board constitutes a
6 quorum for the transaction of business.

7 C. ON EXPIRATION OF A BOARD MEMBER'S TERM OF OFFICE, THE POSITION
8 IS DECLARED VACANT UNLESS OTHERWISE FILLED AT A GENERAL ELECTION OR AS
9 PROVIDED IN SECTION 48-802, SUBSECTION D, PARAGRAPH 4. A VACANCY THAT
10 OCCURS ON EXPIRATION OF A TERM OF OFFICE SHALL BE FILLED BY APPOINTMENT BY
11 A QUORUM OF THE DISTRICT BOARD WITHIN NINETY DAYS AFTER THE FIRST DAY OF
12 THE BEGINNING OF THE NEW TERM OF OFFICE. IF THE DISTRICT BOARD IS UNABLE
13 TO ESTABLISH A QUORUM, THE VACANCY SHALL BE FILLED BY THE BOARD OF
14 SUPERVISORS AS PRESCRIBED BY SUBSECTION B OF THIS SECTION.

15 ~~D.~~ D. Members of the district board shall serve without
16 compensation, but may be reimbursed for actual expenses incurred in
17 performing duties required by law.

18 ~~E.~~ E. The board of a fire district shall appoint or hire a fire
19 chief. A FIRE DISTRICT THAT CONTRACTS FOR FIRE AND EMERGENCY MEDICAL
20 SERVICES MAY DESIGNATE THE FIRE CHIEF OF THE SERVICE PROVIDER AS THE FIRE
21 CHIEF OF THE FIRE DISTRICT.

22 ~~F.~~ F. The district board shall elect from its members a ~~chairman~~
23 CHAIRPERSON and a clerk. Except for a district formed pursuant to article
24 3 of this chapter, the election of the ~~chairman~~ CHAIRPERSON and the clerk
25 must occur at the district board meeting that first occurs in the month
26 immediately following each general election.

27 ~~F.~~ G. For districts formed under article 3 of this chapter, of the
28 members first elected to district boards consisting of three members, the
29 two people receiving the first and second highest number of votes shall be
30 elected to four-year terms, and the person receiving the third highest
31 number of votes shall be elected to a two-year term. Of the members first
32 elected to district boards consisting of five members, the three people
33 receiving the first, second and third highest number of votes shall be
34 elected to four-year terms, and the two people receiving the fourth and
35 fifth highest number of votes shall be elected to two-year terms.
36 Thereafter, the term of office of each district board member shall be four
37 years from the first day of the month next following such member's
38 election. Of the members elected as additional members to a five-member
39 district board, the person with the highest number of votes is elected to
40 a four-year term and the person with the second highest number of votes is
41 elected to a two-year term. If a district resolves to increase the
42 governing board to seven members pursuant to subsection A of this section,
43 the governing board may appoint two additional members to serve until the
44 next general election. After the general election at which the two
45 additional members are elected, the newly elected member with the highest

1 number of votes serves a four-year term and the other member serves a
 2 two-year term. Thereafter, the term of office for these two new members
 3 is four years.

4 ~~G.~~ H. For any fire district that is administered by a three-member
 5 board and that levies taxes in a fiscal year in the amount of ~~five hundred~~
 6 ~~thousand dollars~~ \$500,000 or more, the district must be administered by a
 7 five-member board. Beginning with the first general election held after
 8 the end of the fiscal year in which the district levied the prescribed
 9 amount, the change to a five-member board must occur as prescribed in this
 10 subsection. On levying the prescribed amount, the district may not
 11 reorganize as a three-member board regardless of any subsequent change in
 12 the district's levy. For three-person boards with a single vacancy for an
 13 existing board membership position and that are adding two additional
 14 members, the three persons with the highest number of votes are elected to
 15 a four-year term of office. For three-person boards with two vacancies
 16 for existing board membership positions and that are adding two additional
 17 members, the three persons with the first, second and third highest
 18 numbers of votes are elected to four-year terms of office and the person
 19 with the fourth highest number of votes is elected to a two-year term of
 20 office. Thereafter, all terms of office for members of these five-person
 21 boards of directors must be four years. This subsection applies to any
 22 three-member board that is expanding to a five-member board, regardless of
 23 whether the expansion is the result of the amount of the district's levy.
 24 This subsection does not apply to districts formed under article 3 of this
 25 chapter.

26 ~~H.~~ I. Beginning with the 2014 general election and except for a
 27 district formed pursuant to article 3 of this chapter, all persons who are
 28 elected or appointed to a fire district board and the fire chief who is
 29 appointed or hired by the district board shall attend professional
 30 development training that is provided by an association of Arizona fire
 31 districts. District board members and the fire chief shall complete at
 32 least six hours of professional development training, with board members
 33 completing their training within one year after the date of the
 34 certification of their election and for the fire chief, within one year
 35 after the date of hiring. The fire district shall reimburse board members
 36 and the fire chief for the reasonable costs of the training. The
 37 professional development training must include training on open meetings
 38 laws, finance and budget matters and laws relating to fire district
 39 governance and other matters that are reasonably necessary for the
 40 effective administration of a fire district.

41 ~~I.~~ J. On or before December 31 of each year, the fire district
 42 association that has provided training required pursuant to subsection
 43 ~~H.~~ I of this section shall submit a report that lists the elected
 44 officials and fire chiefs who attended the training to the county board of

1 supervisors for every county in which the fire district operates. The
2 annual report must include at least the following:

3 1. A compilation of the professional development training delivered
4 by the association pursuant to this section and the names of the fire
5 district board members and fire chiefs who attended training as required
6 by this section.

7 2. Recommendations regarding improvements to the laws of this state
8 or to administrative actions that are required under the laws of this
9 state pertaining to fire districts.

10 ~~J.~~ K. For fire district governing board members and fire chiefs
11 who are required to attend professional development training pursuant to
12 subsection ~~H~~ I of this section, a fire district governing board member or
13 fire chief who fails to complete the professional development training
14 within the time prescribed in this section is guilty of nonfeasance in
15 office. Any person may make a formal complaint to the county board of
16 supervisors regarding this failure to comply, and the county board of
17 supervisors may submit the complaint to the county attorney for possible
18 action. The county attorney may take appropriate action to achieve
19 compliance, including filing an action in superior court against a fire
20 district governing board member or a fire chief for failure to comply with
21 the professional development training requirements prescribed in this
22 section. If the court determines that a fire district governing board
23 member or fire chief failed to comply with the professional development
24 training requirements prescribed in this section, the court shall issue an
25 order removing the fire district governing board member from office or the
26 fire chief from employment or appointment with the district. Any vacancy
27 in the office of a fire district governing board as a result of a court
28 order that is issued pursuant to this subsection must be filled in the
29 manner provided by law.

30 Sec. 2. Section 48-804, Arizona Revised Statutes, is amended to
31 read:

32 48-804. District administered by elected chief and
33 secretary-treasurer

34 A. Beginning with the first term of office that commences
35 immediately after the next regular election for that fire district after
36 July 29, 2010, all districts that are administered by an elected chief and
37 secretary-treasurer shall be administered by a three-member elected board
38 of directors or a five-member elected board of directors as provided in
39 section 48-803, subsection A and the positions of elected chief and
40 elected secretary-treasurer no longer exist for that district and have no
41 legal or administrative authority for and in the district. Persons
42 elected to a three-member board of directors or a five-member board of
43 directors pursuant to this subsection shall be designated to serve
44 staggered terms of four years, with the initial terms of office for the
45 three-member board or five-member board determined as prescribed in

1 section 48-803, subsection ~~G~~ H. Thereafter, all terms of office for
2 members of these three-person or five-person boards of directors shall be
3 four years.

4 B. Beginning July 29, 2010, no new fire district may be established
5 with an elected chief and secretary-treasurer and no existing fire
6 district may be reorganized into a district with an elected chief and
7 secretary-treasurer.

8 Sec. 3. Section 48-814, Arizona Revised Statutes, is amended to
9 read:

10 48-814. Property located outside of fire district territory;
11 reimbursement to fire district for cost of fire and
12 emergency medical services

13 A. A fire district may provide or assist in providing emergency
14 fire or emergency medical services outside of its own district boundaries
15 if those services are otherwise unavailable and if those services are
16 provided at the request of any law enforcement agency, fire district, fire
17 department or private person, and may receive reimbursement for the costs
18 of providing the emergency services. A fire district may provide
19 ambulance transportation service outside of its own district boundaries
20 only when authorized to do so pursuant to title 36, chapter 21.1,
21 article 2. ~~The person receiving the services, or on whose behalf the~~
22 ~~services are provided;~~ **PROPERTY OWNER WHERE THE SERVICES ARE PROVIDED** is
23 liable to the fire district for the costs and these costs constitute a
24 debt of that person and may be collected by the fire district.

25 B. For the purposes of this section, the costs of providing
26 emergency fire or medical services are those costs set forth in
27 resolutions adopted by the fire district that establish fee schedules for
28 emergency response, standby charges, fees for fire cause determination or
29 any other fees that may be required or appropriate to provide emergency
30 fire and medical services outside of its boundaries.

31 Sec. 4. Section 48-822, Arizona Revised Statutes, is amended to
32 read:

33 48-822. Election to consolidate fire districts; resolution;
34 hearing

35 A. Except as provided in subsection F **OR H** of this section, the
36 board of supervisors shall make an order calling for an election to decide
37 whether to consolidate two or more fire districts when a resolution for
38 consolidation of fire districts from each district is submitted to the
39 board of supervisors. The board of supervisors shall not make an order
40 calling for an election to consolidate the same fire districts more
41 frequently than once every two years. Whether or not the districts are
42 consolidated, the participating fire districts are each liable to
43 reimburse the counties for the expenses of the election, including the
44 cost of mailing any notices. If the proposed district is located in more
45 than one county, the resolutions shall be submitted to the board of

1 supervisors of the county in which the majority of the assessed valuation
2 of the proposed district is located as of the date of the adoption of the
3 earliest resolution that called for the consolidation. The words
4 appearing on the ballot shall be "(insert fire districts' names)
5 consolidate as a fire district--yes" and "(insert fire districts' names)
6 consolidate as fire district--no."

7 B. Within fourteen days after the election, the board of
8 supervisors shall meet and canvass the returns, and if it is determined
9 that a majority of the votes cast at the election in each of the affected
10 districts is in favor of consolidating the fire districts, the board shall
11 enter that fact on its minutes.

12 C. Except as proscribed by subsection D of this section, a fire
13 district may consolidate with one or more other fire districts formed
14 pursuant to section 48-261 as follows:

15 1. A resolution requesting the consolidation of a fire district is
16 passed by a majority vote of the governing body requesting consolidation
17 into another fire district. The requesting district shall send by first
18 class mail the notice of request to consolidate districts to the fire
19 district in which the consolidation is requested.

20 2. On receipt of the resolution requesting consolidation, and on
21 approval by majority vote of the governing body receiving the request, two
22 or more fire districts may consolidate if the governing body of each
23 affected fire district by a majority vote of the members of each governing
24 body adopts a resolution declaring that a consolidation be considered and
25 a public hearing be held to determine if a consolidation would be in the
26 best interest of the districts and would promote the public safety,
27 health, comfort, convenience, necessity or welfare. The governing body of
28 each district that adopts a resolution calling for a public hearing by
29 first class mail shall send notice of the day, hour and place of a hearing
30 on the proposed consolidation to each owner of taxable property within the
31 boundaries of the district. The notice shall state the purpose of the
32 hearing and shall describe where information on the proposed consolidation
33 may be obtained and reviewed. The information on the proposed
34 consolidation shall be posted prominently on each affected district's
35 website. The information provided by the affected districts and posted to
36 each affected district's website shall include the name and a general
37 description of the boundaries of each district that is proposed to be
38 consolidated and a general map of the area to be included in the
39 consolidation. The information posted to the website of each affected
40 district also shall include an estimate of the assessed value of the
41 consolidated district, the estimated change in the property tax liability
42 for a typical resident of the proposed consolidated district and a list of
43 the benefits and injuries that may result from the proposed consolidated
44 district. New territory may not be included as a result of the
45 consolidation.

1 3. The clerk of the governing body of each of the fire districts
2 affected by the proposed consolidation shall post notice in at least three
3 conspicuous public places in the district and also shall publish or
4 request to be published notice twice in a newspaper of general circulation
5 in the county in which the district is located at least ten days before
6 the public hearing. Publication by one affected district is sufficient
7 for all affected districts if publication by more than one district would
8 be duplicative. The clerk of each governing body affected by the proposed
9 consolidation shall also mail notice and a copy of the resolution in
10 support of considering consolidation to the ~~chairman~~ CHAIRPERSON of the
11 board of supervisors of the county or counties in which the affected
12 districts are located. The ~~chairman~~ CHAIRPERSON of the board of
13 supervisors shall order a review of the proposed consolidation and may
14 submit written comments to the governing body of each fire district
15 located in the county within ten days after receipt of the notice.

16 4. At the hearing held as prescribed by paragraph 2 of this
17 subsection, the governing body of the district shall consider the comments
18 of the board of supervisors, hear those persons who appear for or against
19 the proposed consolidation and determine whether the proposed
20 consolidation will promote the public safety, health, comfort,
21 convenience, necessity or welfare. If, after the public hearing, each of
22 the governing bodies of the districts affected by the proposed
23 consolidation adopt a resolution by a majority vote that the consolidation
24 will promote the public safety, health, comfort, convenience, necessity or
25 welfare, each of the governing bodies of the districts affected by the
26 proposed consolidation shall submit the resolutions calling for an
27 election to the board of supervisors.

28 5. If the proposal for consolidation is approved as provided in
29 subsections A and B of this section ~~OR IS APPROVED AS PROVIDED IN~~
30 ~~SUBSECTION F OR H OF THIS SECTION~~, the governing body of the district into
31 which consolidation was requested shall by resolution declare the
32 districts consolidated and each affected district joined. Those persons
33 currently serving as the governing body of the district into which
34 consolidation was requested shall serve as the governing body of the
35 consolidated district and complete their regular terms of office. The
36 consolidated district governing body shall consist of at least five
37 members who shall immediately have the powers and duties prescribed by law
38 for governance and operation of the requesting district. The district
39 requesting consolidation may be temporarily operated by the consolidated
40 district governing board to prevent service delivery interruption and for
41 the purposes of transitioning personnel and transferring assets and
42 liabilities. The consolidated district by operation of law is the
43 continuation of the existing district into which consolidation was
44 requested.

1 6. If the consolidated fire district is authorized to operate an
2 ambulance service pursuant to title 36, chapter 21.1, article 2, the name
3 of the ambulance service shall be changed administratively by the director
4 of the department of health services to the name of the newly consolidated
5 district and a hearing on the matter is not required pursuant to section
6 36-2234.

7 7. If a proposed consolidated district would include property
8 located in an incorporated city or town, in addition to the other
9 requirements of this section, the governing body of the district shall
10 provide notice to the city or town of the proposed consolidation and shall
11 consider comments of the city or town council concerning the proposed
12 consolidation at the public hearing held as prescribed by paragraph 2 of
13 this subsection.

14 8. Before considering any resolution of consolidation pursuant to
15 this section, the governing body of each affected district shall obtain
16 written consent to the consolidation from any single taxpayer residing
17 within each of the affected districts who owns thirty percent or more of
18 the net assessed valuation of the total net assessed valuation of the
19 district as of the date of the adoption of the earliest resolution that
20 called for the consolidation as prescribed in subsection A of this
21 section. If one of the affected districts does not have a single taxpayer
22 residing in the district who owns thirty percent or more of the net
23 assessed valuation of the total net assessed valuation of the district,
24 this paragraph does not apply to that district and written consent is not
25 required for that district.

26 D. A noncontiguous county island fire district formed pursuant to
27 section 48-851 shall not consolidate with a fire district formed pursuant
28 to section 48-261.

29 E. The merger of two or more fire districts pursuant to section
30 48-820 or the consolidation with one or more fire districts pursuant to
31 this section shall not expand the boundaries of an existing certificate of
32 necessity unless authorized pursuant to title 36, chapter 21.1, article 2.

33 F. If the requirements of subsection C, paragraph 8 of this section
34 are met and the governing body votes required by subsection C, paragraph 4
35 of this section are unanimous, the following apply:

36 1. The governing bodies of each or either affected district may
37 choose to consolidate by unanimous resolution without an election and
38 subsections A and B of this section do not apply.

39 2. The governing bodies of each or either affected district may
40 choose to hold an election on the question of consolidation and
41 subsections A and B of this section apply.

42 3. If fewer than all of the affected districts choose to hold an
43 election, the proposed consolidation is not effective until approved at
44 the election.

1 4. Consolidation may not occur unless each affected district
2 approves the consolidation, either by resolution or by election.

3 G. If the consolidation is approved pursuant to subsection B or F
4 of this section, the adopted fire code of the district into which the
5 consolidation was requested shall apply to the entirety of the newly
6 consolidated district.

7 H. ~~ON COMPLIANCE WITH SUBSECTION C, PARAGRAPH 8 OF THIS SECTION AND~~
8 after the hearing prescribed by subsection C, paragraph 2 of this section
9 ~~and on compliance with subsection C, paragraph 5 of this section~~, the
10 governing bodies of the affected districts may consolidate by a majority
11 vote of each affected district's governing body and subsections A and B of
12 this section do not apply if either of the following conditions is met:

13 1. An affected district has obtained a study of merger,
14 consolidation or joint operating alternatives as required by section
15 48-805.02, subsection D, paragraph 3.

16 2. An affected district's tax rate is at or above the maximum
17 allowable tax rate prescribed in section 48-807.

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

20 48-853. District board; powers and duties; intergovernmental
21 agreements; contract; administration; definition

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

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

26 2. Prepare an annual budget that contains detailed estimated
27 expenditures for each fiscal year and that clearly shows expenses of the
28 district. The budget shall be posted in three public places and published
29 in a newspaper of general circulation in the district **AT LEAST** twenty days
30 before a public hearing at a meeting called by the board to adopt the
31 budget. The budget shall be posted in a prominent location on the
32 official website ~~no~~ **NOT** later than seven business days after the estimates
33 of revenues and expenses are tentatively adopted. A complete copy of the
34 approved estimates of revenues and expenses shall be posted in a prominent
35 location on the official website ~~no~~ **NOT** later than seven business days
36 after final adoption. Copies of the budget shall also be available to
37 members of the public on written request to the district. Following the
38 public hearing, the district board shall adopt a budget. Both the
39 tentatively adopted estimates of revenues and expenses and the budget
40 finally adopted under this section shall be retained and accessible in a
41 prominent location on the official website for at least sixty months.

42 3. Maintain a website for the purpose of providing access to public
43 records. The district shall post permanent public records to its website.

44 4. Maintain and store all permanent public records ~~in an electronic~~
45 ~~media or digital imaging format~~ according to standards for the storage of

1 permanent public records established by the director of the Arizona state
2 library, archives and public records. ~~The director of the Arizona state~~
3 ~~library, archives and public records shall approve an acceptable~~
4 ~~electronic media or digital imaging format for the district. The county~~
5 ~~in which the district is located shall maintain an official copy of the~~
6 ~~permanent public records of the district. The copy of the permanent~~
7 ~~public records shall be provided to the county by the district annually no~~
8 ~~later than ninety days after the end of the fiscal year.~~

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

12 6. Adopt the STATE fire code. ~~of the municipality whose municipal~~
13 ~~planning area includes the district except that~~ The fire district's
14 authority to conduct inspections shall apply only to commercial and
15 industrial properties and shall not apply to residential properties.

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

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

22 9. Act within sixty days after the formation of the district to do
23 any of the following:

24 (a) Enter into an intergovernmental agreement with a municipal
25 provider for fire protection services for the district. A municipal
26 provider seeking to enter into an agreement with the district shall make a
27 formal expression of intent to enter into an agreement with the district
28 within twenty-one days after district formation.

29 (b) Issue a request for proposals for nonmunicipal private
30 providers of fire protection services for the district. Notwithstanding
31 any other law, municipal annexation shall not be undertaken during the
32 term of any contract entered into between the district and a private fire
33 service provider, except that in the one hundred eighty day period before
34 the end of the contract, the municipality shall notify the residents of
35 the opportunity to annex into the municipality. A resident shall notify
36 the district and the municipality within ninety days before the end of the
37 contract that the resident is annexing into the municipality and shall
38 complete the annexation within ten days after the completion of the
39 contract. If no district residents notify the municipality that the
40 resident is annexing, the district may renew the contract automatically.
41 If a resident proposes to annex into the municipality, the district shall
42 issue a request for proposals again as prescribed in this subdivision.

43 (c) Before applying this subdivision, request an independent review
44 by the county attorney of the negotiations, if any, that were conducted as
45 prescribed in subdivision (a) of this paragraph and the request for

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

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

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

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

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

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

38 (b) A provision setting forth the cost of service and performance
 39 criteria.

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

43 11. If necessary, issue a request for proposals for providers of
 44 emergency medical services and enter into an intergovernmental agreement

1 or contract with a provider of emergency medical services except for those
2 services regulated by title 36, chapter 21.1.

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

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

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

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

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

22 3. Retain private legal counsel.

23 4. Sue and be sued.

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

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

30 7. Expand its boundaries pursuant to the requirements of section
31 48-262 to include unincorporated parcels within a city's or a town's
32 municipal planning area with the permission of the city or town, **EXCEPT**
33 **THAT THE REQUIREMENT FOR A CONTIGUOUS BOUNDARY IN SECTION 48-262,**
34 **SUBSECTION A, PARAGRAPH 6 DOES NOT APPLY.**

35 C. The county attorney may advise and represent the district when
36 in the county attorney's judgment such advice and representation are
37 appropriate and not in conflict with the county attorney's duties under
38 section 11-532. If the county attorney is unable to advise and represent
39 the district due to a conflict of interest, the district may retain
40 private legal counsel or may request the attorney general to represent it,
41 or both.

42 D. The chairperson and clerk of the district board or their
43 respective designees, as applicable, shall draw warrants, substitute
44 checks or electronic funds transfers on the county treasurer for money
45 required to operate the district in accordance with the budget and, as so

1 drawn, the warrants, substitute checks or electronic funds transfers shall
2 be sufficient to authorize the county treasurer to pay from the fire
3 district fund.

4 E. The district shall not incur any debt or liability in excess of
5 taxes levied and to be collected and the ~~money~~ MONIES actually available
6 and unencumbered at the time in the fund, except as provided in section
7 48-807.

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

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

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