

Senate Engrossed

fire districts; amendments

State of Arizona  
Senate  
Fifty-fifth Legislature  
First Regular Session  
2021

## CHAPTER 145

# SENATE BILL 1351

AN ACT

AMENDING SECTIONS 48-803, 48-804, 48-805, 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 ~~to~~ 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~~ 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 48-805, Arizona Revised Statutes, is amended to  
9 read:

10 48-805. Fire district: powers and duties: definition

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

12 1. Hold public meetings at least once each calendar month ~~unless~~  
13 EXCEPT AS FOLLOWS:

14 (a) IF a board consists of three members and the fire district  
15 levies less than \$500,000 annually, ~~then~~ the board shall meet in July and  
16 at least every two months thereafter.

17 (b) A board for a district organized pursuant to article 3 of this  
18 chapter shall hold public meetings at least every two months.

19 2. Determine the compensation payable to district personnel.

20 3. Require all current and prospective employees and volunteers to  
21 submit a full set of fingerprints to the fire district, joint powers  
22 authority, fire authority, fire and medical authority or fire and  
23 ambulance authority that is formed with that fire district pursuant to  
24 section 48-805.01. The fire district, joint powers authority that is  
25 formed pursuant to section 48-805.01, fire authority, fire and medical  
26 authority or fire and ambulance authority shall submit the fingerprints to  
27 the department of public safety ~~for the purpose of obtaining~~ TO OBTAIN a  
28 state and federal criminal records check pursuant to section 41-1750 and  
29 Public Law 92-544. The department of public safety may exchange this  
30 fingerprint data with the federal bureau of investigation.

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

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

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

1 (a) Apparatus, water and rescue equipment, including ambulances and  
2 equipment related to any of the foregoing.

3 (b) Land, buildings, equipment and furnishings to house equipment  
4 and personnel necessary or appropriate to carry out its purposes.

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

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

17 5. After the approval of the qualified electors of the fire  
18 district voting at a regular district election or at a special election  
19 called for that purpose by the district board, as appropriate, or at any  
20 election held in the county that encompasses the fire district, adopt the  
21 \_\_\_\_\_ fire code, which is a nationally recognized fire code approved by  
22 the state fire marshal. The words appearing on the ballots shall be  
23 "should \_\_\_\_\_ fire district adopt the \_\_\_\_\_ fire code, which is  
24 a nationally recognized fire code approved by the state fire  
25 marshal--yes", "should \_\_\_\_\_ fire district adopt the \_\_\_\_\_  
26 fire code, which is a nationally recognized fire code approved by the  
27 office of the state fire marshal--no". The code shall be enforced by the  
28 county attorney in the same manner as any other law or ordinance of the  
29 county. Any inspection or enforcement costs are the responsibility of the  
30 fire district involved. The district shall keep the code on file, which  
31 shall be open to public inspection for a period of thirty days before any  
32 election for the purpose of adopting a fire code. Copies of the order of  
33 election shall be posted in three public places in the district at least  
34 twenty days before the date of the election, and if a newspaper is  
35 published in the county having a general circulation in the district, the  
36 order shall be published in the newspaper at least once a week during each  
37 of the three calendar weeks preceding the calendar week of the election.

38 6. Amend or revise the adopted fire code, including replacement of  
39 the adopted fire code with an alternative nationally recognized fire code,  
40 with the approval of the office of the state fire marshal and after a  
41 hearing held pursuant to posted and published notice as prescribed by  
42 section 48-805.02, subsection A. The district shall keep three copies of  
43 the adopted code, amendments and revisions on file for public inspection.

1           7. Enter into an agreement procuring the services of an organized  
2 private fire protection company or a fire department of a neighboring  
3 city, town, district or settlement without impairing the fire district's  
4 powers.

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

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

10          10. Retain private legal counsel.

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

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

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

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

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

32          16. Enter into intergovernmental agreements or contracts as  
33 follows:

34           (a) Enter into an intergovernmental agreement with another  
35 political subdivision for technical or administrative services or to  
36 provide fire services to the property owned by the political subdivision,  
37 including property that is outside the district boundary.

38           (b) Enter into a contract with individuals to provide technical or  
39 administrative services.

40           (c) Enter into a contract with individuals to provide fire  
41 protection services or emergency medical services, or both, to the extent  
42 not regulated by title 36, chapter 21.1 to property owned by the  
43 individual located outside the district boundaries if the individual's  
44 property is not located in a county island as defined in section 11-251.12  
45 and at least one of the following apply:



1 (i) The existing fire service provider where the individual's  
2 property is located has issued a notice to the individual that the  
3 provider plans to discontinue service.

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

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

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

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

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

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

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

26 17. Sell or otherwise dispose of any real property, facilities or  
27 equipment if the district board determines the real property, facilities  
28 or equipment to be surplus AS FOLLOWS: ~~---~~

29 (a) FOR THE SALE OF REAL PROPERTY, THE BOARD SHALL OBTAIN AN  
30 APPRAISAL OF THE REAL PROPERTY BY AN APPRAISER WHO IS LICENSED OR  
31 CERTIFIED PURSUANT TO TITLE 32, CHAPTER 36. THE APPRAISER SHALL DETERMINE  
32 MARKET VALUE AS DEFINED IN SECTION 28-7091 FOR THE REAL PROPERTY. THE  
33 BOARD MAY NOT ACCEPT A BID FOR THE PURCHASE OF THE REAL PROPERTY THAT IS  
34 LESS THAN SEVENTY-FIVE PERCENT OF THE APPRAISED MARKET VALUE OF THE  
35 PROPERTY EXCEPT THAT IF THE PROPERTY HAS NO MARKET VALUE OR A NET VALUE AS  
36 DEFINED IN SECTION 28-7095, SUBSECTION F OF \$10,000 OR LESS, THE BOARD MAY  
37 VALUE THE PROPERTY BY USING A MARKET ANALYSIS THAT IS BASED ON COMPARABLE  
38 SALES.

39 (b) NOTWITHSTANDING SUBDIVISION (a) OF THIS PARAGRAPH, THE BOARD  
40 MAY SELL OR LEASE ANY DISTRICT PROPERTY TO ANY OTHER DULY CONSTITUTED  
41 GOVERNMENTAL ENTITY, INCLUDING THIS STATE, A CITY, TOWN OR COUNTY OR ANY  
42 OTHER POLITICAL SUBDIVISION OF THIS STATE, INCLUDING A SPECIAL TAXING  
43 DISTRICT, ON ANY TERMS DEEMED TO BE ADVANTAGEOUS TO THE FIRE DISTRICT.  
44 THE BOARD MAY GRANT BY UNANIMOUS CONSENT AN EASEMENT ON DISTRICT PROPERTY  
45 FOR PUBLIC PURPOSES TO A UTILITY AS DEFINED IN SECTION 40-491.

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

6 D. The ~~chairman~~ CHAIRPERSON and clerk of the district board or  
7 their respective designees, as applicable, shall draw warrants, substitute  
8 checks or electronic funds transfers on the county treasurer for money  
9 required to operate the district in accordance with the budget and, as so  
10 drawn, the warrants, substitute checks or electronic funds transfers shall  
11 be sufficient to authorize the county treasurer to pay from the fire  
12 district fund.

13 E. For any fire district that designates one or more board members  
14 to have access to the financial books and records of the district, those  
15 board members are authorized by law to have full access to those financial  
16 books and records.

17 F. The district board may assess and levy a secondary property tax  
18 pursuant to this article to pay for the costs of fire protection services  
19 or emergency medical services except for services regulated pursuant to  
20 title 36, chapter 21.1.

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

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

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

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

3           48-822. Election to consolidate fire districts; resolution;  
4                           hearing

5           A. Except as provided in subsection F OR H of this section, the  
6 board of supervisors shall make an order calling for an election to decide  
7 whether to consolidate two or more fire districts when a resolution for  
8 consolidation of fire districts from each district is submitted to the  
9 board of supervisors. The board of supervisors shall not make an order  
10 calling for an election to consolidate the same fire districts more  
11 frequently than once every two years. Whether or not the districts are  
12 consolidated, the participating fire districts are each liable to  
13 reimburse the counties for the expenses of the election, including the  
14 cost of mailing any notices. If the proposed district is located in more  
15 than one county, the resolutions shall be submitted to the board of  
16 supervisors of the county in which the majority of the assessed valuation  
17 of the proposed district is located as of the date of the adoption of the  
18 earliest resolution that called for the consolidation. The words  
19 appearing on the ballot shall be "(insert fire districts' names)  
20 consolidate as a fire district--yes" and "(insert fire districts' names)  
21 consolidate as fire district--no."

22           B. Within fourteen days after the election, the board of  
23 supervisors shall meet and canvass the returns, and if it is determined  
24 that a majority of the votes cast at the election in each of the affected  
25 districts is in favor of consolidating the fire districts, the board shall  
26 enter that fact on its minutes.

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

30           1. A resolution requesting the consolidation of a fire district is  
31 passed by a majority vote of the governing body requesting consolidation  
32 into another fire district. The requesting district shall send by first  
33 class mail the notice of request to consolidate districts to the fire  
34 district in which the consolidation is requested.

35           2. On receipt of the resolution requesting consolidation, and on  
36 approval by majority vote of the governing body receiving the request, two  
37 or more fire districts may consolidate if the governing body of each  
38 affected fire district by a majority vote of the members of each governing  
39 body adopts a resolution declaring that a consolidation be considered and  
40 a public hearing be held to determine if a consolidation would be in the  
41 best interest of the districts and would promote the public safety,  
42 health, comfort, convenience, necessity or welfare. The governing body of  
43 each district that adopts a resolution calling for a public hearing by  
44 first class mail shall send notice of the day, hour and place of a hearing  
45 on the proposed consolidation to each owner of taxable property within the

boundaries of the district. The notice shall state the purpose of the hearing and shall describe where information on the proposed consolidation may be obtained and reviewed. The information on the proposed consolidation shall be posted prominently on each affected district's website. The information provided by the affected districts and posted to each affected district's website shall include the name and a general description of the boundaries of each district that is proposed to be consolidated and a general map of the area to be included in the consolidation. The information posted to the website of each affected district also shall include an estimate of the assessed value of the consolidated district, the estimated change in the property tax liability for a typical resident of the proposed consolidated district and a list of the benefits and injuries that may result from the proposed consolidated district. New territory may not be included as a result of the consolidation.

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

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

5. If the proposal for consolidation is approved as provided in subsections A and B of this section OR IS APPROVED AS PROVIDED IN SUBSECTION F OR H OF THIS SECTION, the governing body of the district into

1 which consolidation was requested shall by resolution declare the  
2 districts consolidated and each affected district joined. Those persons  
3 currently serving as the governing body of the district into which  
4 consolidation was requested shall serve as the governing body of the  
5 consolidated district and complete their regular terms of office. The  
6 consolidated district governing body shall consist of at least five  
7 members who shall immediately have the powers and duties prescribed by law  
8 for governance and operation of the requesting district. The district  
9 requesting consolidation may be temporarily operated by the consolidated  
10 district governing board to prevent service delivery interruption and for  
11 the purposes of transitioning personnel and transferring assets and  
12 liabilities. The consolidated district by operation of law is the  
13 continuation of the existing district into which consolidation was  
14 requested.

15 6. If the consolidated fire district is authorized to operate an  
16 ambulance service pursuant to title 36, chapter 21.1, article 2, the name  
17 of the ambulance service shall be changed administratively by the director  
18 of the department of health services to the name of the newly consolidated  
19 district and a hearing on the matter is not required pursuant to section  
20 36-2234.

21 7. If a proposed consolidated district would include property  
22 located in an incorporated city or town, in addition to the other  
23 requirements of this section, the governing body of the district shall  
24 provide notice to the city or town of the proposed consolidation and shall  
25 consider comments of the city or town council concerning the proposed  
26 consolidation at the public hearing held as prescribed by paragraph 2 of  
27 this subsection.

28 8. Before considering any resolution of consolidation pursuant to  
29 this section, the governing body of each affected district shall obtain  
30 written consent to the consolidation from any single taxpayer residing  
31 within each of the affected districts who owns thirty percent or more of  
32 the net assessed valuation of the total net assessed valuation of the  
33 district as of the date of the adoption of the earliest resolution that  
34 called for the consolidation as prescribed in subsection A of this  
35 section. If one of the affected districts does not have a single taxpayer  
36 residing in the district who owns thirty percent or more of the net  
37 assessed valuation of the total net assessed valuation of the district,  
38 this paragraph does not apply to that district and written consent is not  
39 required for that district.

40 D. A noncontiguous county island fire district formed pursuant to  
41 section 48-851 shall not consolidate with a fire district formed pursuant  
42 to section 48-261.

43 E. The merger of two or more fire districts pursuant to section  
44 48-820 or the consolidation with one or more fire districts pursuant to

1 this section shall not expand the boundaries of an existing certificate of  
2 necessity unless authorized pursuant to title 36, chapter 21.1, article 2.

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

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

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

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

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

17 G. If the consolidation is approved pursuant to subsection B or F  
18 of this section, the adopted fire code of the district into which the  
19 consolidation was requested shall apply to the entirety of the newly  
20 consolidated district.

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

27 1. An affected district has obtained a study of merger,  
28 consolidation or joint operating alternatives as required by section  
29 48-805.02, subsection D, paragraph 3.

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

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

34 48-853. District board; powers and duties; intergovernmental  
35 agreements; contract; administration; definition

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

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

40 2. Prepare an annual budget that contains detailed estimated  
41 expenditures for each fiscal year and that clearly shows expenses of the  
42 district. The budget shall be posted in three public places and published  
43 in a newspaper of general circulation in the district AT LEAST twenty days  
44 before a public hearing at a meeting called by the board to adopt the  
45 budget. The budget shall be posted in a prominent location on the

1 official website ~~no~~ NOT later than seven business days after the estimates  
2 of revenues and expenses are tentatively adopted. A complete copy of the  
3 approved estimates of revenues and expenses shall be posted in a prominent  
4 location on the official website ~~no~~ NOT later than seven business days  
5 after final adoption. Copies of the budget shall also be available to  
6 members of the public on written request to the district. Following the  
7 public hearing, the district board shall adopt a budget. Both the  
8 tentatively adopted estimates of revenues and expenses and the budget  
9 finally adopted under this section shall be retained and accessible in a  
10 prominent location on the official website for at least sixty months.

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

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

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

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

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

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

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

38 (a) Enter into an intergovernmental agreement with a municipal  
39 provider for fire protection services for the district. A municipal  
40 provider seeking to enter into an agreement with the district shall make a  
41 formal expression of intent to enter into an agreement with the district  
42 within twenty-one days after district formation.

43 (b) Issue a request for proposals for nonmunicipal private  
44 providers of fire protection services for the district. Notwithstanding  
45 any other law, municipal annexation shall not be undertaken during the

1 term of any contract entered into between the district and a private fire  
2 service provider, except that in the one hundred eighty ~~day period~~  
3 ~~DAY-PERIOD~~ before the end of the contract, the municipality shall notify  
4 the residents of the opportunity to annex into the municipality. A  
5 resident shall notify the district and the municipality within ninety days  
6 before the end of the contract that the resident is annexing into the  
7 municipality and shall complete the annexation within ten days after the  
8 completion of the contract. If no district residents notify the  
9 municipality that the resident is annexing, the district may renew the  
10 contract automatically. If a resident proposes to annex into the  
11 municipality, the district shall issue a request for proposals again as  
12 prescribed in this subdivision.

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

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

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

44 (iii) The district shall levy the tax at the rate as determined by  
45 the ~~three person~~ ~~THREE-PERSON~~ board and the tax shall be collected as



1 other property taxes are collected. On receipt of monies from the  
2 property tax levied, the district shall reimburse the county for the costs  
3 associated with the formation of the district, including administrative  
4 expenses.

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

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

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

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

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

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

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

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

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

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

36 3. Retain private legal counsel.

37 4. Sue and be sued.

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

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

1           7. Expand its boundaries pursuant to the requirements of section  
2 48-262 to include unincorporated parcels within a city's or a town's  
3 municipal planning area with the permission of the city or town.

4           C. The county attorney may advise and represent the district when  
5 in the county attorney's judgment such advice and representation are  
6 appropriate and not in conflict with the county attorney's duties under  
7 section 11-532. If the county attorney is unable to advise and represent  
8 the district due to a conflict of interest, the district may retain  
9 private legal counsel or may request the attorney general to represent it,  
10 or both.

11           D. The chairperson and clerk of the district board or their  
12 respective designees, as applicable, shall draw warrants, substitute  
13 checks or electronic funds transfers on the county treasurer for money  
14 required to operate the district in accordance with the budget and, as so  
15 drawn, the warrants, substitute checks or electronic funds transfers shall  
16 be sufficient to authorize the county treasurer to pay from the fire  
17 district fund.

18           E. The district shall not incur any debt or liability in excess of  
19 taxes levied and to be collected and the ~~money~~ MONIES actually available  
20 and unencumbered at the time in the fund, except as provided in section  
21 48-807.

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

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

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

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