

Senate Engrossed

fire districts; pension liability; financing

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

CHAPTER 241
SENATE BILL 1298

AN ACT

AMENDING SECTIONS 9-955, 48-805 AND 48-805.02, 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 9-955, Arizona Revised Statutes, is amended to
3 read:

4 9-955. Officers of board; meetings; procedure for
5 disbursements

6 A. The board of trustees shall elect from its members the president
7 and secretary of the board for the ensuing year. The city or town
8 treasurer, or the county treasurer, as the case may be, shall be
9 treasurer, except that if the board of trustees of a fire district assumes
10 the responsibility for investing and reinvesting the funds pursuant to
11 section 9-957, subsection B, the board of trustees may elect from its
12 members a treasurer who is responsible for the custody of the cash and
13 securities of the fund and for executing the decisions of the board of
14 trustees with respect to investments, reinvestments, receipts and
15 disbursements.

16 B. The board shall meet annually and at such other times as the
17 president may direct.

18 C. The board shall issue orders signed by the president and the
19 secretary to the beneficiaries of the amounts ordered paid to such
20 beneficiaries from the fund stating the conditions of the payment. The
21 board of trustees of a fire fighters' relief and pension fund of a fire
22 district ~~which~~ **THAT** procures the services of a private fire protection
23 company pursuant to section 48-805, subsection B, paragraph ~~8~~ **9** may pay
24 directly to the board of the fire district an amount each year of not to
25 exceed the cost of the private fire protection company's pension plan but
26 only to the extent monies are available in the fund. The board shall keep
27 a public record of its proceedings. At each regular meeting it shall
28 transmit to the city, town or county treasurer, as the case may be, a
29 written list of all persons entitled to benefits from the fund, stating
30 the reason and amount of the benefits. The list shall be certified and
31 signed by the president and secretary and attested under oath. The
32 treasurer of the city or town, or in the case of unincorporated towns, the
33 county treasurer, shall ~~thereupon~~ enter a copy of the list ~~upon~~ **ON** a book
34 kept for that purpose. The fund shall not be disbursed without a majority
35 vote of the members of the board, the vote to be entered ~~upon~~ **ON** the
36 minutes.

37 D. Notwithstanding the provisions of subsections A and C of this
38 section, if the board of trustees of a fire district assumes the
39 responsibility for investing and reinvesting the funds pursuant to section
40 9-957, subsection B, the duties of the treasurer may be performed by a
41 member of the board elected by the board. If the duties of the treasurer
42 are performed by a member of the board, ~~he~~ **THE MEMBER** shall be bonded for
43 an amount determined by the board ~~which amount~~ **THAT** shall not be less than
44 the maximum amount of funds in the account at any one time during the
45 previous year.

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

3 48-805. Fire district; powers and duties; definition

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

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

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

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

12 2. Determine the compensation payable to district personnel.

13 3. Require all current and prospective employees and volunteers to
14 submit a full set of fingerprints to the fire district, joint powers
15 authority, fire authority, fire and medical authority or fire and
16 ambulance authority that is formed with that fire district pursuant to
17 section 48-805.01. The fire district, joint powers authority that is
18 formed pursuant to section 48-805.01, fire authority, fire and medical
19 authority or fire and ambulance authority shall submit the fingerprints to
20 the department of public safety for the purpose of obtaining a state and
21 federal criminal records check pursuant to section 41-1750 and Public Law
22 92-544. The department of public safety may exchange this fingerprint
23 data with the federal bureau of investigation.

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

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

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

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

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

42 3. LEASE, LEASE-PURCHASE OR GRANT A LIEN ON ANY OR ALL OF ITS
43 PRESENT OR FUTURE PROPERTY TO PAY AMOUNTS TO THE PUBLIC SAFETY PERSONNEL
44 RETIREMENT SYSTEM PURSUANT TO SECTION 38-843, PENSION PREFUNDING PLAN
45 INVESTMENT ACCOUNTS PURSUANT TO SECTION 35-314.04 AND THE ARIZONA

1 EMPLOYERS' PENSION PREFUNDING PLAN ESTABLISHED BY SECTION 38-932 AND TO
2 CREATE RESERVES TO SUPPLEMENT SUCH PAYMENTS AS DEEMED NECESSARY BY THE
3 BOARD.

4 ~~3.~~ 4. Finance the acquisition of property as provided in this
5 section and costs incurred in connection with the issuance of bonds as
6 provided in section 48-806. Bonds shall not be issued without the consent
7 of a majority of the electors of the district voting at an election held
8 for that purpose. For the purposes of an election held under this
9 paragraph, all persons who are eligible to vote in fire district elections
10 under section 48-802 are eligible to vote.

11 ~~4.~~ 5. Enforce the fire code adopted by the district, if any, and
12 assist the office of the state fire marshal in the enforcement of fire
13 protection standards of this state within the fire district including
14 enforcement of a nationally recognized fire code if expressly authorized
15 by the office of the state fire marshal.

16 ~~5.~~ 6. After the approval of the qualified electors of the fire
17 district voting at a regular district election or at a special election
18 called for that purpose by the district board, as appropriate, or at any
19 election held in the county that encompasses the fire district, adopt the
20 _____ fire code, which is a nationally recognized fire code approved by
21 the state fire marshal. The words appearing on the ballots shall be
22 "should _____ fire district adopt the _____ fire code, which is
23 a nationally recognized fire code approved by the state fire
24 marshal--yes", "should _____ fire district adopt the _____
25 fire code, which is a nationally recognized fire code approved by the
26 office of the state fire marshal--no". The code shall be enforced by the
27 county attorney in the same manner as any other law or ordinance of the
28 county. Any inspection or enforcement costs are the responsibility of the
29 fire district involved. The district shall keep the code on file, which
30 shall be open to public inspection for a period of thirty days before any
31 election for the purpose of adopting a fire code. Copies of the order of
32 election shall be posted in three public places in the district at least
33 twenty days before the date of the election, and if a newspaper is
34 published in the county having a general circulation in the district, the
35 order shall be published in the newspaper at least once a week during each
36 of the three calendar weeks preceding the calendar week of the election.

37 ~~6.~~ 7. Amend or revise the adopted fire code, including replacement
38 of the adopted fire code with an alternative nationally recognized fire
39 code, with the approval of the office of the state fire marshal and after
40 a hearing held pursuant to posted and published notice as prescribed by
41 section 48-805.02, subsection A. The district shall keep three copies of
42 the adopted code, amendments and revisions on file for public inspection.

43 ~~7.~~ 8. Enter into an agreement procuring the services of an
44 organized private fire protection company or a fire department of a

1 neighboring city, town, district or settlement without impairing the fire
2 district's powers.

3 ~~8.~~ 9. Contract with a city or town for fire protection services
4 for all or part of the city or town area until the city or town elects to
5 provide regular fire department services to the area.

6 ~~9.~~ 10. Retain a certified public accountant to perform an annual
7 audit of district books.

8 ~~10.~~ 11. Retain private legal counsel.

9 ~~11.~~ 12. Accept gifts, contributions, bequests and grants and
10 comply with any requirements of those gifts, contributions, bequests and
11 grants that are not inconsistent with this article.

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

16 ~~13.~~ 14. Adopt resolutions establishing fee schedules both within
17 and outside of the jurisdictional boundaries of the district for providing
18 fire protection services and services for the preservation of life,
19 including emergency fire and emergency medical services, plan reviews,
20 standby charges, fire cause determination, users' fees or facilities
21 benefit assessments or any other fee schedule that may be required.

22 ~~14.~~ 15. With the approval of two of the three members of a
23 three-member board, four of the five members of a five-member board or
24 five of the seven members of a seven-member board, change the district's
25 name and on so doing shall give written notice to the board of supervisors
26 of the change. The governing board of a fire district may place a
27 question on the general election ballot as to whether the fire district
28 shall change its name.

29 ~~15.~~ 16. Require all employees to submit a full set of fingerprints
30 as prescribed by subsection A, paragraph 3 of this section.

31 ~~16.~~ 17. Enter into intergovernmental agreements or contracts as
32 follows:

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

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

39 (c) Enter into a contract with individuals to provide fire
40 protection services or emergency medical services, or both, to the extent
41 not regulated by title 36, chapter 21.1 to property owned by the
42 individual located outside the district boundaries if the individual's
43 property is not located in a county island as defined in section 11-251.12
44 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.~~ 18. Sell or otherwise dispose of any real property, facilities
27 or equipment if the district board determines the real property,
28 facilities or equipment to be surplus.

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

34 D. The chairman and clerk of the district board or their respective
35 designees, as applicable, shall draw warrants, substitute checks or
36 electronic funds transfers on the county treasurer for money required to
37 operate the district in accordance with the budget and, as so drawn, the
38 warrants, substitute checks or electronic funds transfers shall be
39 sufficient to authorize the county treasurer to pay from the fire district
40 fund.

41 E. For any fire district that designates one or more board members
42 to have access to the financial books and records of the district, those
43 board members are authorized by law to have full access to those financial
44 books and records.

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

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

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

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

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

27 48-805.02. Fire district annual budget; levy; requirements

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

43 B. Not more than ten days after the organization of a fire district
44 and not later than August 1 of each year after the organization, the
45 ~~chairman~~ CHAIRPERSON of the district board shall submit to the county

1 board of supervisors a budget estimate that contains certifications by
2 item and that specifies the amount of money required for the maintenance
3 and operation of the district for the ensuing year.

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

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

9 1. A certification by the ~~chairman~~ CHAIRPERSON and clerk of the
10 district board as to both of the following:

11 (a) That the district has not incurred any debt or liability in
12 excess of taxes levied and to be collected and the money actually
13 available and unencumbered at that time in the district general fund,
14 except for those liabilities as prescribed in section 48-805, subsection
15 B, ~~paragraph~~ PARAGRAPHS 2 AND 3 and sections 48-806 and 48-807.

16 (b) That the district complies with subsection F of this section.

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

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

34 E. For any district that amends its budget after its initial
35 adoption, the district board shall hold a public hearing on the proposed
36 revision of the budget. The proposed revised budget must be considered
37 and adopted during a public meeting immediately following the public
38 hearing on the proposal. The public hearing on the proposed revised
39 budget may be held at a regularly scheduled public meeting of the board of
40 directors of the district. A fire district that proposes to amend its
41 budget after its initial adoption shall comply with the posting,
42 publishing and hearing notice requirements prescribed in subsection A of
43 this section. This subsection does not apply to a district organized
44 pursuant to article 3 of this chapter.

1 F. When a fire district has adopted a budget and the board of
2 supervisors has levied a fire district tax as provided in subsection C of
3 this section and the district has insufficient monies in its general fund
4 with the county treasurer to operate the district, the ~~chairman~~
5 CHAIRPERSON of the fire district board of directors, on or after August 1
6 of each year, may draw warrants, substitute checks or electronic funds
7 transfers for the purposes prescribed in section 48-805 on the county
8 treasurer, payable on November 1 of that year or on April 1 of the
9 succeeding year. The aggregate amounts of the warrants, substitute checks
10 or electronic funds transfers may not exceed ninety percent of the taxes
11 levied by the county for the district's current fiscal year. If the
12 treasurer cannot pay a warrant, substitute check or electronic funds
13 transfer for lack of monies in the fire district general fund, the warrant
14 or substitute check shall be endorsed and registered, or the electronic
15 funds transfer shall be recorded, and the warrant, substitute check or
16 electronic funds transfer shall bear interest and be redeemed as provided
17 by law for county warrants, substitute checks or electronic funds
18 transfers, except that the warrants, substitute checks or electronic funds
19 transfers are payable only from the fire district general fund.

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

28 1. That the district has not incurred any debt or liability in
29 excess of taxes levied and to be collected and the monies actually
30 available and unencumbered at that time in the district general fund
31 except for those liabilities as prescribed in section 48-805, subsection
32 B, ~~paragraph~~ PARAGRAPHS 2 AND 3 and sections 48-806 and 48-807.

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

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

37 Sec. 4. Emergency

38 This act is an emergency measure that is necessary to preserve the
39 public peace, health or safety and is operative immediately as provided by
40 law.

APPROVED BY THE GOVERNOR APRIL 16, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2021.