

An Act

ENROLLED SENATE
BILL NO. 164

By: Pederson of the Senate

and

Mize, Miller and Martinez
of the House

An Act relating to counties and county officers; amending 19 O.S. 2011, Section 901.5 (O.S. Supp. 2018, Section 901.5), as last amended by Section 1 of Enrolled House Bill No. 2161 of the 1st Session of the 57th Oklahoma Legislature, which relates to fire protection districts; modifying terms of board membership; establishing duties and qualifications of fire chiefs; amending 19 O.S. 2011, Section 901.22, which relates to fire protection district territories; establishing certain conditions for the addition of territory; establishing conditions for the annexation of fire protection district territory; amending 19 O.S. 2011, Section 901.27, which relates to requirement of audits; granting certain authority; providing for codification; and providing an effective date.

SUBJECT: Fire protection districts

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 19 O.S. 2011 (19 O.S. Supp. 2018, Section 901.5), as last amended by Section 1 of Enrolled House Bill No. 2161 of the 1st Session of the 57th Oklahoma Legislature, is amended to read as follows:

Section 901.5. A. Directors of a fire protection district shall be the surface owners of real property in and residents of the district and shall not be paid firefighters for the fire protection district.

B. At the time of making its order organizing the district, the board of county commissioners shall appoint three directors who shall hold their office until the next General Election, at which time their successors shall be elected. At the election, the qualified person receiving the highest number of votes for member of board of directors of the district shall hold office for the term of six (6) years. The qualified person receiving the next highest number of votes shall be elected for four (4) years, and the qualified person having the next highest number of votes shall be elected for two (2) years. Each two (2) years thereafter, there shall be elected for a term of six (6) years one member of said the board of directors.

C. 1. A board of directors may increase its membership to better insure both geographic and population representation to five (5), seven (7) or nine (9) members by resolution of the board. The size of the board may also be increased by a petition signed by fifty-one percent (51%) of the eligible members of the district. If a board of directors adopts such a resolution, the position of the original board which will be up for election at the next General Election shall be for a five-year term.

2. An additional two members shall be elected at a special election called for that purpose by the board of directors. The two qualified persons who receive the highest number of votes for the additional two positions shall be elected to serve until the next General Election.

3. All board members elected thereafter to a five-member board shall serve a term of five (5) years with elections held yearly. After the initial election of new board members, the terms shall be staggered so that no more than two member's terms expire per year.

D. The board of directors of the district shall submit, within fifteen (15) days before the filing period of any district election, a resolution to the secretary of the county election board

conducting ~~said~~ the election. The resolution shall contain the following:

1. The date of the election;
2. The offices to be filled or the questions to be voted upon at the election;
3. Qualifications for the offices;
4. The location of the polling place or places; and
5. Any other information necessary for conducting ~~said~~ the election.

E. 1. The regular election in the district shall be held at the same time as the General Election in this state or on the second Tuesday in November in those years that a General Election is not held.

2. In those years that a General Election is not held the entire cost of the election shall be paid by the district. When the election is held at the same time as the General Election, the district shall pay only for the cost directly attributable to district election.

3. All polling places of precincts, all or any part of which include areas within the boundaries of the district, shall be supplied ballots for the purpose of permitting electors of the district to vote for members of the board of directors of the district.

4. Filing for the office of member of the board of directors shall be with the county election board on a nonpartisan basis from 8 a.m. on the first Monday after Independence Day until 5 p.m. on the next succeeding Wednesday each year. The payment of a filing fee shall not be required.

F. 1. Vacancies on the board shall be filled by the board of directors. In the event a vacancy occurs and the remaining members of the board are unable to make a decision on such vacancy within sixty (60) calendar days, the board of county commissioners shall

immediately appoint a member to fill the vacancy. In the event the vacancies on the board are so numerous as to not provide a quorum, the board of county commissioners shall appoint as many members as are necessary to make a quorum.

2. All vacancies filled pursuant to the provisions of this subsection shall be filled until the next regular election, at which time a member shall be elected to serve the remainder of the unexpired term.

G. 1. The office of a member of the board of directors may be declared vacant by the board of directors if such member:

- a. is absent from more than one-half (1/2) of all meetings of the board of directors, regular and special, held within any period of four (4) consecutive months,
- b. ceases to be eligible for office pursuant to this section,
- c. has a conviction in a court of any felony or crime involving moral turpitude,
- d. uses alcohol, any stimulant, any drug or other substance which impairs intellect, judgment or physical ability to such an extent as to incapacitate the member to such a degree that the member is prevented from performing duties pursuant to Chapter 21 of this title, and
- e. has a mental or physical weakness or inability which incapacitates the member to such a degree that the member is prevented from performing duties required pursuant to Chapter 21 of this title.

2. Vacancies determined pursuant to this subsection shall be filled pursuant to subsection F of this section after notice to the board member of such action and opportunity for a hearing.

3. Vacancies shall be determined at an official meeting of the board and shall be a specific agenda item.

4. Any appeal from a decision declaring an office vacant pursuant to this subsection shall be made to the district court within thirty (30) days of such determination.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.7a of Title 19, unless there is created a duplication in numbering, reads as follows:

All Fire Protection Districts having more than two full-time paid firefighters shall have one full-time fire chief who shall supervise and administer the fire protection district in accordance with the policies and procedures prescribed by the board of directors. The fire protection district shall be under the direction and control of the fire chief. The fire chief, whether permanent or interim, of any paid or combination fire protection district shall have had at least three (3) years actual experience as a paid firefighter before assuming the position of fire chief. During the initial transition from a volunteer fire protection district to one having more than two full-time firefighters, the paid fire chief shall have had at least three (3) years of experience as a paid firefighter or at least five (5) years of experience as a volunteer fire chief officer with that department before assuming the position of paid fire chief. The board may add additional requirements to the position as necessary.

1. The fire chief:

- a. shall be at the head of the department, subject to the laws of the State of Oklahoma, rules of the board of directors and the rules and regulations herein adopted,
- b. shall be held responsible for the general condition and efficient operation of the department, the training of members and the performance of all other duties imposed upon him or her by law or the board of directors,
- c. may inspect or cause to be inspected by members of the department, the fire hydrants, cisterns and other sources of water supply at least twice a year,

- d. shall maintain a library or file of publications on fire prevention and fire protection and shall make use of the library or file to the best advantage of all members,
- e. shall make every effort to attend all fires and direct the officers and members of the fire department in the performance of their duties,
- f. shall see that the citizens are kept informed on fire hazards within the boundaries of the department and on the activities of the department,
- g. shall see that each fire is carefully investigated to determine its cause, and in the case of suspicion of incendiarism shall notify proper authorities. The fire chief shall secure and preserve all possible evidence for future use in the case of a suspicious incendiarism, and
- h. shall file the appropriate activity report forms with the Office of the State Fire Marshal in Oklahoma City on an annual basis. The activity report forms shall be designed by the State Fire Marshal and shall include, but not be limited to, the amount of property and vehicle fire loss, types of fires, inspections and investigations. The report shall include notification of all fire-related civilian deaths and injuries in the respective jurisdiction and of firefighter deaths in the line of duty and of firefighter injuries in the line of duty requiring the services of a hospital or physician or both.

2. Assistant fire chief. In the absence of the fire chief, the assistant fire chief on duty shall command the department and be held responsible therefore in all respects with the full powers and responsibilities of the fire chief.

3. Company officers. The company officers shall be selected upon their ability to meet the following requirements:

- a. knowledge of firefighting,
- b. leadership ability, and
- c. knowledge of firefighting equipment.

SECTION 3. AMENDATORY 19 O.S. 2011, Section 901.22, is amended to read as follows:

Section 901.22. Any territory located within the same county of an existing district may be included in the limits of such district by decision of the board of directors, certified to the board of county commissioners, with the written consent of twenty-five percent (25%) of the holders of title to the territory sought to be included, or in the same manner as provided for the organization of fire protection districts. Such territory shall not be included or added to the territory of the district without the consent of the board of directors and the board of county commissioners. In the event such territory is included by decision of the board of directors, with the consent of the board of county commissioners and the written consent of twenty-five percent (25%) of the holders of title to the territory sought to be included, the notice, hearing and order requirements of Section 901.2 of this title and the notice and election requirements of Sections 901.3 and 901.4 of this title shall be followed in the same manner as for the organization of fire protection districts. In case any such territory is added to the district the property therein shall immediately become subject to the lien for the payment of bonds theretofore authorized by the district in the same manner as property within the district at the time of authorization of such bonds.

Any territory adjacent to the existing district but within another county may be included in the limits of such district by decision of the board of directors, certified to the board of county commissioners of both counties, with the written consent of twenty-five percent (25%) of the holders of title to the territory sought to be included, or in the same manner as provided for the organization of fire protection districts. Such territory shall not be included or added to the territory of the district without the consent of the board of directors and the board of county commissioners of each county. In the event such territory is included by decision of the board of directors, with the consent of

the board of county commissioners of each county and the written consent of twenty-five percent (25%) of the holders of title to the territory sought to be included, the notice, hearing and order requirements of Section 901.2 of this title and the notice and election requirements of Sections 901.3 and 901.4 of this title shall be followed in the same manner as for the organization of fire protection districts. In case any such territory is added to the district the property therein shall immediately become subject to the lien for the payment of bonds theretofore authorized by the district in the same manner as property within the district at the time of authorization of such bonds.

Any landowner whose property is within the response area of the district as assigned by the county commissioners but is not within the fire protection district itself may elect to opt into the district by paying the assessment to the district. The landowner then becomes a member of the district with full voting rights.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 901.23a of Title 19, unless there is created a duplication in numbering, reads as follows:

In the case of a municipality annexing a portion of or all of a fire protection district as established by this section the following shall apply:

1. The delivery of fire protection services shall meet or exceed the current levels and standards of fire protection services being provided by the fire protection district, pursuant to the provisions of Section 324.8 of Title 74 of the Oklahoma Statutes, in order for a municipality, private entity, organization, corporation or company to provide fire protection services to a fire protection district;

2. A vote of fifty-one percent (51%) of those paying the current assessment is required to withdraw from the fire protection district. The municipality is responsible for the cost of the election;

3. The fire protection district and the board of the county commissioners shall be notified by certified mail ninety (90) days prior to the municipality taking final action on the annexation;

4. Existing debt service shall either be assumed by the annexing municipality based on the share of the percent of revenue the area annexed generated or the assessment shall be continued until the debt is paid in full. The municipality must include this provision in the final annexation resolution;

5. The municipality may elect continuing with the effected fire protection district provided that the fire protection district continues to receive the assessment without restrictions. Additional support may be provided by the municipality in the sole discretion of the municipality;

6. If, in the judgment of the board of county commissioners, the exodus of the territory sought to be withdrawn from the district and is contained within the proposed annexation of the municipality, will make further existence of the district impracticable, the board shall proceed to order dissolution of the district. In the case of withdrawal of any property from the district as herein provided, such property shall remain subject to the payment of its proportionate part of any bonds theretofore authorized by the district and shall remain subject to annual assessment for the payment of the principal and interest thereof in the same manner and to the same extent as if such property had not been withdrawn. Such annual assessments, however, shall be computed upon the appraisal shown on the district appraisal record at the time of the withdrawal of such property;

7. The municipality may, through negotiations with the board of county commissioners and the fire protection district, acquire the assets and liabilities of the district if it ensures the best fire protection for the citizens of the district and protects the best use of the investment which has been made by the citizens of the district; and

8. If the municipality may elect to contract for fire protection with the fire protection district. The contract shall address enforcement of fire code, building permits, level of service, billing, relationship with existing municipal fire department (i.e. mutual aid agreement, subordinate role, direct supervision, etc.), additional funding and other issues agreed to by the two parties.

SECTION 5. AMENDATORY 19 O.S. 2011, Section 901.27, is amended to read as follows:

Section 901.27. A. The board of directors of each fire protection district with revenues of Two Hundred Fifty Thousand Dollars (\$250,000.00) or more to its general fund during a fiscal year shall cause an audit to be made of, including but not limited to, the funds, accounts and fiscal affairs of such district. The audit shall be ordered within thirty (30) days of the close of each fiscal year of the district which shall commence July 1 and end on June 30. The board of directors may choose to have a fiscal year which shall commence on January 1 and end on December 31.

B. Provided, any fire protection district may have its books audited and examined by the State Auditor and Inspector, upon petition signed by a number of registered voters, each registered at an address within the geographical boundaries of the fire protection district, equal to twenty-five percent (25%) of the number of persons voting for the office or question receiving the highest number of votes in the last annual election of the district according to certification from the county election board of the county wherein supervision of the district is located. The petition must be submitted to the office of the State Auditor and Inspector prior to the audit and examination. The cost of ~~said~~ the audit or examination, which shall be borne by the district, shall be ascertained prior to the petitioning for the audit and shall be stated in the petition prior to the collection of any signatures.

SECTION 6. This act shall become effective November 1, 2019.

Passed the Senate the 5th day of March, 2019.

Presiding Officer of the Senate

Passed the House of Representatives the 23rd day of April, 2019.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____