

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 HOUSE BILL 3079

By: Smith

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5
6 AS INTRODUCED

7 An Act relating to county fire departments; amending
8 19 O.S. 2021, Section 351, which relates to
9 firefighting services; modifying language qualifying
a director of county fire department; providing an
effective date; and declaring an emergency.

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

13 SECTION 1. AMENDATORY 19 O.S. 2021, Section 351, is
14 amended to read as follows:

15 A. The board of county commissioners of each county of this
16 state is hereby authorized to provide firefighting service in the
17 county and for such purpose to use county funds to rent, lease or
18 purchase firefighting equipment and to rent or construct and equip
19 and operate fire stations and to employ necessary personnel to
20 provide such service. The board of county commissioners shall also
21 have the authority to determine and collect charges for firefighting
22 services performed by the county from any person to whom such
23 services are provided.
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1 B. The board of county commissioners of each county of this
2 state shall have the power to take by grant, purchase, gift, devise
3 or lease, and to dispose of, any real property for the purpose of
4 acquiring right-of-ways and easements necessary in providing
5 firefighting services to the county, including the construction and
6 maintenance of roads and the installation of dry hydrants. The
7 board may use county funds and equipment to construct and maintain
8 such roads and to install such dry hydrants. Provided, nothing in
9 this subsection shall be construed to prohibit the installation of
10 dry hydrants on privately owned property by the owner thereof at the
11 expense of the owner.

12 C. The board of county commissioners of each county of this
13 state shall have the authority to use county personnel operating
14 county equipment to fight fires in situations where an emergency is
15 determined to exist, provided the firefighting service is requested
16 by the county civil defense director or upon a request of a rural
17 fire department.

18 D. 1. A corporate fire department organized pursuant to the
19 provisions of Section 592 of Title 18 of the Oklahoma Statutes or a
20 county fire department organized pursuant to the provisions of
21 subsection A of this section may petition the board of county
22 commissioners of the county in which the fire department provides
23 protection to convert to a county fire department organized pursuant
24 to the provisions of this subsection. The petition shall set forth

1 and particularly describe the proposed boundaries of such county
2 fire department and shall be accompanied by a map of such proposed
3 fire department, drawn to a scale of not less than one (1) inch to a
4 mile. The petition shall also set forth the administration, control
5 and ownership of all the corporate fire department's assets in the
6 event such petition is approved. Such petition shall be filed with
7 the county clerk of such county who shall present it to the board of
8 county commissioners at their next regular or special meeting. Upon
9 presentation of such petition, the board of county commissioners
10 shall set the same for hearing at a time not less than twenty (20)
11 days nor more than forty (40) days from the date of presentation and
12 shall direct the county clerk to give notice of such hearing by
13 publication in a newspaper of general circulation in the county in
14 which the proposed county fire department is located. Such notice
15 shall describe the boundaries of the proposed county fire
16 department, shall state the time and place of the hearing, and shall
17 state that any person may appear and protest the organization of the
18 county fire department or the proposed boundaries thereof. The
19 board of county commissioners shall hold the hearing described in
20 said notice, and it shall have jurisdiction to hear and determine
21 all protests to the creation of such county fire department and all
22 matters pertaining to the same. It may amend the plan of such
23 proposed county fire department by excluding from within its
24 boundaries any lands which it may deem will not be benefited by the

1 formation of such county fire department, or by including other
2 lands as a part thereof upon application of the owners of such land;
3 provided, however, it shall not exclude from such district any
4 unincorporated lands which are completely surrounded by lands which
5 are included in the proposed county fire department. If the board
6 of county commissioners determines that the conversion of such
7 corporate fire department to a county fire department will be
8 conducive to the public safety of the affected area therein, then
9 said board shall give such proposed county fire department a name
10 and shall authorize and approve the organization of said county fire
11 department.

12 2. To be eligible to convert to a county fire department formed
13 pursuant to this subsection, a fire department shall have a Public
14 Protection Classification of nine (9) or better from ISO Commercial
15 Risk Services, Inc., limit the size of such volunteer county fire
16 department to not less than six or more than twenty members per fire
17 station, and shall be subject to the laws of the State of Oklahoma
18 regarding the administration and operation of a fire department,
19 including, but not limited to, the laws of the State Department of
20 Labor and the State Fire Marshal Commission. For purposes of this
21 subsection, a volunteer fire department is one which has in its
22 employ not more than two full-time salaried firefighters.

23 3. Directors of a county fire department organized pursuant to
24 this subsection shall be ~~owners of real property in and~~ residents of

1 said district. At the time of making its order organizing such
2 county fire department, the board of county commissioners shall
3 appoint five directors, one of which shall hold his or her
4 respective office for a term of five (5) years, one of which shall
5 hold his or her respective office for a term of four (4) years, one
6 of which shall hold his or her respective office for a term of three
7 (3) years, one of which shall hold his or her respective office for
8 a term of two (2) years, and one of which shall hold his or her
9 respective office for a term of one (1) year. On or before January
10 1, 2002, the board of county commissioners shall, for fire
11 departments which operate more than five fire stations, appoint
12 additional directors of a county fire department until the number of
13 directors equals the number of fire stations operated by that county
14 fire department. Each additional director shall be appointed by the
15 board of county commissioners for a term that matches the term of
16 one of the first five directors appointed. Whenever a new fire
17 station is added to a county fire department which has five or more
18 fire stations, the board of county commissioners shall appoint an
19 additional director from that district in which the new fire station
20 has been added. Each year thereafter, there shall be appointed by
21 the board of county commissioners for a term of five (5) years so
22 many members as are necessary to replace all members whose terms are
23 expiring on the board of directors for such county fire department.

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1 4. The board of directors of a county fire department organized
2 pursuant to this subsection shall select one of its members to serve
3 as chair and shall appoint a clerk and a treasurer. The board of
4 directors shall fix the term and duties of the chair, clerk and
5 treasurer. The chair and members of the board of directors shall
6 serve without compensation. The treasurer shall give an official
7 bond, in an amount fixed and with sureties approved by the board of
8 county commissioners, conditioned upon the faithful accounting for
9 all money pertaining to the county fire department and coming into
10 his or her hands.

11 5. The board of directors of a county fire department organized
12 pursuant to this subsection shall have the following powers and
13 duties:

- 14 a. to manage and conduct the business affairs of such
15 county fire department,
- 16 b. to make and execute all necessary contracts,
- 17 c. to purchase or lease-purchase and maintain all
18 necessary and convenient engines, hoses, hose carts or
19 other appliances and supplies for the full equipment
20 of a fire company or department from available funds,
- 21 d. to appoint the fire chief, fire company officers and
22 employees (whether paid or volunteer), sufficient to
23 maintain and operate the equipment owned by the county
24 fire department,

- e. to take by grant, purchase, gift, devise or lease, and to dispose of real or personal property of every kind necessary for the operation of the county fire department,
- f. to construct or otherwise acquire from available funds suitable firehouses and other buildings or structures suitable for the housing of equipment and supplies of the county fire department, or for carrying on its own business and affairs,
- g. to employ such officers and employees as may be required from available funds, fix their compensation and prescribe their duties,
- h. to establish rules for such county fire department and for the prevention of fires and conflagrations within the department's boundaries and for the protection of property at and during any fire,
- i. to do any and all other things necessary and proper in the management and operation of the county fire department for the purpose of protecting property within its boundaries from fire, and
- j. to prepare an annual budget and follow existing laws pertaining to the budget process such as public notice, public hearings, protest periods and filing

1 requirements in the same manner as they apply to other
2 forms of government in Oklahoma.

3 6. The board of directors of a county fire department organized
4 pursuant to this subsection may submit an application to include the
5 firefighters of such county fire department in the Oklahoma
6 Firefighters Pension and Retirement System. The application for
7 participation in the Oklahoma Firefighters Pension and Retirement
8 System shall be submitted in accordance with subsection A of Section
9 49-105.2 of Title 11 of the Oklahoma Statutes. For purposes of
10 complying with Sections 49-103 and 49-104 of Title 11 of the
11 Oklahoma Statutes, the chair, clerk and treasurer of the board of
12 directors of the county fire department shall serve on the local
13 firefighters pension and retirement board along with three
14 firefighters of such county fire department elected by the members
15 of the county fire department. The chair of the board of directors
16 of the county fire department shall be the chair of the local board
17 of the county fire department and the clerk of the board of
18 directors of the county fire department shall be the secretary of
19 the local board of the county fire department. The chair of the
20 local board of the county fire department shall have a casting vote
21 with the members of the local board of the county fire department
22 only when necessary to avoid a tie vote. The local board of the
23 county fire department shall promulgate such rules as may be
24 necessary to ensure the orderly conduct of a local board meeting.

1 While participating in the Oklahoma Firefighters Pension and
2 Retirement System, the board of directors, local board and fire
3 chief of the county fire department shall perform all administrative
4 requirements of the pension system.

5 7. Any board of directors of a county fire department organized
6 pursuant to this subsection having volunteers enrolled as members of
7 such county fire department shall adopt a code of minimum rules and
8 regulations in substantial compliance with the following:

9 a. Fire chief.

10 (1) The fire chief shall be at the head of the
11 department, subject to the laws of the State of
12 Oklahoma, rules of the board of directors, and
13 the rules and regulations herein adopted.

14 (2) The fire chief shall be held responsible for the
15 general condition and efficient operation of the
16 department, the training of members, and the
17 performance of all other duties imposed upon him
18 or her by law or the board of directors.

19 (3) The fire chief may inspect or cause to be
20 inspected by members of the department, the fire
21 hydrants, cisterns and other sources of water
22 supply at least twice a year.

23 (4) The fire chief shall maintain a library or file
24 of publications on fire prevention and fire

1 protection and shall make use of the library or
2 file to the best advantage of all members.

3 (5) The fire chief shall make every effort to attend
4 all fires and direct the officers and members of
5 the fire department in the performance of their
6 duties.

7 (6) The fire chief shall see that the citizens are
8 kept informed on fire hazards within the
9 boundaries of the department and on the
10 activities of the department.

11 (7) The fire chief shall see that each fire is
12 carefully investigated to determine its cause,
13 and in the case of suspicion of incendiarism
14 shall notify proper authorities. The fire chief
15 shall secure and preserve all possible evidence
16 for future use in the case of a suspicious
17 incendiarism.

18 (8) The fire chief shall file the appropriate
19 activity report forms with the Office of the
20 State Fire Marshal in Oklahoma City on an annual
21 basis. The activity report forms shall be
22 designed by the State Fire Marshal and shall
23 include, but not be limited to, the amount of
24 property and vehicle fire loss, types of fires,

1 inspections and investigations. The report shall
2 include notification of all fire-related civilian
3 deaths and injuries in the respective
4 jurisdiction and of firefighter deaths in the
5 line of duty and of firefighter injuries in the
6 line of duty requiring the services of a hospital
7 or physician or both.

8 b. Assistant fire chief.

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

13 c. Company officers.

14 The company officers shall be selected upon their
15 ability to meet the following requirements:

- 16 (1) their knowledge of firefighting,
- 17 (2) their leadership ability, and
- 18 (3) their knowledge of firefighting equipment.

19 d. Secretary-treasurer.

20 One member elected by the fire department shall be
21 secretary-treasurer. His or her duties shall consist
22 of the following:

- 23 (1) calling the roll at the opening of each meeting,
- 24 (2) keeping the minutes of each meeting, and

1 (3) collecting any money due the department by the
2 members.

3 e. New members.

4 (1) An applicant of a participating county fire
5 department of the Oklahoma Firefighters Pension
6 and Retirement System shall meet the membership
7 requirements of the Oklahoma Firefighters Pension
8 and Retirement System before he or she may be
9 appointed as a new member of the county fire
10 department.

11 (2) A new member shall be on probation for one (1)
12 year after his or her appointment.

13 (3) A new member of a participating county fire
14 department of the Oklahoma Firefighters Pension
15 and Retirement System shall be immediately
16 enrolled as a member of the Oklahoma Firefighters
17 Pension and Retirement System regardless of
18 whether such member has completed his or her
19 probation period.

20 (4) The majority of the fire department members must
21 approve new volunteer members upon completion of
22 their probation period.

23 f. Bylaws.

24 The bylaws of the department shall include:

- (1) All volunteer firefighters are required, when notified, to respond to fire alarms and other emergencies.
- (2) A volunteer firefighter is required to be present at all regular meetings, call meetings and schools presented for the benefit of the firefighters.
- (3) There shall be at least one regular business meeting each month.
- (4) Any volunteer firefighter having two unexcused absences in succession or three unexcused absences in a period of three (3) months will be dropped from the fire department rolls.
- (5) Volunteer firefighters leaving the boundaries of the department for an extended period of time will be required to notify the fire chief.
- (6) Any volunteer firefighter refusing to attend training classes provided for him or her will be dropped from the fire department rolls.
- (7) Any volunteer member of the fire department shall be dropped from the fire department rolls for the following offenses:
 - (a) conduct unbecoming a firefighter,
 - (b) any act of insubordination,

- (c) neglect of duty,
- (d) any violation of rules and regulations governing the fire department, or
- (e) conviction of a felony.

8. a. A county fire department organized pursuant to the provisions of this subsection shall maintain, according to its own accounting needs, some or all of the funds and account groups in its system of accounts that are consistent with legal and operating requirements and as prescribed by the State Auditor and Inspector. The required funds may include, but not be limited to:

- (1) a general fund, to account for all monies received and disbursed for general department purposes, including all assets, liabilities, reserves, fund balances, revenues and expenditures which are not accounted for in any other fund or special ledger account,
- (2) special revenue funds, as required, to account for the proceeds of specific revenue sources that are restricted by law to expenditures for specific purposes,
- (3) a capital improvement fund, to account for financial resources segregated for acquisition,

1 construction or other improvement related to
2 capital facilities, and

3 (4) a ledger or group of accounts in which to record
4 the details relating to the general fixed assets
5 of the county or department.

6 b. Funds raised by a nonprofit organization for the
7 purpose of supporting the fire protection services of
8 a county fire department organized pursuant to the
9 provisions of this subsection, whether such funds were
10 raised before or after a corporate fire department
11 converts to a county fire department, shall not be
12 commingled with public funds and shall be used only
13 for designated benevolent or charitable purposes,
14 including, but not limited to, fire protection
15 purposes.

16 c. No expenditure may be authorized or made by any
17 employee or member of the board of directors of a
18 county fire department organized pursuant to the
19 provisions of this subsection which exceeds any fund
20 balance of any fund of the budget as adopted or
21 amended or which exceeds the appropriation for any
22 fund of the budget as adopted or amended. Any balance
23 remaining in a fund at the end of the budget year
24 shall be carried forward to the credit of the fund for

1 the next budget year. It shall be unlawful for any
2 employee or member of the board of directors of a
3 county fire department organized pursuant to the
4 provisions of this subsection in any budget year to
5 create or authorize creation of a deficit in any fund.

6 SECTION 2. This act shall become effective July 1, 2022.

7 SECTION 3. It being immediately necessary for the preservation
8 of the public peace, health or safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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12 58-2-9247 MJ 12/14/21
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