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KEN BENNETT
SECRETARY OF STATE

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CHAPTER 53

HOUSE BILL 2666

AN ACT

AMENDING SECTIONS 48-804 AND 48-805, ARIZONA REVISED STATUTES; RELATING TO FIRE DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 48-804, Arizona Revised Statutes, is amended to read:

48-804. <u>District administered by elected chief and secretary-treasurer</u>

A. UNTIL THE FIRST TERM OF OFFICE THAT COMMENCES IMMEDIATELY AFTER THE NEXT REGULAR ELECTION FOR THAT FIRE DISTRICT AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, a district which the board of supervisors estimates has a population of fewer than four thousand inhabitants may be administered by an elected chief and secretary-treasurer. Upon organization of a fire district administered by an elected chief and secretary-treasurer or reorganization of a fire district administered by a district board as a district administered by an elected chief and secretary-treasurer, the elected chief and secretary-treasurer shall serve until the qualification of their successors at the next election held as provided in section 48-802, subsection D, paragraph 3. Thereafter, the elected chief and secretary-treasurer shall serve terms of four years from the first day of the month next following their election.

B. If a vacancy occurs in the office of elected chief or secretary-treasurer other than from expiration of a term, the board of supervisors shall fill the vacancy by appointment of an interim chief or secretary-treasurer. If the board of supervisors fails to appoint a replacement within thirty days, a special election shall be held to fill the vacancy.

C. The secretary-treasurer is responsible for keeping records of all meetings of the district.

D. BEGINNING WITH THE FIRST TERM OF OFFICE THAT COMMENCES IMMEDIATELY AFTER THE NEXT REGULAR ELECTION FOR THAT FIRE DISTRICT AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, ALL DISTRICTS THAT ARE ADMINISTERED BY AN ELECTED CHIEF AND SECRETARY-TREASURER SHALL BE ADMINISTERED BY A THREE MEMBER ELECTED BOARD OF DIRECTORS OR A FIVE MEMBER ELECTED BOARD OF DIRECTORS AS PROVIDED IN SECTION 48-803, SUBSECTION A AND THE POSITION OF ELECTED CHIEF AND ELECTED SECRETARY-TREASURER NO LONGER EXIST FOR THAT DISTRICT AND HAVE NO LEGAL OR ADMINISTRATIVE AUTHORITY FOR AND IN THE DISTRICT. PERSONS ELECTED TO A THREE MEMBER BOARD OF DIRECTORS OR A FIVE MEMBER BOARD OF DIRECTORS PURSUANT TO THIS SUBSECTION SHALL BE DESIGNATED TO SERVE STAGGERED TERMS OF FOUR YEARS, WITH THE INITIAL TERMS OF OFFICE FOR THE THREE MEMBER BOARD OR FIVE MEMBER BOARD DETERMINED AS PRESCRIBED IN SECTION 48-803, SUBSECTION F. THEREAFTER, ALL TERMS OF OFFICE FOR MEMBERS OF THESE THREE PERSON OR FIVE PERSON BOARDS OF DIRECTORS SHALL BE FOUR YEARS.

E. BEGINNING ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, NO NEW FIRE DISTRICT MAY BE ESTABLISHED WITH AN ELECTED CHIEF AND SECRETARY-TREASURER AND NO EXISTING FIRE DISTRICT MAY BE REORGANIZED INTO A DISTRICT WITH AN ELECTED CHIEF AND SECRETARY-TREASURER.

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

48-805. Fire district; powers and duties

A. A fire district, through its board or elected chief and secretary-treasurer, shall:

1. Hold public meetings at least once each calendar month.

2. Prepare an annual budget that contains detailed estimated expenditures for each fiscal year and that clearly shows salaries payable to employees of the district, including the ~~elected or~~ appointed chief. FOR A FIRE DISTRICT GOVERNED BY AN ELECTED CHIEF AND ELECTED SECRETARY-TREASURER, BEGINNING ON THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, THE AMOUNT OF ANY SALARY FOR THE CHIEF AND THE SECRETARY-TREASURER SHALL REMAIN UNCHANGED FOR THE REMAINDER OF THE TERM OF OFFICE. The budget shall be posted in three public places and published in a newspaper of general circulation in the district thirty days before a public hearing at a meeting called by the board or elected chief to adopt the budget. Copies of the budget shall also be available to members of the public on written request to the district. Following the public hearing, the district board or elected chief and secretary-treasurer shall adopt a budget.

3. Determine the compensation payable to district personnel.

4. Require probationary employees in a paid sworn firefighter position, a reserve firefighter position or a volunteer firefighter position to submit a full set of fingerprints to the fire district. The fire district shall submit the fingerprints to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.

B. A fire district, through its board or elected fire chief and secretary-treasurer, may:

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

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

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

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

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

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

5. After the approval of the qualified electors of the fire district voting at a regular district election or at a special election called for such purpose by the district board or the elected chief and secretary-treasurer, as appropriate, or at any election held in the county which encompasses the fire district, adopt the _____ fire code, which is a nationally recognized fire code approved by the state fire marshal. The words appearing on the ballots shall be "should _____ fire district adopt the _____ fire code, which is a nationally recognized fire code approved by the state fire marshal--yes", "should _____ fire district adopt the _____ fire code, which is a nationally recognized fire code approved by the state fire marshal--no". Such code shall be enforced by the county attorney in the same manner as any other law or ordinance of the county. Any inspection or enforcement costs are the responsibility of the fire district involved. The district shall keep on file such code which shall be open to public inspection for a period of thirty days prior to any election for the purpose of adopting a fire code. Copies of the order of election shall be posted in three public places in the district not less than twenty days before the date of the election, and if a newspaper is published in the county having a general circulation in the district, the order shall be published in the newspaper not less than once a week during each of the three calendar weeks preceding the calendar week of the election.

6. Amend or revise the adopted fire code, including replacement of the adopted fire code with an alternative nationally recognized fire code, with the approval of the state fire marshal and after a hearing held pursuant to posted and published notice as prescribed by subsection A, paragraph 2 of this section. The district shall keep three copies of the adopted code, amendments and revisions on file for public inspection.

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

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

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

10. Retain private legal counsel.

11. Accept gifts, contributions, bequests and grants and comply with any requirements of such gifts, contributions, bequests and grants not inconsistent with this article.

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

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

14. Adopt resolutions for a schedule for financial reimbursement to taxpayers for installation of certain fire protection systems such as sprinklers and monitored alarms. Any resolution to offer reimbursements shall include all of the following:

(a) A nationally recognized analysis of the cost savings to the district by using the fire protection systems.

(b) The specifications of all qualifying systems.

(c) The requirements for claiming reimbursement. The amount of reimbursement offered shall bear a reasonable relationship to the cost savings that accrue to the district as a result of the installation of qualifying systems.

(d) The requirement that the resolution to offer reimbursements expires one year after its adoption unless specifically readopted by the governing board. A resolution to readopt a schedule for financial reimbursement shall additionally include a statement as to the program's effectiveness. The statement shall include the amount of reimbursements paid to each taxpayer for the installation of the fire protection system.

15. ~~The governing board of a fire district,~~ With the approval of two of the three members of a three member board, four of the five members of a five member board or five of the seven members of a seven member board, ~~may~~ change the district's name and on so doing shall give written notice to the board of supervisors of the change.

16. Require all employees to submit a full set of fingerprints as prescribed by subsection A, paragraph 4 of this section.

17. Enter into intergovernmental agreements or contracts as follows:

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

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

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

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

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

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

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

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

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

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

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

C. The chairman and clerk of the district board or their respective designees or the elected chief and secretary-treasurer, as applicable, shall draw warrants on the county treasurer for money required to operate the district in accordance with the budget and, as so drawn, the warrants shall be sufficient to authorize the county treasurer to pay from the fire district fund.

D. The district shall not incur any debt or liability in excess of taxes levied and to be collected and the money actually available and unencumbered at the time in the fund, except as provided in subsection B, paragraph 2 of this section and in sections 48-806 and 48-807.

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

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

Sec. 3. Conforming legislation

The legislative council staff shall prepare proposed legislation conforming the Arizona Revised Statutes to the provisions of this act for consideration in the fiftieth legislature, first regular session.

APPROVED BY THE GOVERNOR APRIL 14, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 14, 2010.