

REFERENCE TITLE: fire district board members; employees

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HB 2158

Introduced by
Representatives Diaz: Peña

AN ACT

AMENDING SECTION 48-805, 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 48-805, Arizona Revised Statutes, is amended to
3 read:

4 48-805. Fire district; powers and duties; definition

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

6 1. Hold public meetings at least once each calendar month except as
7 follows:

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

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

13 2. Determine the compensation payable to district personnel.

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

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

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

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

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

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

43 3. Lease, lease-purchase or grant a lien on any or all of its
44 present or future property to pay amounts to the public safety personnel
45 retirement system pursuant to section 38-843, THE pension prefunding plan

1 investment accounts pursuant to section 35-314.04 and the Arizona
2 employers' pension prefunding plan established by section 38-932 and to
3 create reserves to supplement such payments as deemed necessary by the
4 board.

5 4. 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 5. 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 6. 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 7. 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.

44 8. Enter into an agreement procuring the services of an organized
45 private fire protection company or a fire department of a neighboring

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

3 9. Contract with a city or town for fire protection services for
4 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 10. Retain a certified public accountant to perform an annual audit
7 of district books.

8 11. Retain private legal counsel.

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

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

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

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

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

30 17. Enter into intergovernmental agreements or contracts as
31 follows:

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

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

38 (c) Enter into a contract with individuals to provide fire
39 protection services or emergency medical services, or both, to the extent
40 not regulated by title 36, chapter 21.1 to property owned by the
41 individual located outside the district boundaries if the individual's
42 property is not located in a county island as defined in section 11-251.12
43 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 18. 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. The
44 board may grant by unanimous consent an easement on district property for
45 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 chairperson and clerk of the district board or their
7 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.