

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 58th Legislature (2022)

4 HOUSE BILL 3079

                                  By: Smith

7                                   AS INTRODUCED

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

11  
12  
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

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

16           A. The board of county commissioners of each county of this  
17 state is hereby authorized to provide firefighting service in the  
18 county and for such purpose to use county funds to rent, lease or  
19 purchase firefighting equipment and to rent or construct and equip  
20 and operate fire stations and to employ necessary personnel to  
21 provide such service. The board of county commissioners shall also  
22 have the authority to determine and collect charges for firefighting  
23 services performed by the county from any person to whom such  
24 services are provided.

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.

24

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,

- 1 e. to take by grant, purchase, gift, devise or lease, and  
2 to dispose of real or personal property of every kind  
3 necessary for the operation of the county fire  
4 department,
- 5 f. to construct or otherwise acquire from available funds  
6 suitable firehouses and other buildings or structures  
7 suitable for the housing of equipment and supplies of  
8 the county fire department, or for carrying on its own  
9 business and affairs,
- 10 g. to employ such officers and employees as may be  
11 required from available funds, fix their compensation  
12 and prescribe their duties,
- 13 h. to establish rules for such county fire department and  
14 for the prevention of fires and conflagrations within  
15 the department's boundaries and for the protection of  
16 property at and during any fire,
- 17 i. to do any and all other things necessary and proper in  
18 the management and operation of the county fire  
19 department for the purpose of protecting property  
20 within its boundaries from fire, and
- 21 j. to prepare an annual budget and follow existing laws  
22 pertaining to the budget process such as public  
23 notice, public hearings, protest periods and filing  
24

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 (1) All volunteer firefighters are required, when  
2 notified, to respond to fire alarms and other  
3 emergencies.
- 4 (2) A volunteer firefighter is required to be present  
5 at all regular meetings, call meetings and  
6 schools presented for the benefit of the  
7 firefighters.
- 8 (3) There shall be at least one regular business  
9 meeting each month.
- 10 (4) Any volunteer firefighter having two unexcused  
11 absences in succession or three unexcused  
12 absences in a period of three (3) months will be  
13 dropped from the fire department rolls.
- 14 (5) Volunteer firefighters leaving the boundaries of  
15 the department for an extended period of time  
16 will be required to notify the fire chief.
- 17 (6) Any volunteer firefighter refusing to attend  
18 training classes provided for him or her will be  
19 dropped from the fire department rolls.
- 20 (7) Any volunteer member of the fire department shall  
21 be dropped from the fire department rolls for the  
22 following offenses:
- 23 (a) conduct unbecoming a firefighter,  
24 (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.

11  
12 COMMITTEE REPORT BY: COMMITTEE ON COUNTY AND MUNICIPAL GOVERNMENT,  
13 dated 03/01/2022 - DO PASS.  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24