

**103RD GENERAL ASSEMBLY****State of Illinois****2023 and 2024****SB2569**

Introduced 4/26/2023, by Sen. Doris Turner

**SYNOPSIS AS INTRODUCED:**

See Index

Amends the Fire Protection District Act. Provides that, when selling surplus real estate of a fire protection district, the value of the surplus real estate shall be determined by a written MAI certified appraisal or by a written certified appraisal of a State certified or licensed real estate appraiser (currently, by only a written MAI certified appraisal conducted by a State certified or licensed real estate appraiser). Provides that, if a party fails to reimburse or make a payment to a fire protection district as required by the Act or the Hazardous Material Emergency Response Reimbursement Act, the fire protection district may institute a civil action to recover costs. Provides that, if the court determines that any violation of the Act has occurred, the court shall award to the prevailing fire protection district actual damages, reasonable attorney's fees, and court costs. Defines "prevailing fire protection district". Provides that the board of trustees of any fire protection district may provide for the planning and implementation of services necessary to prevent or respond to emergencies involving hazardous materials or both (rather than only to prevent or respond to emergencies involving hazardous materials). Provides that the board of trustees may fix, charge, and collect reasonable fees for hazardous material services provided by the district. Provides that the total amount collected may not exceed the reasonable cost of providing those hazardous material services. Provides that nothing in the Act prohibits a fire protection district from seeking any remedy under the Hazardous Material Emergency Response Reimbursement Act. Provides that, in addition to other specified purposes in the Act, a fire protection district may accumulate funds for other purposes. Provides that the funds may be accumulated in any fund of the district. Amends the Hazardous Material Emergency Response Reimbursement Act. Provides that an emergency response agency that is a fire protection district or municipality may institute a civil action to recover costs, including labor costs and the costs of equipment and expendables, incurred in responding to an emergency incident. Provides that the fire protection district or municipality may recover attorney's fees and costs if the district or municipality is the prevailing party. Defines "prevailing party".

LRB103 32042 AWJ 60953 b

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Fire Protection District Act is amended by  
5 changing Section 10a and 11g and adding Sections 2.5 and 11n as  
6 follows:

7 (70 ILCS 705/2.5 new)

8 Sec. 2.5. Recovery of costs. Notwithstanding any provision  
9 of this Act, if a party fails to reimburse or make a payment to  
10 a fire protection district as required by this Act or the  
11 Hazardous Material Emergency Response Reimbursement Act, the  
12 fire protection district may institute a civil action to  
13 recover costs. If the court determines that any violation of  
14 this Act has occurred, the court shall award to the prevailing  
15 fire protection district actual damages, reasonable attorney's  
16 fees, and court costs. As used in this Section, "prevailing  
17 fire protection district" includes any fire protection  
18 district: (1) that obtains some of its requested relief  
19 through a judicial judgment in its favor; (2) that obtains  
20 some of its requested relief through any settlement agreement  
21 approved by the court; or (3) whose pursuit of a nonfrivolous  
22 claim was a catalyst for a unilateral change in position by the  
23 opposing party relative to the relief sought.

1 (70 ILCS 705/10a) (from Ch. 127 1/2, par. 30a)

2 Sec. 10a. Sale or exchange of property.

3 (a) The board of trustees of any fire protection district  
4 incorporated under this Act may sell, lease or exchange  
5 personalty and may sell or lease realty owned by the district  
6 and no longer needed for fire protection purposes. Except as  
7 provided in subsection (b), any realty sold pursuant to this  
8 Section shall be sold to the highest and best bidder either at  
9 public auction or on sealed bids. Notice of the public auction  
10 or of the receipt of bids shall be published at least once in a  
11 newspaper having a general circulation in the district or  
12 posted in at least ten public places in the district at least  
13 ten days before the date of the auction or the receipt of bids.

14 (b) The board of trustees may, by resolution, authorize  
15 the sale of surplus real estate. The value of the surplus real  
16 estate shall be determined by a written MAI certified  
17 appraisal or by a written certified appraisal of ~~conducted by~~  
18 a State certified or licensed real estate appraiser. The  
19 appraisal must be available for public inspection. The  
20 resolution may direct the sale to be conducted directly by the  
21 board of trustees or by listing with local, licensed real  
22 estate agencies, in which case the terms of the agent's  
23 compensation must be included in the resolution. The  
24 resolution must also include pertinent information concerning  
25 the size, use, and zoning of the real estate and the terms of

1 the sale. The resolution must be published at the first  
2 opportunity after the adoption of the resolution in a  
3 newspaper of general circulation published in the district or,  
4 if no newspaper is published in the district, a newspaper of  
5 general circulation published in the county in which the  
6 district is located. The board of trustees may accept any  
7 contract proposal that the board determines is in the best  
8 interest of the district, provided, however, that the sale  
9 price may not be less than 80% of the appraised value of the  
10 real estate.

11 (c) Nothing in this Section prevents a fire protection  
12 district from transferring realty to another municipal  
13 corporation or political subdivision pursuant to the Local  
14 Government Property Transfer Act.

15 (Source: P.A. 91-68, eff. 1-1-00.)

16 (70 ILCS 705/11g) (from Ch. 127 1/2, par. 31g)

17 Sec. 11g. The board of trustees of any fire protection  
18 district may provide for the planning and implementation of  
19 services necessary to prevent or respond to emergencies  
20 involving hazardous materials or both. The board of trustees  
21 may fix, charge, and collect reasonable fees for hazardous  
22 material services provided by the district. The total amount  
23 collected may not exceed the reasonable cost of providing  
24 those hazardous material services. Nothing in this Act  
25 prohibits a fire protection district from seeking any remedy

1 under the Hazardous Material Emergency Response Reimbursement  
2 Act, provided that no fees shall be charged for such planning  
3 and implementation.

4 (Source: P.A. 85-1285.)

5 (70 ILCS 705/11n new)

6 Sec. 11n. Accumulation of funds. In addition to the  
7 purposes described in Section 14, a fire protection district  
8 may accumulate funds for other purposes. Notwithstanding any  
9 other provision of law, the funds may be accumulated in any  
10 fund of the district.

11 Section 10. The Hazardous Material Emergency Response  
12 Reimbursement Act is amended by adding Section 5.5 as follows:

13 (430 ILCS 55/5.5 new)

14 Sec. 5.5. Recovery of costs. Notwithstanding any other  
15 provision of this Act, an emergency response agency that is a  
16 fire protection district or municipality may institute a civil  
17 action to recover costs, including labor costs and the costs  
18 of equipment and expendables, incurred in responding to an  
19 emergency incident. The fire protection district or  
20 municipality may recover attorney's fees and costs if the  
21 district or municipality is the prevailing party. As used in  
22 this Section, "prevailing party" includes any fire protection  
23 district or municipality: (1) that obtains some of its

1 requested relief through a judicial judgment in its favor; (2)  
2 that obtains some of its requested relief through any  
3 settlement agreement approved by the court; or (3) whose  
4 pursuit of a nonfrivolous claim was a catalyst for a  
5 unilateral change in position by the opposing party relative  
6 to the relief sought.

1 INDEX

2 Statutes amended in order of appearance

3 70 ILCS 705/2.5 new

4 70 ILCS 705/10a from Ch. 127 1/2, par. 30a

5 70 ILCS 705/11g from Ch. 127 1/2, par. 31g

6 70 ILCS 705/11n new

7 430 ILCS 55/5.5 new