

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 4 as follows:

6 (70 ILCS 705/4) (from Ch. 127 1/2, par. 24)

7 Sec. 4. Trustees; conflict of interest; violations.

8 (a) A board of trustees consisting of 3 members for the  
9 government and control of the affairs and business of a fire  
10 protection district incorporated under this Act shall be  
11 created in the following manner:

12 (1) If the district lies wholly within a single  
13 township but does not also lie wholly within a  
14 municipality, the board of trustees of that township shall  
15 appoint the trustees for the district but no township  
16 official who is eligible to vote on the appointment shall  
17 be eligible for such appointment.

18 (2) If the district is wholly contained within a  
19 municipality, the governing body of the municipality shall  
20 appoint the trustees for the district.

21 (3) If the district is wholly contained within a single  
22 county but does not lie wholly within a single township or  
23 a single municipality, the trustees for the district shall

1 be appointed by the presiding officer of the county board  
2 with the advice and consent of the county board; except  
3 that in counties with a population in excess of 3,000,000,  
4 2 trustees for the district shall be appointed by the board  
5 of trustees of the township that has the greatest  
6 population within the district as determined by the last  
7 preceding federal census. That board of trustees shall also  
8 appoint the remaining trustee if no other township  
9 comprises at least 10% of the population of the district.  
10 If only one other township comprises at least 10% of the  
11 population of the district, then the board of trustees of  
12 that district shall appoint the remaining trustee. If 2 or  
13 more other townships each comprise at least 10% of the  
14 population of the district, then the boards of trustees of  
15 those townships shall jointly appoint the remaining  
16 trustee. No township official who is eligible to vote on  
17 the appointment shall be eligible for the appointment.

18 (4) If the district is located in more than one county,  
19 the number of trustees who are residents of a county shall  
20 be in proportion, as nearly as practicable, to the number  
21 of residents of the district who reside in that county in  
22 relation to the total population of the district.

23 (A) In counties with a population of 3,000,000 or  
24 more, the trustees shall be appointed as provided in  
25 paragraphs (1), (2), and (3) of subsection (a) of this  
26 Section. For purposes of this item (A) and in item (B),

1 "district" means that portion of the total fire  
2 protection district lying within a county with a  
3 population in excess of 3,000,000.

4 (B) In counties with a population of less than  
5 3,000,000, the trustees for the district shall be  
6 appointed by the presiding officer of the county board  
7 with the advice and consent of the county board.

8 Upon the expiration of the term of a trustee who is in  
9 office on October 1, 1975, the successor shall be a resident of  
10 whichever county is entitled to such representation in order to  
11 bring about the proportional representation required herein,  
12 and he shall be appointed by the county board of that county,  
13 or in the case of a home rule county as defined by Article VII,  
14 Section 6 of the Constitution of 1970, the chief executive  
15 officer of that county, with the advice and consent of the  
16 county board.

17 Thereafter, each trustee shall be succeeded by a resident  
18 of the same county who shall be appointed by the same  
19 appointing authority; however, the provisions of the preceding  
20 paragraph shall apply to the appointment of the successor to  
21 each trustee who is in office at the time of the publication of  
22 each decennial Federal census of population.

23 Within 60 days after the adoption of this Act as provided  
24 in Section 1, or within 60 days after the adoption of an  
25 ordinance pursuant to subsection (c) of Section 4.01, the  
26 appropriate appointing authority shall appoint 3 trustees who

1 are electors in the district, not more than one of whom shall  
2 be from any one city or village or incorporated town in a  
3 district unless such city or village or incorporated town has  
4 more than 50% of the population in the district according to  
5 last preceding Federal census. Such trustees shall hold their  
6 offices thenceforward and for one, 2 and 3 years from the first  
7 Monday of May next after their appointment and until their  
8 successors have been selected and qualified and thereafter,  
9 unless the district has determined to elect trustees as  
10 provided in Section 4a, on or before the second Monday in April  
11 of each year the appointing authority shall appoint one trustee  
12 whose term shall be for 3 years commencing on the first Monday  
13 in May next after they are respectively appointed. The length  
14 of term of the first trustees shall be determined by lot at  
15 their first meeting.

16 Each trustee shall, before entering on the duties of his  
17 office, enter into bond with security to be approved by the  
18 appointing authority in such sum as the authority may  
19 determine.

20 A majority of the board of trustees shall constitute a  
21 quorum, but a smaller number may adjourn from day to day. No  
22 trustee or employee of such district shall be directly or  
23 indirectly interested financially in any contract work or  
24 business or the sale of any article, the expense, price or  
25 consideration of which is paid by the district; nor in the  
26 purchase of any real estate or other property, belonging to the

1 district, or which shall be sold for taxes or assessments or by  
2 virtue of legal process at the suit of the district. Nothing in  
3 this Section prohibits the appointment or selection of any  
4 person or trustee or employee whose only interest in the  
5 district is as an owner of real estate in such fire protection  
6 district or of contributing to the payment of taxes levied by  
7 the district. The trustees shall have the power to provide and  
8 adopt a corporate seal for the district.

9 (b) However, any trustee may provide materials,  
10 merchandise, property, services or labor, if:

11 A. the contract is with a person, firm, partnership,  
12 association, corporation or cooperative association in  
13 which such interested trustee has less than a 7 1/2% share  
14 in the ownership; and

15 B. such interested trustee publicly discloses the  
16 nature and extent of his interest prior to or during  
17 deliberations concerning the proposed award of the  
18 contract; and

19 C. such interested trustee abstains from voting on the  
20 award of the contract, though he shall be considered  
21 present for the purposes of establishing a quorum; and

22 D. such contract is approved by a majority vote of  
23 those trustees presently holding office; and

24 E. the contract is awarded after sealed bids to the  
25 lowest responsible bidder if the amount of the contract  
26 exceeds \$1500, but the contract may be awarded without

1 bidding if the amount is less than \$1500; and

2 F. the award of the contract would not cause the  
3 aggregate amount of all such contracts so awarded to the  
4 same person, firm, association, partnership, corporation,  
5 or cooperative association in the same fiscal year to  
6 exceed \$25,000.

7 (c) In addition to the above exemption, any trustee or  
8 employee may provide materials, merchandise, property,  
9 services or labor if:

10 A. the award of the contract is approved by a majority  
11 vote of the board of trustees of the fire protection  
12 district provided that any such interested member shall  
13 abstain from voting; and

14 B. the amount of the contract does not exceed \$1000;  
15 and

16 C. the award of the contract would not cause the  
17 aggregate amount of all such contracts so awarded to the  
18 same person, firm, association, partnership, corporation,  
19 or cooperative association in the same fiscal year to  
20 exceed \$2000; and

21 D. such interested member publicly discloses the  
22 nature and extent of his interest prior to or during  
23 deliberations concerning the proposed award of the  
24 contract; and

25 E. such interested member abstains from voting on the  
26 award of the contract, though he shall be considered

1 present for the purposes of establishing a quorum.

2 (d) A contract for the procurement of public utility  
3 services by a district with a public utility company is not  
4 barred by this Section by one or more members of the board of  
5 trustees being an officer or employee of the public utility  
6 company or holding an ownership interest if no more than 7 1/2%  
7 in the public utility company, or holding an ownership interest  
8 of any size if the fire protection district has a population of  
9 less than 7,500 and the public utility's rates are approved by  
10 the Illinois Commerce Commission. An elected or appointed  
11 member of the board of trustees having such an interest shall  
12 be deemed not to have a prohibited interest under this Section.

13 (e) Any officer or employee who violates this Section is  
14 guilty of a Class 4 felony and in addition thereto any office  
15 held by such person so convicted shall become vacant and shall  
16 be so declared as part of the judgment of the court.

17 (f) Nothing contained in this Section, including the  
18 restrictions set forth in subsections (b), (c) and (d), shall  
19 preclude a contract of deposit of monies, loans or other  
20 financial services by a fire protection district with a local  
21 bank or local savings and loan association, regardless of  
22 whether a member or members of the board of trustees of the  
23 fire protection district are interested in such bank or savings  
24 and loan association as an officer or employee or as a holder  
25 of less than 7 1/2% of the total ownership interest. A member  
26 or members holding such an interest in such a contract shall

1 not be deemed to be holding a prohibited interest for purposes  
2 of this Act. Such interested member or members of the board of  
3 trustees must publicly state the nature and extent of their  
4 interest during deliberations concerning the proposed award of  
5 such a contract, but shall not participate in any further  
6 deliberations concerning the proposed award. Such interested  
7 member or members shall not vote on such a proposed award. Any  
8 member or members abstaining from participation in  
9 deliberations and voting under this Section may be considered  
10 present for purposes of establishing a quorum. Award of such a  
11 contract shall require approval by a majority vote of those  
12 members presently holding office. Consideration and award of  
13 any such contract in which a member or members are interested  
14 may only be made at a regularly scheduled public meeting of the  
15 board of trustees of the fire protection district.

16 (g) Beginning on the effective date of this amendatory Act  
17 of 1990 and ending 3 years after the effective date of this  
18 amendatory Act of 1990, in the case of a fire protection  
19 district board of trustees in a county with a population of  
20 more than 400,000 but less than 450,000, according to the 1980  
21 general census, created under subsection (a), paragraph (3) of  
22 this Section a petition for the redress of a trustee, charging  
23 the trustee with palpable omission of duty or nonfeasance in  
24 office, signed by not less than 5% of the electors of the  
25 district may be presented to the township supervisor or the  
26 presiding officer of the county board, as appropriate. Upon



1 receipt of the petition, the township supervisor or presiding  
2 officer of the county board, as appropriate, shall preside over  
3 a hearing on the matter of the requested redress. The hearing  
4 shall be held not less than 14 nor more than 30 days after  
5 receipt of the petition. In the case of a fire protection  
6 district trustee appointed by the presiding officer of the  
7 county board, the presiding officer shall appoint at least 4  
8 but not more than 8 members of the county board, a majority of  
9 whom shall reside in a county board district in which the fire  
10 protection district is wholly or partially located, to serve as  
11 the hearing panel. In the case of a fire protection district  
12 trustee appointed by the board of town trustees, the township  
13 supervisor and 2 other town trustees appointed by the  
14 supervisor shall serve as the hearing panel. Within 30 days  
15 after the hearing, the panel shall issue a statement of its  
16 findings concerning the charges against the trustee, based upon  
17 the evidence presented at the hearing, and may make to the fire  
18 protection district any recommendations deemed appropriate.

19 (h) Any elected or appointed trustee of a fire protection  
20 district shall be entitled to absent himself or herself from  
21 any services or employment in which the trustee is then engaged  
22 or employed on the day and time of a meeting of the board of  
23 trustees of the fire protection district for the period of time  
24 during which the meeting is held and during any necessary time  
25 required to travel to and from the meeting. Any trustee  
26 availing himself or herself of this provision shall not be

1 penalized in any manner by his or her employer as a result of  
2 an absence authorized by this subsection; however, the employer  
3 shall not be required to compensate the trustee for the time  
4 during which the trustee is absent. No employer shall refuse to  
5 grant to a trustee of a fire protection district the privilege  
6 granted by this subsection, nor shall any employer penalize or  
7 otherwise discriminate against any trustee who avails himself  
8 or herself of the provisions of this subsection, except as  
9 otherwise provided herein. No employer may directly or  
10 indirectly violate the provisions of this subsection. A  
11 "meeting" for purposes of this subsection shall have the same  
12 meaning as that provided under Section 1.02 of the Open  
13 Meetings Act.

14 (Source: P.A. 89-482, eff. 1-1-97; 89-588, eff. 1-1-97; 90-14,  
15 eff. 7-1-97.)