

**SB3667**



**97TH GENERAL ASSEMBLY**

**State of Illinois**

**2011 and 2012**

**SB3667**

Introduced 2/10/2012, by Sen. Terry Link

**SYNOPSIS AS INTRODUCED:**

70 ILCS 705/30 new

Amends the Fire Protection District Act. Provides for the creation of unified fire protection districts by contiguous units of local government (municipalities, counties, fire protection districts, and townships) to reduce the costs of providing fire protection and emergency medical services. Provides that unified fire protection districts may be created by an intergovernmental agreement. Sets forth the requirements for the petition and intergovernmental agreement, including referendum approval of the agreement. Sets forth the process for referendum approval. Contains other provisions. Effective immediately.

LRB097 20161 KMW 65566 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

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 adding Section 30 as follows:

6 (70 ILCS 705/30 new)

7 Sec. 30. Unified Fire Protection District.

8 (a) Purpose. A Unified Fire Protection District may be  
9 formed by filing a petition for a referendum for the purpose of  
10 integrating existing service areas within contiguous units of  
11 local government to achieve a net savings in the cost of fire  
12 protection and emergency medical services in every included  
13 jurisdiction by the reduction or elimination of duplicative  
14 administrative costs, equipment, or capital expenditures, to a  
15 level that is preferably less, but no greater than, the  
16 aggregate costs of the fire departments included in the  
17 petition; unless the District can demonstrate any increase in  
18 the aggregate costs or an increase in the costs of the fire  
19 department of a participating unit of local government would  
20 justify an upgrade of the quality of services provided by the  
21 District or unit of local government, pursuant to an  
22 intergovernmental agreement. For the purpose of this Act, any  
23 county, municipality, fire protection district, or township is

1 a unit of local government eligible to petition for unification  
2 with another unit of local government. The creation of a  
3 Unified Fire Protection District shall be secured by an  
4 intergovernmental agreement that includes terms that meet the  
5 standards set forth in subsection (e).

6 (b) Petition. A Unified Fire Protection District may be  
7 formed upon petition signed by the lesser of: (i) at least 100  
8 legal voters in each of the units of local government proposed  
9 to be unified or (ii) or 10% of the legal voters in each of the  
10 units of local government to be included in the Unified Fire  
11 Protection District. The petition shall be filed in the circuit  
12 court for the county in which the greater part of the land in  
13 the proposed Unified Fire Protection District will be situated.  
14 The petition shall set forth (i) the names of the units of  
15 local government proposed to be included, (ii) the name of the  
16 proposed Unified Fire Protection District, (iii) the  
17 advantages to be derived from the inclusion of the units of  
18 local government in a Unified Fire Protection District, (iv)  
19 the number of trustees who shall serve on the board, and (v)  
20 whether the trustees shall be elected or appointed. Upon its  
21 filing, the petition shall be presented to the court, and the  
22 court shall fix the date and hour for a hearing.

23 (c) Notice of hearing. Upon the filing of the petition, the  
24 court shall set a hearing date that is at least 4 weeks but not  
25 more than 8 weeks after the date the petition is filed, and the  
26 court, or the clerk or sheriff upon order of the court, shall

1 give notice 21 days before the hearing in one or more daily or  
2 weekly newspapers of general circulation in each county where a  
3 unit of local government included in the petition is organized  
4 and by posting at least 10 copies of the notice in conspicuous  
5 places in the proposed District. The notice must describe the  
6 proposed units of local government to be included and must  
7 state that if the conditions required by this Section are met,  
8 then the proposition for the creation of the District shall be  
9 submitted to the voters of the proposed District by order of  
10 the court.

11 (d) Hearing and referendum. To certify a question for  
12 referendum approval, the court must find that: (i) based upon a  
13 preponderance of the evidence, the representatives of each of  
14 the parties to the proposed District has executed an  
15 intergovernmental agreement that includes terms that are in  
16 compliance with the standards required for the formation of a  
17 District, as set forth in subsection (e); and (ii) the terms of  
18 an agreed upon intergovernmental agreement have been approved  
19 by the governing bodies of each of the units of local  
20 government and any collective bargaining unit involved.

21 At the hearing, the court shall first determine if the  
22 petition is supported by the required number of valid  
23 signatures of legal voters within the contiguous units of local  
24 government. If the petition is proper, then the court shall  
25 remand the matter to a joint committee for the purpose of  
26 negotiating the terms of an intergovernmental agreement. The

1 court shall appoint members of the joint committee from the  
2 following parties:

3 (1) At least one representative of each unit of local  
4 government included within the proposed service area of the  
5 proposed District;

6 (2) At least one representative of each exclusive  
7 bargaining representative that is a party to a collective  
8 bargaining unit within a unit of local government included  
9 within the proposed District; and

10 (3) At least one representative of the petitioners from  
11 each unit of local government included within the proposed  
12 District after an election among the legal voters signatory  
13 to the petition from such units of local government.

14 Committee members shall meet from time to time to negotiate  
15 an intergovernmental agreement. Negotiations may continue for  
16 a period of 90 days or, if the court determines that additional  
17 time will facilitate agreement, longer. If no agreement is  
18 reached, the court shall dismiss the petition.

19 If an agreement is reached, the court shall schedule an  
20 evidentiary hearing with notice thereof to determine if the  
21 terms of the agreement are in compliance with the requirements  
22 of subsection (e).

23 An agreement shall be executed by the authorized  
24 representative of each party appointed to the committee by the  
25 court for each unit of local government included in the  
26 proposed District. If the agreement is not executed by

1 representatives of all 3 parties of a unit of local government  
2 included in the original petition, then the petition may  
3 proceed so long as the agreement is executed by all parties  
4 representing 2 or more units of local government included in  
5 the original petition. The non-consenting units of local  
6 government shall be dismissed. An amended petition may be filed  
7 by a consenting unit of local government on behalf of the  
8 remaining consenting units. In that event, the Court shall  
9 schedule an evidentiary hearing concerning the creation of a  
10 District consisting of only the consenting units of local  
11 government.

12 The following persons or entities, or their duly authorized  
13 representatives, shall have standing to present evidence at the  
14 hearing: the petitioners, the units of local government that  
15 will be included in the proposed District, and representatives  
16 of each exclusive bargaining representative that is a party to  
17 a collective bargaining unit within a unit of local government  
18 included within the proposed District.

19 If the court finds that all of the requirements of  
20 subsection (e) are not met, it may remand the matter for  
21 further negotiations between the parties and consider an  
22 amended intergovernmental agreement in the same manner as  
23 provided in this Section for an initial intergovernmental  
24 agreement.

25 If the court finds, by a preponderance of the evidence,  
26 that the petition is supported by a proper intergovernmental

1 agreement, the court shall enter an order certifying the  
2 proposition to the proper election officials, who shall submit  
3 to the legal voters of each included unit of local government  
4 at an election thereafter the question of whether the creation  
5 of the proposed District shall be approved. Notice of the  
6 election shall be given and the election conducted in the  
7 manner provided by the general election law. The notice shall  
8 state the boundaries of the District. The election authority  
9 must submit the proposition in substantially the following  
10 form:

11 Shall the service areas of (names of existing  
12 departments') fire protection and emergency medical  
13 services be combined under a single chain of command  
14 according to the terms of an intergovernmental agreement  
15 approved by the Circuit Court of (insert county and number  
16 of judicial circuit) and (name of the Unified Fire  
17 Protection District) be created with an aggregate tax  
18 extension of (insert amount stipulated in  
19 intergovernmental agreement) with the authority to levy  
20 property taxes for the following purposes: (insert  
21 purposes specified in intergovernmental agreement)?

22 The court shall cause a written statement of the results of  
23 the election to be filed in the court. If, in each unit of  
24 local government included within the boundaries of the

1 District, a majority of the voters voting on the question shall  
2 favor the proposition, then the court shall issue an order  
3 stating that the District has been approved.

4 (e) Minimum standards of service. The terms of the  
5 intergovernmental agreement shall guarantee that all of the  
6 following standards of service are met:

7 (1) The formation of the District will result in no net  
8 increase in the cost of fire protection services and  
9 emergency medical services for every included unit of local  
10 government based on the reduction or elimination of  
11 duplicative administrative staff, operational costs,  
12 services, equipment, or capital expenditures, unless the  
13 District can demonstrate that an increase in the aggregate  
14 cost of the fire departments of the participating units of  
15 local government costs justify an upgrade in the quality of  
16 services provided to the District as a whole or a  
17 participating unit of local government, as provided in the  
18 terms of the intergovernmental agreement.

19 (2) The formation of the District will not increase  
20 average emergency response times in any included unit of  
21 local government. In addition, the intergovernmental  
22 agreement shall identify the existing levels of emergency  
23 service as measured by nationally acceptable practices and  
24 shall include terms that ensure the levels of emergency  
25 service shall not be diminished in any of the included  
26 units of local government. Established Districts shall



1 annually report the actual performance of the district  
2 relative to its established performance standards.

3 (3) The taxing authority of a District shall be limited  
4 to ensure that the transition from providing fire  
5 protection by means of separate units of local government  
6 to extended service areas by means of the District results  
7 in no net increase in property taxes levied upon taxpayers  
8 residing in an affected jurisdiction as follows:

9 (i) Any property tax levied by the District on a  
10 resident taxpayer shall be offset by an abatement of  
11 taxes in the affected jurisdiction in an amount equal  
12 to the amount of the District's levy; and

13 (ii) Municipalities that fund fire department  
14 operations in whole or part from revenues collected  
15 from sources other than property taxes shall continue  
16 to contribute those revenues to the District to fund  
17 operations and shall not substitute property taxes for  
18 such revenues, unless otherwise agreed to by all  
19 parties to the intergovernmental agreement.

20 (4) The District shall apply savings in operating costs  
21 as follows:

22 (i) 50% shall be applied to reduce, pro rata, the  
23 property tax levy for fire or emergency medical  
24 services applied to property owners residing in the  
25 units of local government included in the District; and

26 (ii) 50% shall be contributed, pro rata, as

1 applicable, to each included unit of local  
2 government's Firemen's Pension Fund, and those  
3 contributions shall be applied as a credit to reduce  
4 the unfunded accrued liability of the Fund, if one  
5 exists. If no unfunded accrued liabilities exist, such  
6 savings in operating costs shall be applied to reduce,  
7 pro rata, the property tax levy for fire or emergency  
8 medical services applied to property owners residing  
9 in the units of local government included in the  
10 District that are parties to the intergovernmental  
11 agreement.

12 (f) Governing Board. The District shall be governed by a  
13 Board of 5 or 7 trustees established as provided in subsection  
14 (j). The Board shall elect a chairperson from among its  
15 members, who shall vote only in the case of a tie. The vote of  
16 each trustee shall be proportional to the population of the  
17 unit of local government represented. The population for the  
18 allocation of votes under this subsection shall be based upon  
19 the most recent federal decennial census results. The trustees  
20 shall be elected or appointed in the same manner and shall meet  
21 the same eligibility requirements of other elected or appointed  
22 fire protection district trustees.

23 (g) Powers and duties. The District shall have the power,  
24 duties, and obligations of a Fire Protection District as  
25 otherwise provided under this Act, except as modified or  
26 limited by the provisions of this Section. The District shall

1 develop a budget funded at a level sufficient to ensure the  
2 quality of service provided to the residents of the service  
3 area within the boundary of the included units of local  
4 government continues at a level equal to or greater than those  
5 provided prior to the modification.

6 (h) Local fire departments. The establishment of a District  
7 as a separate named unit of local government shall not prevent  
8 its constituent units of local government from continuing to  
9 identify their historical fire departments with the names of  
10 their localities. In that event, local fire departments shall  
11 be described as (local name) Branch of the (named District).

12 (i) Single chain of command. Upon the entry of an order  
13 establishing a District, the fire departments of the  
14 constituent units of local government shall lose their separate  
15 existence under separate chains of command and shall be  
16 operated under a single chain of command under the leadership  
17 of one fire chief who shall be appointed by the Board of the  
18 District. Chiefs and subordinate chief officers who are  
19 redundant under the single chain of command or consolidated  
20 shifts established under the Board shall be eligible to apply  
21 for vacancies in positions, including but not limited to  
22 training officer, EMS coordinator, fire inspector, or company  
23 officer, that may be established under the terms of the  
24 intergovernmental agreement entered into by the parties,  
25 provided that the positions shall not be available to any  
26 person who is already retired and receiving benefits under

1 Article 4 of the Illinois Pension Code. Any proposed reduction  
2 to a bargaining unit position resulting from the abolishment of  
3 a non-bargaining unit position shall be subject to compliance  
4 with the bargaining rights of any affected collective  
5 bargaining representative. Upon taking office, the fire chief  
6 of the District shall command all shifts covering the unified  
7 service area of the units of local government included in the  
8 District. The District shall thereupon become a body politic  
9 and corporate with all the powers, rights, duties, and  
10 obligations vested in it under the terms of the  
11 intergovernmental agreement and as otherwise provided under  
12 the provisions of this Act.

13 (j) Trustees. Upon the organization of the District, the  
14 duties of each included unit of local government relating to  
15 operating a fire department and emergency medical services  
16 within the boundaries of the District shall be transferred to  
17 the Board of the District to be exercised according to the  
18 terms of the intergovernmental agreement and as otherwise  
19 provided under the provisions of the Fire Protection District  
20 Act. If a District is wholly contained within a single county,  
21 the trustees for the District shall be appointed by the chief  
22 executive officer of the county board with the advice and  
23 consent of the county board. If the District lies within more  
24 than one county, the number of trustees who are residents of a  
25 county shall be in proportion, as nearly as practicable, to the  
26 number of residents of the District who reside in that county

1 in relation to the total population of the District. The  
2 procedures for the appointment or election of trustees shall be  
3 as otherwise provided by the Fire Protection District Act.

4 Thereafter, each trustee shall be succeeded by a resident  
5 of the same county who shall be appointed by the same  
6 appointing authority. The appropriate appointing authorities  
7 shall appoint at least 5 trustees of the District within 60  
8 days after the entry of the order establishing the District.  
9 The trustees shall be electors in the District, provided that  
10 the Board shall consist of a trustee representing each unit of  
11 local government included in the District. The trustees shall  
12 hold such terms of offices and shall have the powers and  
13 qualifications that are provided for trustees under Section 4  
14 of the Fire Protection District Act. In the event of a conflict  
15 between the terms of this Act or the terms of an  
16 intergovernmental contract negotiated and approved in  
17 accordance with the procedures of the Act and the powers of the  
18 trustees as otherwise provided by the Fire Protection District  
19 Act, the terms of this Act and the terms of the  
20 intergovernmental contract shall prevail and supersede.

21 (k) Firefighters and EMS personnel employed by a unit of  
22 local government included in the District. All firefighters and  
23 EMS personnel lawfully in the employment of any unit of local  
24 government included in the District shall remain members of the  
25 fire departments that they are serving on the effective date of  
26 this amendatory Act of the 97th General Assembly, but shall be

1 subject to the unified chain of command established under the  
2 Board.

3 A District consisting of any fire department that employs  
4 full-time officers or members shall be subject to Sections  
5 16.01 through 16.18 of this Act unless agreed otherwise by  
6 terms of the intergovernmental agreement agreed to by the units  
7 of local government and the exclusive bargaining agents  
8 representing employees engaged in providing fire protection or  
9 emergency medical services within the service area of the  
10 District.

11 (l) Contracts between an exclusive bargaining agent and a  
12 unit of local government. Contracts in effect between an  
13 exclusive bargaining agent and a unit of local government shall  
14 continue according to their terms. Successor contracts shall be  
15 negotiated in accordance with the provisions of the Illinois  
16 Public Labor Relations Act. Upon agreement of any 2 or more  
17 units of local government and corresponding exclusive  
18 bargaining representatives, and approval of that agreement by a  
19 majority of the members of each respective bargaining unit, any  
20 2 or more bargaining units may be consolidated within a single  
21 bargaining unit.

22 (m) Distribution of specified taxes. Any unit of local  
23 government that is included in a District shall be exempt from  
24 any reduction in the formula for distribution of income tax  
25 revenues, pursuant to Section 901 of the Illinois Income Tax  
26 Act, and personal property replacement tax revenues, pursuant

1 to subsection (c) of Section 201 of the Illinois Income Tax  
2 Act, collected from local taxpayers by State agencies and  
3 heretofore redistributed to the units of local government based  
4 on the formula and laws in effect as of the effective date of  
5 this amendatory Act of the 97th General Assembly.

6 A District shall be eligible to receive the distribution of  
7 income tax revenues collected from local taxpayers according to  
8 the same formula applicable to municipalities.

9 (n) Outstanding bonds and notes. In the case of any unit of  
10 local government included in a District that has bonds or notes  
11 outstanding that fund the operation of its fire department that  
12 are a lien on funds on hand in the treasury at the time of  
13 inclusion, the lien shall be unimpaired by the inclusion and  
14 the lien shall continue in favor of the bond or note holders.  
15 The funds on hand subject to the lien shall be set apart and  
16 held for the purpose of retiring such secured debt, and no such  
17 funds shall be transferred into the general funds of the  
18 District until all indebtedness of the unit of local government  
19 entering into the District has been discharged.

20 In the case of any unit of local government joined into a  
21 District that has unsecured debts outstanding at the time of  
22 inclusion, any funds in the treasury of the unit of local  
23 government otherwise available and not committed shall, to the  
24 extent necessary, be applied to the payment of those debts.

25 All property in the District, without discrimination  
26 between the territory in the several units of local government,

1 shall be subject to taxation to pay the debts, bonds, and  
2 obligations created after the establishment of the District.

3 (o) Effects of inclusion. The inclusion of any unit of  
4 local government into a District shall not, unless agreed upon  
5 in an intergovernmental agreement, affect the obligation of any  
6 contract entered into by the unit of local government. Such  
7 contracts shall remain the obligation of the unit of local  
8 government that incurred the obligation.

9 The inclusion of units of local government shall not  
10 adversely affect proceedings for the collection or enforcement  
11 of any tax. The proceedings shall proceed to a finality as  
12 though no inclusion had taken place. The proceeds thereof shall  
13 be paid over to the treasurer of the unit of local government  
14 subject to the terms of the intergovernmental agreement to be  
15 used, however, for the purpose for which the tax was levied or  
16 assessed.

17 All suits pending in any court on behalf of or against any  
18 unit of local government relating to the provision of fire or  
19 emergency medical services when the unit of local government is  
20 joined into a District may be prosecuted or defended in the  
21 name of the unit of local government unless otherwise provided  
22 in the intergovernmental agreement. All judgments obtained for  
23 any unit of local government joined into a District shall be  
24 collected and enforced by the District for its benefit unless  
25 otherwise provided in the intergovernmental agreement.

26 The title to all property of a unit of local government



1 related to providing fire or emergency medical services in the  
2 District that is transferred to the District under the terms of  
3 the intergovernmental agreement shall remain vested in the unit  
4 of local government, to be held for the same purposes and uses,  
5 and subject to the same conditions as before inclusion.

6 (p) Exclusivity. Any intergovernmental contracts otherwise  
7 authorized by law that relate to the combining of contracts or  
8 the integration of service areas where fire protection or  
9 emergency medical services are performed shall be done  
10 exclusively by referendum in accordance with this Section.

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law.