

# HB6041



## 99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB6041

Introduced 2/11/2016, by Rep. Donald L. Moffitt

### SYNOPSIS AS INTRODUCED:

70 ILCS 705/16

from Ch. 127 1/2, par. 37

Amends the Fire Protection District Act. Provides that a petition to disconnect territory from a fire protection district that would cause serious injury to a fire protection district shall be dismissed. Defines serious injury. Effective immediately.

LRB099 18398 AWJ 42774 b

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 changing Section 16 as follows:

6 (70 ILCS 705/16) (from Ch. 127 1/2, par. 37)

7 Sec. 16. In order to facilitate circumstances in which fire  
8 protection may be materially improved by adjustment of  
9 jurisdictional boundaries of adjoining fire protection  
10 districts without impairing the overall provision of fire  
11 protection services in the adjoining districts, territory  
12 ~~Territory~~ included within the limits of any fire protection  
13 district may be disconnected from the district and added to  
14 another district to which the territory is contiguous, in the  
15 manner hereinafter set forth; (1) if the territory would  
16 receive equal or greater benefits from the district to which it  
17 seeks to be transferred; (2) if the transfer will not cause the  
18 territory remaining in the district from which the transfer is  
19 to be made, to be noncontiguous; (3) if the transfer will not  
20 cause a serious injury to the district from which the transfer  
21 is to be made; and, (4) if the trustees of the district to  
22 which the transfer is sought to be made do not file a written  
23 refusal to accept the territory within the time hereinafter

1 provided.

2 Territory disconnected pursuant to this Section shall  
3 remain liable for its proportionate share of the bonded  
4 indebtedness outstanding as of the date of disconnection, if  
5 any, of the district from which it was disconnected and shall  
6 assume a proportionate share of the bonded indebtedness, if  
7 any, of the district to which it is transferred.

8 Five ~~One~~ per cent or more of the legal voters residing  
9 within the limits of the territory proposed to be transferred  
10 may file a petition, in the court of the county where the  
11 district to which it seeks to be transferred is organized,  
12 setting forth: the description of the territory sought to be  
13 transferred; that the territory would receive equal or greater  
14 benefits by the transfer; that the transfer will not cause a  
15 serious injury to the district or districts from which the  
16 transfer is proposed to be made; and the amount of any  
17 outstanding bonded indebtedness against the district or  
18 districts in which the territory is then situated which has  
19 been incurred pursuant to this Act; and praying that the  
20 question whether the transfer shall be made, and whether the  
21 voters of such territory shall remain liable for a  
22 proportionate share of the bonded indebtedness outstanding as  
23 of the date of disconnection, if any, of the district from  
24 which it was disconnected and also assume a proportionate share  
25 of the bonded indebtedness, if any, of the district to which  
26 the transfer is to be made, be submitted to the voters of the

1 entire district from which the transfer is sought to be made  
2 ~~territory sought to be transferred.~~

3       Upon the filing of the petition, the court shall set a day  
4 for hearing, not less than 2 weeks nor more than 4 weeks from  
5 the filing thereof, and the court, or the circuit clerk or  
6 sheriff upon order of the court, (i) shall give 2 weeks notice  
7 of such hearing in one or more daily or weekly newspapers of  
8 general circulation in the county or in each county wherein the  
9 district or districts from which the territory sought to be  
10 transferred is organized and by posting at least 10 copies of  
11 the notice in conspicuous places in the district or in each of  
12 the districts from which the territory is sought to be  
13 transferred, (ii) shall cause a copy of the notice to be  
14 personally served upon each trustee of the district from which  
15 the transfer is sought to be made, and (iii) in addition shall  
16 cause a copy of the notice to be personally served upon each of  
17 the trustees of the district to which the transfer is sought to  
18 be made at least one week before the date set for the hearing,  
19 and in the notice, or in any accompanying notice to be served  
20 upon the Trustees at the same time, a recital shall be made  
21 stating that the Trustees may at any time prior to the date of  
22 the hearing, or within such additional time as may be granted  
23 by the court upon request in writing filed on or before such  
24 date, file a written refusal to accept the territory as a part  
25 of their district, provided, that such notification need not be  
26 given to the trustees if they file in the proceeding their

1 written appearances or written consent to a transfer of the  
2 territory to their district. Both the fire protection district  
3 from which the territory seeks to be transferred and the fire  
4 protection district to which the territory seeks to be  
5 transferred are necessary parties in any action to disconnect  
6 under this Section.

7 At any time prior to the date set for the hearing, or  
8 within such additional time as may be granted by the court, the  
9 trustees of the district to which the transfer is sought to be  
10 made may file a written refusal to accept the territory as a  
11 part of their district and in case of such refusal the court  
12 shall enter an order dismissing the petition for the transfer.  
13 The trustees may withdraw their refusal at any time prior to  
14 the entry of an order dismissing the petition. In case the  
15 trustees fail to file a written refusal within the time  
16 hereinbefore authorized, they shall be deemed to have consented  
17 to a transfer of the territory to their district, and consent  
18 once given may not be withdrawn without leave of court for good  
19 cause shown. In case of such consent, the court shall proceed  
20 with the matter as herein provided but if the court finds that  
21 any of the conditions herein required for the making of a  
22 transfer do not exist it shall enter an order dismissing the  
23 petition. In taking any action upon the petition the findings  
24 of the court shall be filed of record in the case.

25 All property owners in the district from which the transfer  
26 is sought and all persons interested therein, may file

1 objections, and at the hearing may appear and contest the  
2 transfer and the matters averred in the petition, and both  
3 objectors and petitioners may offer any competent evidence in  
4 regard thereto. In addition, all persons residing in or  
5 interested in any of the property situated in the territory  
6 sought to be transferred shall have an opportunity to be heard  
7 touching the location and boundary of the territory to be voted  
8 upon for such transfer, and may make suggestions regarding the  
9 same. For purposes of this Section, serious injury shall be  
10 found to exist in the district from which the transfer is  
11 sought when a material impairment of the ability to provide  
12 continuing fire protection and related emergency services to  
13 the territory remaining in the district after the transfer may  
14 occur. The court may consider the following, but not limited  
15 to, in its determination as to whether a serious injury may  
16 occur: the financial resources, facilities, and equipment  
17 which will remain in the district; and the financial  
18 obligations, including remaining non-bonded debt of the  
19 district, from which the transfer is sought. A loss of annual  
20 real estate tax revenues by the district from which the  
21 transfer is sought of 15 percent or more by reason of the  
22 disconnection and transfer shall constitute serious injury and  
23 require dismissal of the petition. However, the court is not  
24 precluded from finding serious injury to exist with a lesser  
25 tax revenue loss if it shown by the preponderance of other  
26 evidence presented to the court that serious injury would

1 result if the transfer were to occur.

2 If the court shall, upon hearing the petition, find that  
3 the territory described in the petition would receive equal or  
4 greater benefits by being so transferred and meet the  
5 conditions hereinbefore set forth, it shall certify to the  
6 proper election officials the question of whether the territory  
7 shall be transferred, and its order, and such officials shall  
8 submit that question at an election in the entire district from  
9 which the transfer is sought to be made ~~in such territory~~ in  
10 accordance with the general election law. The proposition shall  
11 be in substantially the following form:

12 -----

13 For making the transfer from the  
14 ..... Fire Protection District to the  
15 ..... Fire Protection District, remaining  
16 liable for a proportionate share of the  
17 bonded indebtedness outstanding as of the  
18 date of disconnection, if any, of the district  
19 from which disconnection is proposed and also  
20 assuming a proportionate share of the bonded  
21 indebtedness, if any, of the district  
22 to which transfer is proposed.

23 -----

24 Against making the transfer from the  
25 ..... Fire Protection District to the  
26 ..... Fire Protection District, remaining

1     liable for a proportionate share of the  
 2     bonded indebtedness outstanding as of the  
 3     date of disconnection, if any, of the district  
 4     from which disconnection is proposed and also  
 5     assuming a proportionate share of the bonded  
 6     indebtedness, if any, of the district  
 7     to which transfer is proposed.

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9           If a majority of the votes cast upon the question of making  
 10    the transfer shall be in favor of the transfer, the territory  
 11    shall thenceforth cease to be a part of the fire protection  
 12    district or districts to which it has been attached and shall  
 13    become an integral part of the fire protection district to  
 14    which the transfer shall have been sought and shall be subject  
 15    to all the enjoyments and responsibilities of the latter  
 16    district. In each case in which a transfer is effected pursuant  
 17    to the provisions hereof, the circuit clerk in whose court the  
 18    transfer proceedings have been conducted, shall certify copies  
 19    of all orders entered in effecting such transfer and file or  
 20    send them to the proper county clerk or clerks for filing and  
 21    to the Office of the State Fire Marshal.

22    (Source: P.A. 94-806, eff. 1-1-07.)

23           Section 99. Effective date. This Act takes effect upon  
 24    becoming law.