

AN ACT concerning local government.

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

Section 5. The Fire Protection District Act is amended by changing Section 4 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

present for the purposes of establishing a quorum.

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

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

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

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

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

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

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

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

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