

CHAPTER 27

(HB 11)

AN ACT relating to fire protection services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 75 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"City" means any city government that maintains a regular fire department as defined in KRS 95.010(3)(b); and*

(b) *"Fire district" means a fire protection district or a volunteer fire department district created in accordance with the procedures of KRS 65.182.*

(2) *Except as provided in subsection (4) of this section, a fire district shall not contain or later include within its boundaries any territory that is located within the corporate limits of a city. Subject to the limitations of subsections (3) and (4) of this section, a city shall have the primary right to provide fire service to all territories located within its corporate limits.*

(3) (a) *In order for a city to assume the provision of fire service to annexed or newly incorporated territory that is being served by a fire district, the city shall pay the fire district for the proportionate share of the fire district's indebtedness that was incurred while the annexed or newly incorporated territory was included within the fire district.*

(b) *Unless otherwise agreed to in writing by the city and the fire district, the proportionate share of the fire district's debt attributable to annexed or newly incorporated territory shall be calculated based upon the ratio of the total value of taxable real property included within the annexed or newly incorporated territory to the total value of all taxable real property located within the entire fire district as it existed prior to the annexation or incorporation by the city. The resulting quotient shall be multiplied by the fire district's total indebtedness to determine the amount of liability that the city is responsible for paying to the fire district.*

(c) *Unless otherwise agreed to in writing by the city and the fire district, the city shall pay the entire amount of the proportionate share of the indebtedness to the fire district prior to assuming service in the annexed or newly incorporated territory or shall pay the total amount in equal yearly installments over no more than three (3) consecutive years. The first installment shall be due to the fire district prior to the city assuming the provision of fire services.*

(d) *If a city meets the requirements of this subsection, the annexed or newly incorporated territory shall be stricken from the boundaries of the fire district, and the fire district shall no longer be authorized to collect any taxes from property owners within the stricken territory.*

(4) *A city shall cede its primary right to provide fire services to annexed or newly incorporated territory located within a fire district if:*

(a) *The city does not comply with the requirements of subsection (3) of this section to pay the fire district for the proportionate share of the indebtedness attributable to the annexed or newly incorporated territory;*

(b) *The fire district has no indebtedness at the time of the annexation or incorporation, and the fire district and city agree in writing that it is in the best interests of the citizens and property owners within the annexed or incorporated territory to continue to have fire service provided by the fire district. The agreement entered into by the fire district and the city may contain any agreed-upon term, conditions, and limitations; or*

(c) *Any circumstance exists where the fire district and city agree in writing that it is more appropriate and beneficial to the citizens and property owners within the territory for the fire district to continue the provision of fire services within the annexed or newly incorporated territory. The agreement entered into by the fire district and the city may contain any agreed-upon term, conditions, and limitations.*

➔Section 2. KRS 75.010 is amended to read as follows:

~~{(1)—}~~A fire protection district or a volunteer fire department district may be created in accordance with the procedures of KRS 65.182.

~~{(2)—}~~In no event shall any fire protection district or any volunteer fire department district include within its metes and bounds any territory at that time or thereafter included in any city of this Commonwealth which maintains a "regular fire department," and which city has paid its proportionate share of the indebtedness incurred while such territory was a part of that district.]

➔Section 3. KRS 75.020 is amended to read as follows:

- (1) (a) The territorial limits of an established fire protection district, or a volunteer fire department district, as established under KRS 75.010 to 75.080, may be enlarged or diminished in the following way: The trustees of the fire protection district or of the volunteer fire department district shall file a petition in the county clerk's office of the county in which that district and the territory to be annexed or stricken off, or the greater part thereof, is located, describing the territory to be annexed or stricken and setting out the reasons therefor. Notice of the filing of such petition shall be given by publication as provided for in KRS Chapter 424. On the day fixed in the notice, the county judge/executive shall, if the proper notice has been given, and the publication made, and no written objection or remonstrance is interposed enter an order annexing or striking off the territory described in the petition. Fifty-one percent (51%) or more of the freeholders of the territory sought to be annexed or stricken off may, at any time before the date fixed in the notice, remonstrate in writing, filed in the clerk's office, to the action proposed. If such written remonstrance is filed, the clerk shall promptly give notice to the trustees of the fire protection district, or of the volunteer fire department district, and the county judge/executive shall hear and determine the same. If upon such hearing, the county judge/executive finds from the evidence that a failure to annex or strike off such territory will materially retard the functioning of the fire protection district or the volunteer fire department district and materially affect adversely the owners and the inhabitants of the territory sought to be annexed or stricken off, he or she shall enter an order, granting the annexation or striking off the territory. In the latter event, no new petition to annex or strike off all or any part of the same territory shall be entertained for a period of two (2) years. Any aggrieved person may bring an action in Circuit Court to contest the decision of the county judge/executive.
 - (b) In addition to the provisions of paragraph (a) of this subsection, if the trustees of a fire protection district or a volunteer fire department district, as established under KRS 75.010 to 75.080, are seeking to expand territory into an area served by a fire department created under KRS Chapter 273, then the trustees shall, prior to executing the provisions of paragraph (a) of this subsection, enter into a written agreement with the fire chief and the board of the fire department created under KRS Chapter 273. The agreement shall establish the proposed new boundary. On the day the agreement is finalized, the trustees of the district shall send by certified mail, return receipt requested, or have personally delivered a copy of the agreement to the county judge/executive of the county containing the territory subject to the expansion. The notice required in paragraph (a) of this subsection shall, in lieu of the applicable publication requirements set out in KRS Chapter 424, be published at least once a week, for a minimum of two (2) weeks. The last publication shall occur no less than seven (7) days before the date fixed in the notice.
 - (c) If the trustees approach the fire chief and board of the fire department created under KRS Chapter 273 in the manner authorized in paragraph (b) of this subsection and are unable to reach an agreement within thirty (30) days, the trustees, or any real property holder of the territory subject to the annexation, may directly seek permission from the real property holders of that territory to continue with the annexation procedure set out in paragraphs (a) and (b) of this subsection by circulating a petition and securing the signatures of at least fifty-one percent (51%) of the real property holders within that territory. The petition shall include the residential address of the signer and the date of the signature. The petition shall be certified by the county clerk if the clerk finds the petition sufficient in form and requisite amount of signatures.
- (2) The property in any territory annexed to a fire protection district or to a volunteer fire department district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the fire protection district or the volunteer fire department district prior to the date of the annexation of such territory, except such indebtedness as represents the balance owing on the purchase price of firefighting equipment. The property in any territory stricken off from a fire protection district or a volunteer fire department district by the incorporation of or annexation by a city of this Commonwealth shall not be relieved of liability of such taxes as may be necessary to pay its proportionate share of the indebtedness incurred while such territory was a part of that district. Territories stricken by action of the county judge/executive under the provisions of subsection

- (1) shall be relieved of liability for all indebtedness incurred by the fire protection district or the volunteer fire department district.
- (3) Any city that maintains a "regular fire department," and has either by incorporation or annexation caused property to be stricken from a fire protection district or a volunteer fire department district, shall **comply with subsection (3) of Section 1 of this Act** ~~assume the liability of such taxes as may be necessary to pay the proportional share of the indebtedness incurred while such territory was a part of said district~~.
- (4) The territorial limits of two (2) or more fire protection districts, or volunteer fire department districts, as established by KRS 75.010 to 75.080, may be merged into one (1) fire protection district or volunteer fire department district as follows:
- (a) The trustees of each fire protection district or volunteer fire department district shall file a joint petition in the county clerk's office of the county in which all of the districts and the territory to be merged into one (1) district, or the greater part of the district, is located, describing the territory to be merged into the district and setting out the reasons for the merger;
 - (b) Notice of the filing of the petition shall be given by publication as provided in KRS Chapter 424 for public notices;
 - (c) On the day fixed in the notice, the county judge/executive shall, if proper notice by publication has been given, and no written objection or remonstrance has been made, enter an order merging the fire protection districts or volunteer fire department districts described in the petition;
 - (d) Fifty-one percent (51%) or more of the property owners of the territory sought to be merged into one (1) district may, at any time before the date fixed in the notice, remonstrate by written petition to the county clerk regarding their objection to the merger of the districts. If a petition is filed, the county clerk shall give prompt notice to the trustees of the fire protection districts or the volunteer fire protection districts and the county judge/executive;
 - (e) The county judge/executive shall schedule a hearing regarding the petition and shall give public notice as to the date, time, and place of the hearing. If after the hearing, the county judge/executive finds from the evidence that a failure to merge the territory will materially retard the functioning of the fire protection districts or volunteer fire department districts and materially affect adversely the owners and the inhabitants of the territory sought to be merged, he or she shall enter an order granting the merger of the districts into one (1) fire protection district or volunteer fire department district; and
 - (f) Any aggrieved person may bring an action in Circuit Court to contest the decision of the county judge/executive regarding the merger fire protection districts or volunteer fire department districts.
- (5) The property in any fire protection district or volunteer fire department district which is merged with another fire protection district or volunteer fire department district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the other fire protection district or volunteer fire department district prior to the date of the merger into one (1) fire protection district, except indebtedness which represents a balance owed on the purchase price of firefighting equipment from the other fire protection district or volunteer fire department district.

➔Section 4. KRS 75.040 is amended to read as follows:

- (1) (a) Upon the creation of a fire protection district or a volunteer fire department district as provided in KRS 75.010 to 75.031, the trustees of a district are authorized to establish and operate a fire department and emergency ambulance service as provided in subsection (6) of this section and to levy a tax upon the property in the district. **Property that may be taxed includes** ~~including that~~ property within cities in a fire protection district or a volunteer fire department district: ~~{-}~~
1. As provided by *Section 1 of this Act*; or
 2. *Within the metes and bounds of a city that does not maintain a regular fire department as defined by KRS 95.010(3)(b).*

The property taxed shall be subject to county tax, and the tax levied by the district shall not exceed ~~KRS 75.010(2) provided that the property is subject to county tax, and not exceeding~~ ten cents (\$0.10) per one hundred dollars (\$100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the establishment, maintenance, and operation of the fire department or to make contracts for fire protection for the districts as provided in KRS 75.050. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

- (b) A fire protection district or a volunteer fire department district that establishes and operates an emergency ambulance service and is the primary service provider in the district may levy a tax upon the property in the district not to exceed twenty cents (\$0.20) per one hundred dollars (\$100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the establishment, maintenance, and operation of the fire department and emergency ambulance service or to make contracts for fire protection for the districts as provided in KRS 75.050. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.
- (2) The establishment, maintenance, and operation of a fire protection district or volunteer fire department district shall include, but not be limited to, the following activities:
 - (a) Acquisition and maintenance of adequate fire protection facilities;
 - (b) Acquisition and maintenance of adequate firefighting equipment;
 - (c) Recruitment, training, and supervision of firefighters;
 - (d) Control and extinguishment of fires;
 - (e) Prevention of fires;
 - (f) Conducting fire safety activities;
 - (g) Payment of compensation to firefighters and providing the necessary support and supervisory personnel;
 - (h) Payment for reasonable benefits or a nominal fee to volunteer firefighters when benefits and fees do not constitute wages or salaries under KRS Chapter 337 and are not taxable as income to the volunteer firefighters under Kentucky or federal income tax laws; and
 - (i) The use of fire protection district equipment for activities which are for a public purpose and which do not materially diminish the value of the equipment.
 - (3) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the Department of Revenue.
 - (4) Such taxes shall be subject to the same delinquency date, discounts, penalties, and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of one percent (1%) of the amount collected by him.
 - (5) Nothing contained in this subsection shall be construed to prevent the trustees of a fire protection district located in a city or county which provides emergency ambulance service from using funds derived from taxes for the purpose of providing supplemental emergency medical services so long as the mayor of the city or the county judge/executive of the county, as appropriate, certifies to the trustees in writing that supplemental emergency medical services are reasonably required in the public interest. For the purposes of this subsection, "supplemental emergency medical services" may include EMT, EMT-D, and paramedic services rendered at the scene of an emergent accident or illness until an emergency ambulance can arrive at the scene.
 - (6) The trustees of those fire protection districts or volunteer fire department districts whose districts or portions thereof do not receive emergency ambulance services from an emergency ambulance service district or, whose districts are not being served by an emergency ambulance service operated or contracted by a city or county government, may develop, maintain, and operate or contract for an emergency ambulance service as part of any fire department created pursuant to this chapter. No taxes levied pursuant to subsection (1) of this section shall be used to develop, maintain, operate, or contract for an emergency ambulance service until the tax year following the year the trustees of the district authorize the establishment of the emergency ambulance service.

Signed by Governor March 19, 2013.