

CHAPTER 117

(HB 343)

AN ACT relating to the provision of fire protection services.

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

→Section 1. 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) *A fire protection district or volunteer fire department district shall not include any territory within its proposed service area that lies within:*
 - (a) *The corporate limits of a city;*
 - (b) *The boundaries of an existing fire protection district or volunteer fire department district established pursuant to KRS 75.010 to 75.080;*
 - (c) *The service area boundaries of a fire department created under KRS Chapter 273 that is certified under KRS 75.400 to 75.460; or*
 - (d) *An area that is not contained within the boundaries of a city, but has fire protection services provided by a city government, unless an agreement is in place for the newly formed district to assume services in the territory as authorized in Section 2(1)(b) of this Act.*

→Section 2. 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 *and certified under KRS 75.400 to 75.460 or an area that is not contained within the boundaries of the city, but is being served by a city government*, 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 *or with the city government providing fire protection services to the area proposed to be annexed*. The agreement shall establish the proposed new boundary *as it applies to the fire department created under KRS Chapter 273 or to the area being served by the city fire department*. 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 **or the city government** 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 KRS 75.022(3).
- (4) ***A fire protection district or volunteer fire department district established pursuant to KRS 75.010 to 75.080 shall not expand its service boundaries or annex territory contained in another fire protection district or volunteer fire department district established pursuant to KRS 75.010 to 75.080. However,*** 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.
- (6) ***Fire protection districts or volunteer fire department districts that modify service area boundaries by taking any action authorized under this section shall update their service area boundary maps and file them in the manner required by KRS 75.420.***

➔Section 3. KRS 75.022 is amended to read as follows:

- (1) ~~[As used in this section:]~~
- (a) ***As used in subsections (2) to (4) of this section, "city" means any city government that maintains a regular fire department as defined in KRS 95.010(3)(b).~~[-and]~~***
- (b) ***As used in subsections (2) to (5) of this section, "fire district" means a fire protection district or a volunteer fire department district created in accordance with the procedures of KRS 65.182, county volunteer fire department established under the authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations under KRS Chapter 273.***
- (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.

- (5) (a) *As used in this subsection, "regular fire department" has the same meaning as in KRS 95.010(3)(b).*
- (b) *A city that does not maintain a regular fire department, but maintains its own volunteer fire department:*
1. *Shall have the right to assume the provision of fire service to territory annexed by the city that, at the time of the annexation, is being served by a fire district that does not maintain a regular fire department. A city that elects to assume the provision of fire service pursuant to this subsection shall follow the procedures established in subsections (3) and (4) of this section; and*
 2. *Shall not have the primary right to provide fire services to any territory that is being served by a fire district that maintains a regular fire department, unless the fire district strikes the territory from the district boundaries as authorized in Section 2 of this Act.*

➔Section 4. KRS 273.401 is amended to read as follows:

- (1) If a fire department created under the provisions of this chapter is authorized by law to collect membership charges or subscriber fees for combating fires or serving in other emergencies, the legislative body of the city or county where the fire department is located may require those annual membership charges or subscriber fees to be added to property tax bills. The county clerk shall add the annual membership charges or subscriber fees to the tax bills of the affected property owners.
- (2) The membership charges or subscriber fees shall be collected and distributed by the sheriff to the appropriate fire departments in the same manner as the other taxes on the bill and unpaid fees or charges shall bear the same penalty as general state and county taxes. This shall be a lien on the property against which it is levied from the time of the levy. The legislative body of the city or county where the fire department is located shall, in consultation with the sheriff and the fire department, set a collection fee for the sheriff to retain an amount not to exceed four and one-fourth percent (4.25%) of the membership charges or subscriber fees collected.
- (3) *Notwithstanding subsections (1) and (2) of this section, annual membership charges and subscriber fees shall not be added to the property tax bills of property owners within a territory that lies within the corporate limits of a city or that lies within a fire protection district or volunteer fire protection district established pursuant to KRS 75.010 to 75.080 without the written approval of the governing body of the city or the district.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any provision of KRS 65.166, the commission may initiate consideration of a dissolution of a fire protection district or volunteer fire department district providing fire protection services at any time that the requirements of this section are satisfied and without the petition required under KRS 65.166.*
- (2) *Upon receipt of a written affidavit from a resident, property owner, or local government that a fire protection district or volunteer fire department district formed for the purpose of providing fire protection services has failed to provide those services or that all or a portion of the services are being provided by another entity other than the district, the commission may:*
 - (a) *Refer the affidavit and any other supporting evidence that it has to the judge/executive of the county or counties for the county or counties to consider action to dissolve the special district or to alter its boundaries in accordance with KRS 65.166(4) to (6); or*
 - (b) *Initiate an investigation to be conducted by commission personnel under the direction of the executive director to determine the validity of the alleged complaint.*
- (3) *If the commission undertakes an investigation under subsection (2)(b) of this section, it shall forward its findings in writing to the county or counties forming the fire protection district or volunteer fire department district and to any party submitting a written affidavit as set out in subsection (2) of this section. If, after investigation, the commission finds that the fire protection district or volunteer fire department district has failed to provide services, or that all or part of the services are being provided by another entity, the findings shall be considered by the fiscal court or courts, which may elect to:*
 - (a) *Initiate the procedure for dissolution or alteration of the boundaries of the fire protection district or volunteer fire department district in accordance with KRS 65.166(4) to (6); or*

- (b) *Vote by a majority of the entire fiscal court membership to permit the commission to conduct the hearing in accordance with KRS 65.166(4) and permit the commission to make the written determination for action to either dissolve or alter the boundaries of the fire protection district or volunteer fire department district in accordance with KRS 65.166(5). Any decision to dissolve or alter the boundaries of the fire protection district or volunteer fire department district shall be ratified by the fiscal court within thirty (30) days following the issuance of the final written determination of the commission. If the fiscal court takes no action to ratify the decision of the commission, then the decision of the commission shall be deemed ratified.*

Signed by Governor April 13, 2016.