

Section 2:

Provides for the formation of a consolidated emergency services district by one of the following processes:

- **By resolution** adopted by two or more fire protection districts (KRS Chapter 75), volunteer fire departments established as nonprofit corporations (Chapter 273), any special district with emergency medical services subjected to the licensure requirements of KRS Chapter 311A or any rescue squad district established under KRS Chapter 39F. This provision includes any of the above agencies that merged within the five years prior to the adoption of this section that would have met the requirements of this section.
- **By ordinance** passed by any city which operates a regular fire, ambulance, emergency medical service, or rescue service proposing the formation of a consolidated emergency services district with identified fire protection districts, any special district with emergency medical services subjected to the licensure requirements of KRS Chapter 311A, any rescue squads established under KRS Chapter 39F and other city departments and requesting the creation of a consolidated emergency services district.
- **By resolution** adopted by the board of any two or more consolidated emergency service districts agreeing to the merger of consolidated emergency services districts and requesting the creation of a new consolidated emergency services district.

The district governing bodies of all three scenarios shall notify the local government with jurisdiction over the proposed district and request the formation of a consolidated emergency services district. Once the local government receives the request, it may create a consolidated emergency services district by adoption of an ordinance and authorize any relevant fire protection district or city to join if its governing authority has approved it to join the consolidated district. The ordinance shall describe the boundaries by metes and bounds and the name of the consolidated district. No newly formed district shall take effect no less than sixty days from completing the requirements herein. The local government shall notify all planning commissions, cities, and area development districts within whose jurisdiction the approved service area is located and any state agencies required by law to be notified of the proposal for the creation of the taxing district within thirty days from adoption of the ordinance authorizing creation of the district. The creation of the taxing district shall be of legal effect only after adoption of an ordinance creating the taxing district and after a certified copy of the ordinance has been filed with the county clerk.

An aggrieved person can contest the establishment of a consolidated emergency services district or to protest the inclusion of any local government or entity within a consolidated emergency services district by bringing an action in Circuit Court.

Fire protection districts (KRS Chapter 75), volunteer fire departments established as nonprofit corporations (Chapter 273), any special district with emergency medical services subjected to the licensure requirements of KRS Chapter 311A or any rescue squad district established under KRS Chapter 39F can become a part of a consolidated emergency services district after the creation of the district.

Section 3:

Provides for the creation of a 7-member board of trustees, all with staggered terms. Two shall be elected by members providing emergency services within the district, two elected by property owners who own real or personal property within the district or who personally reside in the district and are not active members of the district, and three appointed by the county judge/executive or the chief executive officer of the county. Appointment and election of trustees shall be completed within 60 days for the passage of the ordinance creating the district.

Guidance is provided regarding board officers, board member qualifications, nomination procedures, and the removal of an active member from office. The terms of the initial appointed members, the elected active members of the district, and the elected property owners shall be staggered.

The election of members to the board shall be filled by an election to be held once each year on the fourth Saturday of June. The election notice shall be advertised at least 30 days prior to the election date and shall include the names and addresses of the candidates. In lieu of the published notice, the election of the active member trustees may be by written notice containing information that is required to be advertised may be sent by first-class mail to each member of the consolidated emergency services district or volunteer fire department district.

Section 4:

Compensation of up to \$25 per meeting shall be paid to board members. Meetings shall be held at least once a month.

Section 5:

The board can levy a property tax within the district including property within cities that have opted to join the district. In order to defray the expenses for providing fire services and rescue services, a property tax may be levied initially not to exceed 10 cents per \$100 of valuation. If an emergency ambulance service is established and operates as the primary service provide in the district, the property tax may be increased initially not to exceed 20 cents per \$100 of valuation. Any future rate increases would require board approval and shall be subject to compensatory rate requirements per KRS 132.023 including the possibility of submitting the increase to the voters of the district. The question shall be presented to all voters in every precinct for which any part of the precinct is served by the district. The compensatory rate requirements and election requirements also pertain to new consolidated emergency districts established by the merger of two or more emergency service districts.

HB 120 HCS 1 increases the sheriff's fee for collecting the district tax from one percent to no more the 4.25%.

Section 6:

The board shall oversee the provision of emergency services within the district including purchasing vehicles and equipment, employ and compensate personnel, apply and receive available state and federal funds, acquire by bequest, gift, grant, or purchase real or personnel property necessary to provide emergency services. Similarly, defines the responsibilities of the Consolidated Emergency Services District including compensation to firefighters and where applicable, to emergency medical services and rescue personnel.

Section 7:

The board shall assume all duties, responsibilities, and liabilities of any former departments or districts. Former jurisdictions shall be special taxing districts until indebtedness is relieved. All previously entered into inter-local agreements shall remain in force for their duration. These agreements would include providing services outside the newly merged district and other legally binding agreements until expired.

Sections 8:

Details the responsibilities of the chief and that he or she is subject to the directives and guidance from the board.

Section 9:

The board may make and enter into contracts with any other fire protection district, fire prevention district, municipal corporations, volunteer fire department, volunteer fire protection units, fire protection units, any emergency medical services districts, or rescue squad, either within the same county or within an adjacent county for furnishing or receiving fire services.

The personnel and equipment of a contracted party is deemed to be engaged in a governmental function while going or returning from an emergency, responding to a false alarm, and while providing emergency services with the area covered by the contract.

Section 10:

District personnel providing emergency services outside their district or area normally served by the consolidated emergency services district shall be considered as serving in the line of duty within their own district and therefore;

- full paid emergency personnel shall receive no additional compensation;
- volunteer emergency service personnel shall be compensated as provided by district bylaws or administrative rules; and
- all emergency services personnel shall be entitled to all benefits of any pension fund.

Section 11:

Provides guidelines regarding the installment of fire hydrants within a district and their attachment to water pipes in the public ways; the cost of which to be apportioned to the owners of the property fronting the public ways in which the hydrants are erected.

Section 12:

Provides a number of definitions for terms used within KRS Chapter 75A.

The board chairman can assign special duties to a firefighter including powers of arrest, search, and seizure (KRS 75.160).

Provides guidelines for due process if a person files charges against a member or employee of the district and provides procedures in regards to determining probable cause, conducting hearings, subpoenas and witnesses, and any resulting actions regarding the employee. Guilty findings may be appealed to the Circuit Court.

Provides protection to an employee due to political opinion, nor shall political grounds be a condition of employment. Allowable off-duty political activities are detailed.

Regular members of the fire district, except volunteer members, can have powers of arrest, search, and seizure.

Each member of the district shall take an oath to faithfully discharge his or her duties and post a surety bond.

The chief or highest officer at a fire his or her department responds to, shall investigate the cause of the fire. Details the scope of the investigation and the investigative tools available.

The chief shall:

- direct and control the operation of the district and the members of the district;
- have access to all sources of water, public and private, and the power to inspect these sources and supply lines;
- control all emergency equipment; and
- perform all duties prescribed by the board consistent with law.

Private water used for firefighting shall be reimbursed to the owner within ten days.

The board secretary shall keep minutes of board meetings, together with resolutions, tax levies, and other material of an important nature. A copy of all materials shall be on file in the county clerk's office in which the district is located. This shall be public information.

The board can hire an attorney to advise on legal matters. The attorney shall attend all board meetings. However, attendance at executive sessions is at the board's discretion. Attorney compensation is at the board's discretion. The board may also be advised by the county attorney at the board's request.

The board must adhere to KRS 65.065 regarding financial reporting and audits.

Section 13:

Details the procedures for dissolving a consolidated emergency services district. Persons wanting to dissolve the district must present a petition to fiscal court signed by 25% of a voters that voted in the last four general elections within the district showing justification for dissolution and any other relative information necessitating dissolution. Provides

procedures regarding the actual hearing. If dissolution is approved, the board shall adopt an ordinance reflecting same; certified copy to the county clerk. The territory of the former district shall become special taxing districts until all indebtedness has been paid.

Section 14:

Provides guidelines in regards to participating in the County Employees Retirement System.

Sections 15:

Confirming language regarding referenced sections.

Section 16:

Fire protection districts or volunteer fire departments may also merge pursuant to Sections 1 thru 14 herein.

Section 17:

Provides that any consolidated emergency services district may participate in the state's health plan.

Section 18:

The statutes governing merged volunteer fire departments (KRS 95A.500 to 95A.560) shall apply to any volunteer fire department which merge into a consolidated emergency services district pursuant to Sections 1 thru 14 herein. The district shall receive the qualified shares from the Kentucky Fire Commission as if it were a volunteer fire department.

The effect of HB 120 HCS 1 on local governments is indeterminable.

Section 2 and Section 15:

Costs of creating an ordinance to either create or dissolve an emergency service district would include the time and expense of repealing or revising an existing ordinance (if necessary), advertising the revision in a local newspaper, placing the revision on the business docket for necessary action, and printing a revised list of ordinances.

According to Kentucky League of Cities, most cities, especially the smaller ones, retain their city attorney on contract and pay on an hourly basis. Time spent drafting ordinances is influenced by its complexity and the amount of research that is necessary. In FY 2018, the median hourly rate was approximately \$107. Rates for legal notices vary greatly depending on the length of the publication, the number of times it needs to be published, and the newspaper in which the publication is placed. Therefore, these costs are unknown.

Municipalities must revise their ordinances, at least every five years by state law, to eliminate "redundant, obsolete, inconsistent, and invalid provisions." The cost of this mandate would be less if the repeal or revision were done in conjunction with this periodic updating of ordinances.

The county clerk will realize cost associated with scheduling the public hearing and for adding the levy to the tax bills of the affected property owners if approved by fiscal court.

Section 3:

While the election process is not specified, except that the polls shall be located within the principal fire house within the district, the costs associated with a regular general election are provided below.

According to information supplied in early 2020 by Harp Enterprises, a vendor that provides electronic voting machines to most of Kentucky's counties, the additional programming costs associated with adding a new category to the ballot on a scheduled statewide election would range from \$15 per precinct for larger counties such as Fayette with 286 precincts (\$4,004) to \$45 per precinct for counties such as Franklin with 44 precincts (\$1,980).

There could be additional costs associated with extra paper (if the ballot language requires additional space) for paper ballots and absentee voting. It has been estimated that the cost of one extra page for a ballot is \$0.25.

Section 4:

Compensation of up to \$25 per meeting shall be paid to board members. Meetings shall be limited to once a month.

Section 5:

The sheriff of the county containing the consolidated emergency service district will be compensated up to 4.25% of the property tax levied for collecting the tax.

Section 14:

If previously a member of County Employees Retirement System, the related payments into the system should remain unchanged. However, if a majority were not participants, then the board may apply for participation and the related payments into the system would be a new expense.

Part III: Differences to Local Government Mandate Statement from Prior Versions

HB 120 HCS 1 keeps the major components of HB 120 as introduced with the following changes:

- Opens a five-year window to allow districts to form a consolidated emergency services district.
- Removes the requirement that board members have to be members of fire departments, but members providing emergency services and property owners on the board cannot be active members of the district.
- Clarifies rate increase shall be presented to all voters in every precinct for which any part of the precinct is served by the district. The compensatory rate requirements and election requirements also pertain to new consolidated

emergency districts established by the merger of two or more emergency service districts.

- The sheriff's fee for collecting the district tax is increased from one percent to no more than 4.25%.
- Stipulates that Consolidated Emergency Services District responsibilities include compensation to firefighters and where applicable, to emergency medical services and rescue personnel.
- Requires previously entered into inter-local agreements shall remain in force for their duration including providing services outside the newly merged district and other legally binding agreements until expired.
- Expands the provisions allowing the board to enter into contracts with any other fire protection district, fire prevention district, emergency medical services districts, or rescue squad, either within the same county or within an adjacent county for furnishing or receiving fire services.
- The personnel and equipment of a contracted party is deemed to be engaged in a governmental function while going or returning from an emergency, responding to a false alarm, and while providing emergency services with the area covered by the contract.
- Clarifies the provision allowing district personnel providing emergency services outside their district or area normally served by a volunteer fire department to include the consolidated emergency services district. And they shall be considered as serving in the line of duty within their own district.
- Deletes language that personnel answering a call inside or outside their district shall be considered agents of the Commonwealth, and acting in a government capacity. The district shall not be liable for damages for any omission or act of commission or negligence while answering a call.
- Forbids volunteer members from having powers of arrest, search, and seizure.

Data Source(s): LRC Staff; Harp Enterprises

Preparer: Wendell F. Butler **Reviewer:** KHC **Date:** 2/25/21