

SB3255



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3255

Introduced 2/1/2012, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

70 ILCS 705/30 new

Amends the Fire Protection District Act. Provides for the creation of unified fire protection districts by contiguous units of local government (municipalities, counties, fire protection districts, and townships) to reduce the costs of providing fire protection and emergency medical services. Provides that unified fire protection districts may be created by an intergovernmental agreement. Sets forth the requirements for the petition and intergovernmental agreement, including referendum approval of the agreement. Sets forth the process for referendum approval. Contains other provisions. Effective immediately.

LRB097 18850 KMW 64088 b

FISCAL NOTE ACT
MAY APPLY

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 adding Section 30 as follows:

6 (70 ILCS 705/30 new)

7 Sec. 30. Unified Fire Protection District.

8 (a) Purpose. A Unified Fire Protection District may be
9 formed by filing a petition for a referendum for the purpose of
10 integrating existing service areas within contiguous units of
11 local government to achieve a net savings in the cost of fire
12 protection and emergency medical services in every included
13 jurisdiction by the reduction or elimination of duplicative
14 administrative costs, equipment, or capital expenditures, to a
15 level that is preferably less, but no greater than, the
16 aggregate costs of the fire departments included in the
17 petition; unless the District can demonstrate any increase in
18 the aggregate costs or an increase in the costs of the fire
19 department of a participating unit of local government would
20 justify an upgrade of the quality of services provided by the
21 District or unit of local government, pursuant to an
22 intergovernmental agreement. For the purpose of this Act, any
23 county, municipality, fire protection district, or township is

1 a unit of local government eligible to petition for unification
2 with another unit of local government. The creation of a
3 Unified Fire Protection District shall be secured by an
4 intergovernmental agreement that includes terms that meet the
5 standards set forth in subsection (e).

6 (b) Petition. A Unified Fire Protection District may be
7 formed upon petition signed by the lesser of: (i) at least 100
8 legal voters in each of the units of local government proposed
9 to be unified or (ii) or 10% of the legal voters in each of the
10 units of local government to be included in the Unified Fire
11 Protection District. The petition shall be filed in the circuit
12 court for the county in which the greater part of the land in
13 the proposed Unified Fire Protection District will be situated.
14 The petition shall set forth (i) the names of the units of
15 local government proposed to be included, (ii) the name of the
16 proposed Unified Fire Protection District, (iii) the
17 advantages to be derived from the inclusion of the units of
18 local government in a Unified Fire Protection District, (iv)
19 the number of trustees who shall serve on the board, and (v)
20 whether the trustees shall be elected or appointed. Upon its
21 filing, the petition shall be presented to the court, and the
22 court shall fix the date and hour for a hearing.

23 (c) Notice of hearing. Upon the filing of the petition, the
24 court shall set a hearing date that is at least 4 weeks but not
25 more than 8 weeks after the date the petition is filed, and the
26 court, or the clerk or sheriff upon order of the court, shall

1 give notice 21 days before the hearing in one or more daily or
2 weekly newspapers of general circulation in each county where a
3 unit of local government included in the petition is organized
4 and by posting at least 10 copies of the notice in conspicuous
5 places in the proposed District. The notice must describe the
6 proposed units of local government to be included and must
7 state that if the conditions required by this Section are met,
8 then the proposition for the creation of the District shall be
9 submitted to the voters of the proposed District by order of
10 the court.

11 (d) Hearing and referendum. To certify a question for
12 referendum approval, the court must find that: (i) based upon a
13 preponderance of the evidence, the representatives of each of
14 the parties to the proposed District has executed an
15 intergovernmental agreement that includes terms that are in
16 compliance with the standards required for the formation of a
17 District, as set forth in subsection (e); and (ii) the terms of
18 an agreed upon intergovernmental agreement have been approved
19 by the governing bodies of each of the units of local
20 government and any collective bargaining unit involved.

21 At the hearing, the court shall first determine if the
22 petition is supported by the required number of valid
23 signatures of legal voters within the contiguous units of local
24 government. If the petition is proper, then the court shall
25 remand the matter to a joint committee for the purpose of
26 negotiating the terms of an intergovernmental agreement. The

1 court shall appoint members of the joint committee from the
2 following parties:

3 (1) At least one representative of each unit of local
4 government included within the proposed service area of the
5 proposed District;

6 (2) At least one representative of each exclusive
7 bargaining representative that is a party to a collective
8 bargaining unit within a unit of local government included
9 within the proposed District; and

10 (3) At least one representative of the petitioners from
11 each unit of local government included within the proposed
12 District after an election among the legal voters signatory
13 to the petition from such units of local government.

14 Committee members shall meet from time to time to negotiate
15 an intergovernmental agreement. Negotiations may continue for
16 a period of 90 days or, if the court determines that additional
17 time will facilitate agreement, longer. If no agreement is
18 reached, the court shall dismiss the petition.

19 If an agreement is reached, the court shall schedule an
20 evidentiary hearing with notice thereof to determine if the
21 terms of the agreement are in compliance with the requirements
22 of subsection (e).

23 An agreement shall be executed by the authorized
24 representative of each party appointed to the committee by the
25 court for each unit of local government included in the
26 proposed District. If the agreement is not executed by

1 representatives of all 3 parties of a unit of local government
2 included in the original petition, then the petition may
3 proceed so long as the agreement is executed by all parties
4 representing 2 or more units of local government included in
5 the original petition. The non-consenting units of local
6 government shall be dismissed, and an amended petition on
7 behalf of the consenting units shall be scheduled for an
8 evidentiary hearing.

9 The following persons or entities, or their duly authorized
10 representatives, shall have standing to present evidence at the
11 hearing: the petitioners, the units of local government that
12 will be included in the proposed District, and representatives
13 of each exclusive bargaining representative that is a party to
14 a collective bargaining unit within a unit of local government
15 included within the proposed District.

16 If the court finds that all of the requirements of
17 subsection (e) are not met, it may remand the matter for
18 further negotiations between the parties and consider an
19 amended intergovernmental agreement in the same manner as
20 provided in this Section for an initial intergovernmental
21 agreement.

22 If the court finds, by a preponderance of the evidence,
23 that the petition is supported by a proper intergovernmental
24 agreement, the court shall enter an order certifying the
25 proposition to the proper election officials, who shall submit
26 to the legal voters of each included unit of local government

1 at an election thereafter the question of whether the creation
2 of the proposed District shall be approved. Notice of the
3 election shall be given and the election conducted in the
4 manner provided by the general election law. The notice shall
5 state the boundaries of the District. The election authority
6 must submit the proposition in substantially the following
7 form:

8 Shall the (names of existing departments be combined)
9 and (name of the Unified Fire Protection District) be
10 created with an aggregate tax extension of (insert amount
11 of tax-capped entity) with the authority to levy property
12 taxes for the following purposes: (insert purposes)?

13 The court shall cause a written statement of the results of
14 the election to be filed in the court. If, in each unit of
15 local government included within the boundaries of the
16 District, a majority of the voters voting on the question shall
17 favor the proposition, then the court shall issue an order
18 stating that the District has been approved.

19 (e) Minimum standards of service. The terms of the
20 intergovernmental agreement shall guarantee that all of the
21 following standards of service are met:

22 (1) The formation of the District will result in no net
23 increase in the cost of fire protection services and
24 emergency medical services for every included unit of local

1 government based on the reduction or elimination of
2 duplicative administrative staff, operational costs,
3 services, equipment, or capital expenditures, unless the
4 District can demonstrate that an increase in the aggregate
5 cost of the fire departments of the participating units of
6 local government costs justify an upgrade in the quality of
7 services provided to the District as a whole or a
8 participating unit of local government, as provided in the
9 terms of the intergovernmental agreement.

10 (2) The formation of the District will not increase
11 average response times in any included unit of local
12 government.

13 (3) The taxing authority of a District shall be limited
14 to ensure that the transition from providing fire
15 protection by means of separate units of local government
16 to extended service areas by means of the District results
17 in no net increase in property taxes levied upon taxpayers
18 residing in an affected jurisdiction as follows:

19 (i) Any property tax levied by the District on a
20 resident taxpayer shall be offset by an abatement of
21 taxes in the affected jurisdiction in an amount equal
22 to the amount of the District's levy; and

23 (ii) Municipalities that fund fire department
24 operations in whole or part from revenues collected
25 from sources other than property taxes shall continue
26 to contribute those revenues to the District to fund

1 operations and shall not substitute property taxes for
2 such revenues, unless otherwise agreed to by all
3 parties to the intergovernmental agreement.

4 (4) The District shall apply savings in operating costs
5 as follows:

6 (i) 50% shall be applied to reduce, pro rata, the
7 property tax levy for fire or emergency medical
8 services applied to property owners residing in the
9 units of local government included in the District; and

10 (ii) 50% shall be contributed, pro rata, as
11 applicable, to each included unit of local
12 government's Firemen's Pension Fund, and those
13 contributions shall be applied as a credit to reduce
14 the unfunded accrued liability of the Fund, if one
15 exists. If no unfunded accrued liabilities exist, such
16 savings in operating costs shall be applied to reduce,
17 pro rata, the property tax levy for fire or emergency
18 medical services applied to property owners residing
19 in the units of local government included in the
20 District that are parties to the intergovernmental
21 agreement.

22 (f) Governing Board. The District shall be governed by a
23 Board of 5 or 7 trustees established as provided in subsection
24 (j). The Board shall elect a chairperson from among its
25 members, who shall vote only in the case of a tie. The vote of
26 each trustee shall be proportional to the population of the

1 unit of local government represented. The population for the
2 allocation of votes under this subsection shall be based upon
3 the most recent federal decennial census results. The trustees
4 shall be elected or appointed in the same manner and shall meet
5 the same eligibility requirements of other elected or appointed
6 fire protection district trustees.

7 (g) Powers and duties. The District shall have the power,
8 duties, and obligations of a Fire Protection District as
9 otherwise provided under this Act, except as modified or
10 limited by the provisions of this Section. The District shall
11 develop a budget funded at a level sufficient to ensure the
12 quality of service provided to the residents of the service
13 area within the boundary of the included units of local
14 government continues at a level equal to or greater than those
15 provided prior to the modification.

16 (h) Local fire departments. The establishment of a District
17 as a separate named unit of local government shall not prevent
18 its constituent units of local government from continuing to
19 identify their historical fire departments with the names of
20 their localities. In that event, local fire departments shall
21 be described as [local name] Branch of the [named District] .

22 (i) Single chain of command. Upon the entry of an order
23 establishing a District, the fire departments of the
24 constituent units of local government shall lose their separate
25 existence under separate chains of command and shall be
26 operated under a single chain of command under the leadership

1 of one fire chief who shall be appointed by the Board of the
2 District. Chiefs and subordinate chief officers who are
3 redundant under the single chain of command or consolidated
4 shifts established under the Board shall be eligible to apply
5 for vacancies in positions, including but not limited to
6 training officer, EMS coordinator, fire inspector, or company
7 officer, that may be established under the terms of the
8 intergovernmental agreement entered into by the parties,
9 provided that the positions shall not be available to any
10 person who is already retired and receiving benefits under
11 Article 4 of the Illinois Pension Code. Any reduction to a
12 bargaining unit position resulting from the abolishment of a
13 non-bargaining unit position shall be subject to compliance
14 with the bargaining rights of any affected collective
15 bargaining representative. Upon taking office, the fire chief
16 of the District shall command all shifts covering the unified
17 service area of the units of local government included in the
18 District. The District shall thereupon become a body politic
19 and corporate with all the powers, rights, duties, and
20 obligations vested in it under the terms of the
21 intergovernmental agreement and as otherwise provided under
22 the provisions of this Act.

23 (j) Trustees. Upon the organization of the District, the
24 duties of each included unit of local government relating to
25 operating a fire department and emergency medical services
26 within the boundaries of the District shall be transferred to

1 the Board of the District to be exercised according to the
2 terms of the intergovernmental agreement and as otherwise
3 provided under the provisions of this Act. If a District is
4 wholly contained within a single county, the trustees for the
5 District shall be appointed by the chief executive officer of
6 the county board with the advice and consent of the county
7 board. If the District lies within more than one county, the
8 number of trustees who are residents of a county shall be in
9 proportion, as nearly as practicable, to the number of
10 residents of the District who reside in that county in relation
11 to the total population of the District, unless the District
12 has voted by referendum to elect the trustees.

13 Thereafter, each trustee shall be succeeded by a resident
14 of the same county who shall be appointed by the same
15 appointing authority. The appropriate appointing authorities
16 shall appoint at least 5 trustees of the District within 60
17 days after the entry of the order establishing the District.
18 The trustees shall be electors in the District, provided that
19 the Board shall consist of a trustee representing each unit of
20 local government included in the District. The trustees shall
21 hold such terms of offices and shall have the powers and
22 qualifications that are provided for trustees under Section 4.
23 In the event of a conflict between the terms of the
24 intergovernmental contract and the powers of the trustees
25 otherwise provided by law, the terms of the intergovernmental
26 contract shall prevail and supersede.

1 (k) Firefighters and EMS personnel employed by a unit of
2 local government included in the District. All firefighters and
3 EMS personnel lawfully in the employment of any unit of local
4 government included in the District shall remain members of the
5 fire departments that they are serving on the effective date of
6 this amendatory Act of the 97th General Assembly, but shall be
7 subject to the unified chain of command established under the
8 Board.

9 A District consisting of any fire department that employs
10 full-time officers or members shall be subject to Sections
11 16.01 through 16.18 of this Act unless agreed otherwise by
12 terms of the intergovernmental agreement agreed to by the units
13 of local government and the exclusive bargaining agents
14 representing employees engaged in providing fire protection or
15 emergency medical services within the service area of the
16 District.

17 (l) Contracts between an exclusive bargaining agent and a
18 unit of local government. Contracts in effect between an
19 exclusive bargaining agent and a unit of local government shall
20 continue according to their terms. Successor contracts shall be
21 negotiated in accordance with the provisions of the Illinois
22 Public Labor Relations Act. Upon agreement of any 2 or more
23 units of local government and corresponding exclusive
24 bargaining representatives, and approval of that agreement by a
25 majority of the members of each respective bargaining unit, any
26 2 or more bargaining units may be consolidated within a single

1 bargaining unit.

2 (m) Distribution of specified taxes. Any unit of local
3 government that is included in a District shall be exempt from
4 any reduction in the formula for distribution of income tax
5 revenues, pursuant to Section 901 of the Illinois Income Tax
6 Act, and personal property replacement tax revenues, pursuant
7 to subsection (c) of Section 201 of the Illinois Income Tax
8 Act, collected from local taxpayers by State agencies and
9 heretofore redistributed to the units of local government based
10 on the formula and laws in effect as of the effective date of
11 this amendatory Act of the 97th General Assembly.

12 A District shall be eligible to receive the distribution of
13 income tax revenues collected from local taxpayers according to
14 the same formula applicable to municipalities.

15 (n) Outstanding bonds and notes. In the case of any unit of
16 local government included in a District that has bonds or notes
17 outstanding that fund the operation of its fire department that
18 are a lien on funds on hand in the treasury at the time of
19 inclusion, the lien shall be unimpaired by the inclusion and
20 the lien shall continue in favor of the bond or note holders.
21 The funds on hand subject to the lien shall be set apart and
22 held for the purpose of retiring such secured debt, and no such
23 funds shall be transferred into the general funds of the
24 District until all indebtedness of the unit of local government
25 entering into the District has been discharged.

26 In the case of any unit of local government joined into a

1 District that has unsecured debts outstanding at the time of
2 inclusion, any funds in the treasury of the unit of local
3 government otherwise available and not committed shall, to the
4 extent necessary, be applied to the payment of those debts.

5 All property in the District, without discrimination
6 between the territory in the several units of local government,
7 shall be subject to taxation to pay the debts, bonds, and
8 obligations created after the establishment of the District.

9 (o) Effects of inclusion. The inclusion of any unit of
10 local government into a District shall not, unless agreed upon
11 in an intergovernmental agreement, affect the obligation of any
12 contract entered into by the unit of local government. Such
13 contracts shall remain the obligation of the unit of local
14 government that incurred the obligation.

15 The inclusion of units of local government shall not
16 adversely affect proceedings for the collection or enforcement
17 of any tax. The proceedings shall proceed to a finality as
18 though no inclusion had taken place. The proceeds thereof shall
19 be paid over to the treasurer of the unit of local government
20 subject to the terms of the intergovernmental agreement to be
21 used, however, for the purpose for which the tax was levied or
22 assessed.

23 All suits pending in any court on behalf of or against any
24 unit of local government relating to the provision of fire or
25 emergency medical services when the unit of local government is
26 joined into a District may be prosecuted or defended in the

1 name of the unit of local government unless otherwise provided
2 in the intergovernmental agreement. All judgments obtained for
3 any unit of local government joined into a District shall be
4 collected and enforced by the District for its benefit unless
5 otherwise provided in the intergovernmental agreement.

6 The title to all property of a unit of local government
7 related to providing fire or emergency medical services in the
8 District that is transferred to the District under the terms of
9 the intergovernmental agreement shall remain vested in the unit
10 of local government, to be held for the same purposes and uses,
11 and subject to the same conditions as before inclusion.

12 (p) Exclusivity. Any intergovernmental contracts otherwise
13 authorized by law that relate to the combining of contracts or
14 the integration of service areas where fire protection or
15 emergency medical services are performed shall be done
16 exclusively by referendum in accordance with this Section.

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.