

AN ACT concerning local government.

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

Section 1. Short title. This Act may be cited as the Regional Fire Protection Agency Act.

Section 5. Purpose and creation.

(a) Purpose. The General Assembly finds the consolidation of fire protection services on a regional basis provided by fire departments throughout the State of Illinois to be an economic benefit. Therefore, this Act establishes procedures for the creation of Regional Fire Protection Agencies that encompass wider service areas by combining existing fire departments and extending service areas of these departments into under-served geographic areas. It is the expressed intent of the General Assembly that Regional Fire Protection Agencies shall achieve a net savings in the cost of providing fire protection services, emergency medical services, and related services in the expanded service area by reducing and eliminating costs including, but not limited to, duplicative or excessive administrative and operational services, equipment, facilities, and capital expenditures, without a reduction in the quality or level of these services.

(b) Creation. A Regional Fire Protection Agency may be

formed by filing voter-initiated petitions for the purposes of integrating existing service areas of contiguous units of local government providing fire protection services to achieve the purposes of this Act.

Section 7. Application.

This Act does not apply to any unit of local government that has entered into a consolidation agreement with one or more units of local government that includes the consolidation of the delivery of fire protection or emergency medical services under a single chain of command. Additionally, this Act does not apply to any unit of local government that has adopted a resolution declaring the intent to consolidate the delivery of fire protection or emergency medical services under a single chain of command with one or more units of local government. The resolution shall exempt the local government from the provisions of this Act for one year following its passage. The existence of an automatic aid agreement or mutual aid agreements does not constitute a consolidation for the purposes of this Section.

Section 10. Definitions. The definitions in this Section apply throughout this Act unless the context clearly requires otherwise:

"Board" means the governing body of a Regional Fire Protection Agency.

"Fire protection jurisdiction" means a fire protection district, municipal fire department, or service organized under Section 5-1056.1 of the Counties Code, Sections 195 and 200 of the Illinois Township Code, Section 10-2.1 of the Illinois Municipal Code, or the Illinois Fire Protection District Act.

"Joint Committee" means the group consisting of the parties appointed by the court in accordance with the procedures of this Act after a petition has been filed to create a Regional Fire Protection Agency. The Joint Committee meets for the limited purpose of negotiating the terms of an intergovernmental agreement to create and implement a Regional Fire Protection Agency.

"Property Tax" or "Tax" has the same meaning as the term "Tax", as defined in Section 1-145 of the Property Tax Code.

"Regional Fire Protection Agency" or "Agency" means a fire protection organization formed pursuant to this Act that combines 2 or more units of local government with a unified command and operations that has boundaries that are coextensive with 2 or more adjacent units of local government and has been created by a referendum under this Act.

"Special Mediator" means an individual who possesses the qualifications specified in this Act and shall facilitate the negotiation of an intergovernmental agreement to create a Regional Fire Protection Agency.

Section 15. Elections and referenda. When a referendum is submitted under this Act for approval or rejection by the electors, the time and manner of conducting a referendum, including petition signature requirements, shall be in accordance with the general election law of the State. The creation of any Regional Fire Protection Agency by referendum shall be secured by an intergovernmental agreement that includes terms that meet the standards set forth in Section 25 of this Act.

Section 20. Notice to the Office of the State Fire Marshal.

The Office of the State Fire Marshal shall be served notice as to any plans of 2 or more units of local government to combine fire protection or emergency medical services, or both, as follows:

(1) Whenever a county clerk or other election authority places upon a ballot the question of creating or altering an Agency or fire protection jurisdiction, the clerk or other election authority shall notify the Office of the State Fire Marshal that the proposition is to be put before the electorate. The notice shall be sent to the Office of the State Fire Marshal within 10 business days after the question is certified to the clerk or other election authority.

(2) Whenever the governing bodies of 2 or more adjacent fire protection jurisdictions conduct a public hearing to

consider a plan to combine 2 or more fire protection jurisdiction service areas by intergovernmental agreement, the clerk of each unit of local government to be party to such an intergovernmental agreement shall notify the Office of the State Fire Marshal that the units of local government are considering such a plan. The notice shall be sent to the Office of the State Fire Marshal within 10 business days after notice of the meeting is published.

(3) Whenever the governing bodies of 2 or more adjacent fire protection jurisdictions enter into an agreement to combine 2 or more fire protection jurisdiction service areas by intergovernmental agreement, the clerk of each unit of local government to be party to such an intergovernmental agreement shall notify the Office of the State Fire Marshal that the units of local government have entered into the intergovernmental agreement. The notice shall be sent to the Office of the State Fire Marshal within 10 business days after notice of the meeting is published.

Section 25. Creation of an Agency by petition and referendum.

(a) Petition. A Regional Fire Protection Agency may exclusively be formed upon petition signed by the lesser of:

(i) at least 8% of the total votes cast for candidates for Governor in the preceding gubernatorial election in each of the

units of local governments included in the Regional Fire Protection Agency; or (ii) at least 500 legal voters in each of the units of local government to be included in the Regional Fire Protection Agency. The petition shall be filed in the circuit court of the county in which the greater part of the land of the proposed Regional Fire Protection Agency shall be situated. The petition shall set forth the names of the units of local government proposed to be included, the name of the proposed Regional Fire Protection Agency, the benefits of consolidating the units of local government within a Regional Fire Protection Agency, the names of the representatives of the petitioners from each unit of local government who shall be authorized to serve on the Joint Committee, and up to 3 alternate representatives from each unit of local government in the event a designated representative ceases to be an elector of their jurisdiction or resigns from the Joint Committee. Upon its filing, the petition shall be presented to the court, and the court shall fix the date and hour for a hearing.

(b) Notice of Hearing. Upon the filing of the petition, the court shall set a hearing date that is at least 4 weeks, but not more than 8 weeks, after the date the petition is filed. The court, clerk, petitioner's counsel, or sheriff shall, upon order of the court, give notice 21 days before the hearing in one or more daily or weekly newspapers of general circulation in each county where an affected unit of local government is organized. The notice must describe the units of local

government to be included and shall state that if the conditions required by this Section are met, then the proposition for the creation of the Agency shall be submitted to the voters of the units of local government in the proposed Agency by order of the court.

(c) Hearing and referendum. At the hearing, the court shall first determine whether the petition is supported by the required number of valid signatures of legal voters within the contiguous units of local government. If the petition is proper, then the court shall remand the matter to a Special Mediator who shall mediate the negotiations regarding the terms of an intergovernmental agreement by the members of the Joint Committee as provided in subsection (d) of this Section. The Special Mediator shall be a member of the bar of the State of Illinois or a member of the faculty of an accredited law school. The Special Mediator shall have practiced law for at least 7 years and be knowledgeable about municipal, labor, employment, and election law. The Special Mediator shall be free of any conflicts of interest. The Special Mediator shall have strong mediation skills and the temperament and training to listen well, facilitate communication, and assist with negotiations. Special Mediators shall have sufficient experience and familiarity with municipal, labor, employment, and election law to provide a credible evaluation and assessment of relative positions. The Special Mediator assigned to mediate the Joint Committee's negotiations shall be

selected by the members of the Joint Committee from a panel of 7 individuals provided by the Joint Labor Management Committee, as it is defined in Section 50 of the Fire Department Promotion Act. The panel shall be randomly selected by the Joint Labor Management Committee from a master list maintained by the Joint Labor Management Committee consisting of at least 14 qualified Special Mediators. If the members fail to agree, the court shall appoint the Special Mediator. The Joint Committee may elect to conduct negotiations without the assistance of the Special Mediator upon a majority vote of the Joint Committee. To certify a question for referendum, the court must find that: (i) based upon a preponderance of the evidence, at least 2 of the 3 Joint Committee representatives appointed by the court for each unit of local government included in the proposed Agency have executed an intergovernmental agreement that includes terms that are in compliance with the requirements under subsection (d) of this Section; (ii) the terms of an agreed-upon intergovernmental agreement have been approved by the requisite governing bodies of each of the units of local government; and (iii) should the terms of an agreed-upon intergovernmental agreement change the terms of the collective bargaining agreement for a bargaining unit of employees of any local unit of government of the proposed Regional Fire Protection Agency, any affected collective bargaining units must also approve all such changes in the terms of the collective bargaining agreement.

(d) Joint Committee. The court shall allow appointments to the Joint Committee as follows:

(1) A representative of each unit of local government included within the proposed service area of the proposed Agency.

(2) A representative of each collective bargaining unit that is a party to a collective bargaining agreement with a unit of local government to provide fire suppression or emergency medical services, or both, included within the proposed Agency.

(3) A representative for the petitioners from each unit of local government included within the proposed Agency, as designated by the petition, or, if none are designated or willing to serve, then chosen by the court from among the legal voters that signed the petition.

(e) Joint Committee Negotiations. After remand, the Special Mediator shall schedule a meeting of the Joint Committee and facilitate the members in negotiating the terms of an intergovernmental agreement. The first order of business shall be to establish a financial baseline for the current costs of fire and emergency medical services provided by the units of local government party to the Joint Committee. To this end, each unit of local government party to the Joint Committee shall disclose to the Joint Committee the total aggregate expenditures it allocates for providing all fire, rescue, and emergency medical services. These expenditures shall include,

but are not limited to, the following cost factors: (i) all expenses from the corporate fund and other operational funds related to fire protection services, whether direct or indirect, for the current fiscal year; and (ii) all costs, whether direct or indirect, paid from other funds, including, but not limited to, capital or building funds, pension funds, workers' compensation funds, health insurance funds, enterprise funds, administrative funds, and all other funds from which money is, or may be, paid or transferred to pay for the administration and compensation or benefits for employees or persons assigned to provide fire or emergency medical services or related services, equipment, and buildings and their maintenance or operation and debt service for any expenditures related to these or related cost factors.

The Special Mediator or the court, or both if necessary, shall facilitate the computation and production of this financial baseline unless the Joint Committee elects to conduct negotiations without the assistance of the Special Mediator. The financial baseline shall serve as the predicate to: (i) the annual contributions to be made by each unit of local government to the costs of providing fire and emergency medical services to the service area established for the proposed Regional Fire Protection Agency; and (ii) for the court's findings pursuant to subsection (f) of this Section.

The Joint Committee may take note or give due consideration to available resources, studies, and plans that may facilitate

the resolution of issues relating to the terms of an agreement. Negotiations may continue for a period of 90 days or, if the court determines that additional time will facilitate agreement, longer.

If no agreement is reached, the court shall dismiss the petition. If an agreement is reached, the court shall schedule an evidentiary hearing with notice to determine if the terms of the agreement are in compliance with the requirements of subsection (f) of this Section. The expenses of the Special Mediator shall be apportioned equally among the included units of local government unless the parties agree otherwise in the intergovernmental agreement.

If the intergovernmental agreement has been approved by the governing bodies of at least 2 units of local government included in the original petition, then the petition may proceed, provided that the agreement is also executed by at least 2 of 3 Joint Committee representatives from each affected unit of local government included in the original petition. The units of local government that did not consent to inclusion shall be dismissed, and an amended petition on behalf of the consenting units of local government shall be scheduled for an evidentiary hearing.

The persons or entities, or their duly authorized representatives, that shall have standing to present evidence at the hearing are the petitioners, the units of local government that sought to be included in the proposed Agency,

and the representatives of each collective bargaining unit that is a party to a collective bargaining agreement with a fire protection jurisdiction within a unit of local government included within the proposed Agency.

If the court finds, by a preponderance of the evidence, that the petition is supported by a proper intergovernmental agreement, the court shall enter an order certifying the proposition to the proper election officials, who shall submit the question of the creation of the proposed Agency to the legal voters of each included unit of local government at the next election. Notice of the election shall be given and the election conducted in the manner provided by the general election law. The notice shall state the boundaries of the proposed Agency.

The question shall be submitted in substantially the following form:

Shall the service areas of (names of existing units of local government to be combined) be combined to create the (name of the Regional Fire Protection Agency)?

Responses shall be recorded as "Yes" or "No".

A written statement of the election results shall be filed with the court. If, in each unit of local government included within the boundaries of the Regional Fire Protection Agency, a majority of the voters voting on the question favor the proposition, then the court shall issue an order stating that the Agency has been approved.

(f) Intergovernmental agreement; minimum standards of service. The terms of the intergovernmental agreement shall ensure that all of the following standards of service are met:

(1) The formation of the Agency shall result in no net increase in the cost of fire protection services and emergency medical services to the units of local government in the proposed Agency due to the reduction or elimination of duplicative administrative costs, operational costs, equipment costs, or capital expenditures unless members of the Joint Committee can demonstrate that an increase in the cost to a participating unit of local government is justified by a corresponding increase in the level of services provided under the terms of the intergovernmental agreement.

(2) The formation of the Agency shall not increase the average response times in any included unit of local government.

(3) Agencies shall have no independent ability to levy taxes and shall rely on the fiscal support and contributions from component fire protection jurisdictions, as required under the terms of the intergovernmental agreement.

Section 30. Judicial notice. All courts in this State shall take judicial notice of the existence of any Agency organized under this Act, and every such Agency shall constitute a body

corporate that may sue or be sued in all courts.

Section 35. Support. Notwithstanding any provision of this Act, a Regional Fire Protection Agency may receive supplementary funding, fiscal support, or other revenue or property consideration from the State, including the Office of the State Fire Marshal, a county, or any other unit of local government, to defray the expenses of organizing a new Agency or as may be deemed necessary or appropriate, and may be appropriated by that entity to the Agency.

Section 40. Enforcement of an intergovernmental agreement. In the event of a default of payment, the Agency shall be authorized to secure collection of promised contributions from the defaulting unit of local government by court order authorizing the interception of or turning over of: (1) monies deposited or to be deposited into any fund of the defaulting unit of local government; or (2) grants or other revenues or taxes expected to be received by the unit of local government from the State, county, or federal government, including taxes imposed by the governmental unit pursuant to a grant of authority by the State, such as property, sales or use taxes or utility taxes.

Any interception authorized under this Section by the Agency shall be valid and binding from the time the interception order is made until the defaulting unit of local

government has paid in full its past due obligations to the Agency and has been current in its obligations to the Agency for a minimum of 12 months. The revenues, monies, and other funds intercepted and to be intercepted by the Agency shall immediately be subject to the Agency's lien. The lien shall be valid and binding against all parties having claims of any kind in tort, contract, or otherwise against the defaulting unit of local government, irrespective of whether such parties have notice. Under any such interception, a defaulting unit of local government may bind itself to impose rates, charges, or taxes to the fullest extent permitted by applicable law. Any ordinance, resolution, trust agreement, or other instrument by which a lien is created shall be filed in the records of the Agency.

The State Treasurer, the State Comptroller, the Department of Revenue, the Department of Transportation, and any county official charged with collecting and disbursing property taxes shall deposit or cause to be deposited any amount of grants or other revenues or taxes expected to be received by the defaulting unit of local government from that official or entity that has been pledged to the defaulting unit of local government, directly into a designated escrow account established by the Agency at a trust company or bank having trust powers, unless otherwise prohibited by law. The court order authorizing that disposition shall, within 10 days after issuance, be filed with the official or entity with custody of

the garnished grants or other revenues or taxes.

Section 45. Initial startup.

(a) An Agency shall commence operations no later than 90 days after the date of the election unless an alternative date is agreed to by the terms of the intergovernmental agreement and shall operate for the purposes set forth in the intergovernmental agreement. An Agency's governing body shall consist of representatives designated by the governing bodies of the participating units of local government as set forth in this Act, and shall be considered to be formed upon approval of the governing body of each member unit of local government unless otherwise agreed to by the terms of the intergovernmental agreement.

(b) The Regional Fire Protection Agency shall be governed by a 5-member Board of Trustees. Each trustee shall be a resident of a unit of local government within the Agency. The Board shall elect a Chairperson from among its members.

The number of trustees from each unit of local government shall be in proportion, as nearly as practicable, to the number of residents of the Agency who reside in that unit of local government in relation to the total population of the Agency. Thereafter, each trustee shall be succeeded by a resident of the same unit of local government and shall be appointed by the same appointing authority. The appropriate appointing authorities shall appoint 5 trustees of the Agency within 60

days after the entry of the order establishing the Agency. The trustees shall be electors in one of the units of local government of the Agency, provided that the Board shall consist of at least one trustee from each unit of local government, subject to the intergovernmental agreement, within the Regional Fire Protection Agency. The trustees shall hold the terms of office and shall have the powers and qualifications that are provided for trustees under Section 4 of the Fire Protection District Act.

In the event of a conflict between the terms of the intergovernmental agreement and the powers of the trustees otherwise provided by law, the terms of the intergovernmental agreement shall prevail and supersede.

(c) The Agency shall have the power, duties, and obligations of a fire protection district as otherwise provided by the Fire Protection District Act, except as modified or limited by the provisions of this Act or terms of the intergovernmental agreement. The Agency shall develop a budget funded at a level sufficient to ensure that the quality of services provided to the residents of the service area within the boundary of the included units of local government continues at a level equal to or greater than those provided prior to the modification.

(d) The establishment of an Agency as a separately named unit of local government shall not prevent the units of local government within it from identifying their historical fire

departments with the names of their localities. In that event, local fire departments shall be described as [local name] Branch of the [name of the Agency].

(e) Upon the formation of an Agency under this Act, the fire departments of the participating units of local government shall be operated under a single chain of command under the leadership of one fire chief appointed by the Board of the Agency. The manner in which chiefs and subordinate chief officers who are redundant under the single chain of command and who are eliminated or integrated into the new unified chain of command shall be defined within the terms of the intergovernmental agreement entered into by the parties. The chiefs and other chief officers shall retain any rights they may have as established by other applicable law, provided that positions shall not be available to any person who is already retired and receiving benefits under Article 4 of the Illinois Pension Code. Any proposed reduction to a bargaining unit position resulting from the abolishment of a non-bargaining unit position shall be subject to compliance with the bargaining rights of any affected collective bargaining representative.

Upon taking office, the fire chief of the Agency shall command all operations of the unified service area of the Agency. The District shall become a body politic and corporate with all the powers, rights, duties, and obligations vested in it under the terms of the intergovernmental agreement and as

otherwise provided under the provisions of this Act.

(f) Upon the organization of the Agency, the duties of each included unit of local government relating to the operation of a fire department and emergency medical services within the boundaries of the Agency shall be transferred to the Board of the Agency to be exercised according to the terms of the intergovernmental agreement and as otherwise provided under the provisions of this Act.

(g) Unless otherwise agreed upon, all firefighters, emergency medical services personnel, and other personnel lawfully in the employment of any unit of local government included in the Agency shall maintain identity with the fire departments that they were serving on prior to the creation of the Regional Fire Protection Agency, but shall be subject to the unified chain of command established by the Board.

An Agency consisting of any fire department that employs full-time officers or members shall be subject to Sections 16.01 through 16.18 of the Fire Protection District Act unless the terms of the intergovernmental agreement agreed to by the included units of local government and included collective bargaining unit agents representing employees engaged in providing fire protection or emergency medical services, or both, within the Agency's service area provide otherwise.

(h) Contracts in effect between an exclusive bargaining agent representing employees engaged in providing fire protection or emergency medical services, or both, within the

Agency's service area and a participating unit of local government shall continue according to their terms. Successor contracts shall be negotiated in accordance with the provisions of the Illinois Public Labor Relations Act. Upon agreement of any 2 or more units of local government and corresponding exclusive bargaining representatives, and approval of that agreement by a majority of the members of each respective bargaining unit who vote on the issue, any 2 or more bargaining units may be consolidated into a single bargaining unit.

(i) Any unit of local government that is included in an Agency shall be exempt from any reduction in the formula for distribution of income tax revenues under Section 901 of the Illinois Income Tax Act and personal property replacement tax revenues under subsection (c) of Section 201 of the Illinois Income Tax Act collected from local taxpayers by State agencies and redistributed to the units of local government based on the formula and laws in effect as of the effective date of this amendatory Act of the 98th General Assembly.

Section 50. Levy of taxes; limitations; indebtedness.

(a) To carry out the purposes for which an Agency is created, the Agency Board is empowered to take all actions authorized by law and authorized under this Act for the purpose of enforcing payment of any and all contributions and payments required under the terms of an intergovernmental agreement executed under the provisions of this Act.

(b) The inclusion of any unit of local government into an Agency shall not affect the obligation of any contract entered into by the unit of local government unless otherwise agreed upon in the intergovernmental agreement. Such contracts shall remain the obligation of the unit of local government that incurred the obligation.

The inclusion of a unit of local government in an Agency shall not adversely affect proceedings for the collection or enforcement of any tax debt, or other obligation owed to the unit of local government. The proceedings shall continue to finality as if no inclusion had taken place. The proceeds thereof shall be paid to the treasurer of the unit of local government, subject to the terms of the intergovernmental agreement.

All suits pending in any court on behalf of or against any participating unit of local government relating to the provision of fire or emergency medical services on the date that the unit of local government is joined into an Agency under this Act may be prosecuted or defended in the name of the unit of local government unless otherwise provided in the intergovernmental agreement. All judgments obtained for any unit of local government joined into an Agency shall be collected and enforced by the Agency for its benefit unless otherwise provided in the intergovernmental agreement.

The intergovernmental agreement shall define ownership interests and rights of each unit of local government's fire

department related assets and liabilities.

Section 55. Petition to dissolve a District; referendum. The Board of an Agency established by referendum may certify and submit the question of dissolution of the Agency to the electors of the Agency. The Board may draft a ballot title, give notice as required by the general election law, and perform other duties as required to put the question before the voters of the Agency for their approval or rejection as a single ballot measure. The electorate consists of the voters voting within the boundaries of the existing Agency. A simple majority of the registered voters voting on the single ballot measure is required to approve dissolution of the Agency. The Agency seeking dissolution is liable for its proportionate share of the costs of the election.

The question shall be in substantially the following form:

Shall the [name of Regional Fire Protection Agency] be dissolved?

Votes shall be recorded as "Yes" or "No".

If a majority of the votes cast are in favor of the dissolution, the assets, liabilities, obligations, and personnel assigned or belonging to the Agency shall revert to the component units of local government comprising or contributing to the Agency, proportional to each unit of local government's contribution. All such transfers and reassignments shall be made in an expeditious and timely

manner, and no longer than 120 days after the date upon which the Agency's dissolution vote was certified by local election authorities.

Section 60. Powers; exclusive. The powers provided by this Act for the creation of Regional Fire Protection Agencies do not prohibit a unit of local government from entering into an intergovernmental agreement to merge, consolidate, or otherwise cooperate with other units of local government to provide fire, rescue, or emergency medical services as otherwise provided by Section 10 of Article VII of the Illinois Constitution and the Illinois Intergovernmental Cooperation Act. However, the powers and benefits provided by this Act for the combination of fire protection or emergency medical services, or both, of 2 or more units of local government shall be limited to Regional Fire Protection Agencies operated according to the terms of an intergovernmental agreement that has been approved by referendum in accordance with this Act. The terms of any intergovernmental agreement of an Agency created by referendum shall supersede and control over any and all other intergovernmental agreements that may exist that relate to the provision of fire protection or emergency medical services, or both, in geographic areas incorporated within the service areas combined under the terms of a referendum-approved intergovernmental agreement.

Section 65. Home rule. A home rule municipality may not administer fire protection services or emergency medical services, or both, in geographic areas incorporated within the service area of an Agency in a manner that is inconsistent with the terms of an intergovernmental agreement approved in accordance with this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

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