HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 2161 By: **Mize**

COMMITTEE SUBSTITUTE

An Act relating to counties and county officers; amending 19 O.S. 2011, Sections 901.5, as amended by Section 5, Chapter 380, O.S.L. 2015 and 901.8 (19 O.S. Supp. 2018, Section 901.5), which relate to fire protection districts; modifying board of director qualifications; establishing authority to regulate outdoor burning; providing procedures for submission of rules; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 19 O.S. 2011, Section 901.5, as amended by Section 5, Chapter 380, O.S.L. 2015 (19 O.S. Supp. 2018, Section 901.5), is amended to read as follows:

Section 901.5 A. Directors of a fire protection district shall be the surface owners of real property in and residents of the district <u>and shall not be paid firefighters for the fire protection district</u>.

B. At the time of making its order organizing the district, the board of county commissioners shall appoint three directors who

shall hold their office until the next General Election, at which time their successors shall be elected. At the election, the qualified person receiving the highest number of votes for member of board of directors of the district shall hold office for the term of six (6) years. The qualified person receiving the next highest number of votes shall be elected for four (4) years, and the qualified person having the next highest number of votes shall be elected for two (2) years. Each two (2) years thereafter, there shall be elected for a term of six (6) years one member of said board of directors.

C. 1. A board of directors may increase its membership to five ~~(5)~~ members by resolution of the board. If a board of directors adopts such a resolution, the position of the original board which will be up for election at the next General Election shall be for a five-year term.

2. An additional two members shall be elected at a special election called for that purpose by the board of directors. The two qualified persons who receive the highest number of votes for the additional two positions shall be elected to serve until the next General Election.

3. All board members elected thereafter to a five-member board shall serve a term of five (5) years with elections held yearly.

D. The board of directors of the district shall submit, within fifteen (15) days before the filing period of any district election,

a resolution to the secretary of the county election board conducting said election. The resolution shall contain the following:

1. The date of the election;

2. The offices to be filled or the questions to be voted upon at the election;

3. Qualifications for the offices;

4. The location of the polling place or places; and

5. Any other information necessary for conducting said election.

E. 1. The regular election in the district shall be held at the same time as the General Election in this state or on the second Tuesday in November in those years that a General Election is not held.

2. In those years that a General Election is not held the entire cost of the election shall be paid by the district. When the election is held at the same time as the General Election, the district shall pay only for the cost directly attributable to district election.

3. All polling places of precincts, all or any part of which include areas within the boundaries of the district, shall be supplied ballots for the purpose of permitting electors of the district to vote for members of the board of directors of the district.

4. Filing for the office of member of the board of directors shall be with the county election board on a nonpartisan basis from 8 a.m. on the first Monday after Independence Day until 5 p.m. on the next succeeding Wednesday each year. The payment of a filing fee shall not be required.

F. 1. Vacancies on the board shall be filled by the board of directors. In the event a vacancy occurs and the remaining members of the board are unable to make a decision on such vacancy within sixty (60) calendar days, the board of county commissioners shall immediately appoint a member to fill the vacancy. In the event the vacancies on the board are so numerous as to not provide a quorum, the board of county commissioners shall appoint as many members as are necessary to make a quorum.

2. All vacancies filled pursuant to the provisions of this subsection shall be filled until the next regular election, at which time a member shall be elected to serve the remainder of the unexpired term.

G. 1. The office of a member of the board of directors may be declared vacant by the board of directors if such member:

a. is absent from more than one-half (1/2) of all meetings of the board of directors, regular and special, held within any period of four (4) consecutive months,

b. ceases to be eligible for office pursuant to this section,

c. has a conviction in a court of any felony or crime involving moral turpitude,

d. uses alcohol, any stimulant, any drug or other substance which impairs intellect, judgment or physical ability to such an extent as to incapacitate the member to such a degree that the member is prevented from performing duties pursuant to Chapter 21 of this title, and

e. has a mental or physical weakness or inability which incapacitates the member to such a degree that the member is prevented from performing duties required pursuant to Chapter 21 of this title.

2. Vacancies determined pursuant to this subsection shall be filled pursuant to subsection F of this section after notice to the board member of such action and opportunity for a hearing.

3. Vacancies shall be determined at an official meeting of the board and shall be a specific agenda item.

4. Any appeal from a decision declaring an office vacant pursuant to this subsection shall be made to the district court within thirty (30) days of such determination.

SECTION 2. AMENDATORY 19 O.S. 2011, Section 901.8, is amended to read as follows:

Section 901.8 The board of directors shall establish a time and place for regular meetings, and in addition thereto, shall hold such special meetings as may be required for the proper transaction of business. Two ~~(2)~~ members shall constitute a quorum for the transaction of business and upon all questions requiring a vote there shall be a concurrence of at least two ~~(2)~~ members of such board. All records of said board must be open to the inspection of any elector during business hours.

The board shall have the power by general regulation, published in the manner provided for the publication of ordinances in incorporated towns, to regulate the construction of and order the suspension, discontinuance, removal, repair or cleaning of fire places, chimneys, stoves, stove pipes, flues, ovens, boilers or any other apparatus used in any building, factory, or business which might be dangerous in causing or promoting fires, and prescribe limits within which no business dangerous in causing or promoting fires may be carried on. In similar manner it may order the clearing of litter or removal of dry brush and rubbish or other inflammable material endangering the public safety by creating a fire hazard within the district, and provide for action on the part of the State Fire Marshal or the sheriff, or by civil action, for the prevention of hazards as provided by law. <u>The board shall have the power by general regulation, published in the manner provided for the publication of ordinances in incorporated towns, to regulate</u>

outdoor burning with rules submitted for approval by the eligible voters at the same time as a board election or other regularly scheduled election with the cost borne by the district, and provide for action on the part of the State Fire Marshal or the sheriff, or by civil action, for the enforcement of such regulations.

SECTION 3. This act shall become effective November 1, 2019.

COMMITTEE REPORT BY: COMMITTEE ON RULES, dated 02/20/2019 - DO PASS, As Amended and Coauthored.