

FIRST REGULAR SESSION

SENATE BILL NO. 597

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR CHILDERS.

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TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 320.094, 321.300, 321.301, and 321.302, RSMo, and to enact in lieu thereof four new sections relating to boundaries of ambulance and fire protection districts.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 320.094, 321.300, 321.301, and 321.302, RSMo, are repealed and four new sections enacted in lieu thereof, to be known as sections 320.094, 321.300, 321.301, and 321.302 to read as follows:

320.094. 1. The state treasurer shall annually transfer an amount prescribed in subsection 2 of this section out of the state revenues derived from premium taxes levied on insurance companies pursuant to sections 148.310 to 148.461, RSMo, which are deposited by the director of revenue in the general revenue fund pursuant to section 148.330, RSMo, in a fund hereby created in the state treasury, to be known as the "Fire Education Fund". Any interest earned from investment of moneys in the fund shall be credited to the fund. The state treasurer shall administer the fund, and the moneys in such fund shall be used solely as prescribed in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the fire education fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2. Beginning July 1, 1998, three percent of the amount of premium taxes collected in the immediately preceding fiscal year pursuant to sections 148.310 to 148.461, RSMo, which are deposited in the general revenue fund that exceeds the amount of premium taxes which were deposited in the general revenue fund in the 1997 fiscal year shall be transferred from the general revenue fund to the credit of the fire education fund. At the end of each fiscal year, the commissioner of administration shall determine the amount transferred to the credit of the fire education fund in each fiscal year by computing the premium taxes deposited in the general revenue fund in the prior fiscal year and comparing such amount to the amount of premium taxes deposited in the general revenue fund in the 1997 fiscal year. An amount equal to three percent of the increase computed pursuant to this section shall be transferred by the state treasurer to the credit of the fire education fund; however, such transfer in any fiscal year shall not exceed one million five hundred thousand dollars.

3. There is hereby established a special trust fund, to be known as the "Missouri Fire Education Trust Fund", which shall consist of all moneys transferred to the fund from the fire education fund pursuant to this subsection [and], any earnings resulting from the investment of moneys in the fund, **and all money received from gifts, grants or other money appropriated by the general assembly**. Each fiscal year, an amount equal to forty percent of the moneys transferred to the fire education fund shall be transferred by the state treasurer to the credit of the Missouri fire education trust fund. The fund shall be administered by a board of trustees, consisting of the state treasurer, two members of the senate appointed by the president pro tem of the senate, two members of the house of representatives appointed by the speaker of the house, and two members appointed by the governor with the advice and consent of the senate. Any member appointed due to such person's membership in the senate or house of representatives shall serve only as long as such person holds the office referenced in this section. The state treasurer shall invest moneys in the fund in a manner as provided by law. Subject to appropriations, moneys in the fund shall be used solely for the purposes described in this section, but such appropriations shall be made only if the board recommends to the general assembly that such moneys are needed in that fiscal year to adequately fund the activities described in this section. Moneys shall accumulate in the trust fund until the earnings from investment of moneys in the fund can adequately support the activities described in this section, as determined by the board. At such time, the board may recommend that the general assembly adjust or

eliminate the funding mechanism described in this section. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys in the Missouri fire education trust fund at the end of any biennium shall not be transferred to the credit of the general revenue fund.

4. The moneys in the fire education fund, after any distribution pursuant to subsection 3 of this section, shall be distributed to the University of Missouri Fire & Rescue Training Institute and the institute shall use the moneys received under this subsection to coordinate education needs in cooperation with community colleges, colleges, regional training facilities, and universities of this state and shall provide training and continuing education to firefighters in this state relating to fire department operations and the personal safety of firefighters while performing fire department activities. Programs and activities funded under this subsection must be approved by the Missouri fire education commission established in subsection 5 of this section. These funds shall primarily be used to provide field education throughout the state, with not more than two percent of funds under this subsection expended on administrative costs.

5. There is established the "Missouri Fire Education Commission", to be domiciled in the division of fire safety within the department of public safety. The commission shall be composed of five members appointed by the governor with the advice and consent of the senate, consisting of one firefighter serving as a volunteer of a volunteer fire protection association, one full-time firefighter employed by a recognized fire department or fire protection district, one firefighter training officer, one person serving as the chief of a volunteer fire protection association, and one chief fire officer from a recognized fire department or fire protection district. No more than three members appointed by the governor shall be of the same political party. The terms of office for the members appointed by the governor shall be four years and until their successors are selected and qualified, except that, of those first appointed, two shall have a term of four years, two shall have a term of three years and one shall have a term of two years. There is no limitation on the number of terms an appointed member may serve. The governor may appoint a member for the remaining portion of the unexpired term created by a vacancy. The governor may remove any appointed member for cause. The members shall at their initial meeting select a chairman. All members of the commission shall serve without compensation for their duties, but shall be reimbursed for necessary travel and other expenses incurred in the performance of their official duties. The commission shall meet at least quarterly at the call of the chairman and shall review and determine

appropriate programs and activities for which funds may be expended under subsection 4 of this section.

321.300. 1. The boundaries of any district organized pursuant to the provisions of this chapter may be changed **and any property added to such district may be excluded from an ambulance district organized pursuant to the provisions of chapter 190** in the manner prescribed in this section; but any change of boundaries of the district shall not impair or affect its organization or its rights in or to property, or any of its rights or privileges whatsoever; nor shall it affect or impair or discharge any contract, obligation, lien or charge for or upon which it might be liable or chargeable had any change of boundaries not been made.

2. The boundaries may be changed as follows:

(1) Twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the area to be annexed may file with the board a petition in writing praying that such real property be included within the district; provided that in the case of a municipality having less than twenty percent of its total population in one fire protection district, the entire remaining portion may be included in another district so that none of the city is outside of a fire protection district [at the time]. **If the district into which the property is being sought to be included shall have imposed a levy pursuant to section 321.225 or 321.620 and shall be operating an ambulance service, then the petition may also seek to have the real estate excluded from such ambulance district organized pursuant to chapter 190, if the real estate shall be in such an ambulance district at the time of the filing of the petition.** The petition shall describe the property to be included in the district and shall describe the property owned by the petitioners and shall be deemed to give assent of the petitioners to the inclusion in the district of the property described in the petition **and, where sought by the petition, the exclusion of the property from an ambulance district;** and such petition shall be in substantially the form set forth in section 321.495 dealing with referendums and verified in like manner; provided, however, that in the event that there are more than twenty-five property owners or taxpaying electors signing the petition, it shall be deemed sufficient description of their property in the petition as required in this section to list the addresses of such property; or

(2) All of the owners of any territory or tract of land near or adjacent to a fire protection district who own all of the real estate in such territory or tract of land may file a petition with the board praying that such real property be included in the district. **If the district into which the property is being sought to be included**

shall have imposed a levy pursuant to section 321.225 or 321.620 and shall be operating an ambulance service, then the petition may also seek to have the real estate excluded from an ambulance district organized pursuant to chapter 190, if the real estate shall be in such an ambulance district at the time of the filing of the petition. The petition shall describe the property owned by the petitioners and shall be deemed to give assent of the petitioners to the inclusion in the district of the property described in the petition **and, where sought by the petition, the exclusion of the property from an ambulance district;**

(3) Notwithstanding any provision of law to the contrary, in any fire protection district which is partly or wholly located in a noncharter county of the first classification with a population of less than one hundred thousand which adjoins any county of the first classification with a charter form of government with a population of nine hundred thousand or more inhabitants, if such fire protection district serves any portion of a city which is located in both such counties, the boundaries of the district may be expanded so as to include the entire city within the fire protection district, but the boundaries of the district shall not be expanded beyond the city limits of such city, as the boundaries of such city existed on January 1, 1993. Such change in the boundaries of the district shall be accomplished only if twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the area to be annexed file with the board a petition in writing praying that such real property be included within the district. The petition shall describe the property to be included in the district and shall describe the property owned by the petitioners and shall be deemed to give assent of the petitioners to the inclusion in the district of the property described in the petition; and such petition shall be in substantially the form set forth in section 321.495 dealing with referendums and verified in like manner.

3. The secretary of the board shall cause notice of the filing of any petition filed pursuant to this section to be given and published in the county in which the property is located, **[which] such** notice shall recite the filing of **[such] said** petition, the number of petitioners, a general description of the boundaries of the area proposed to be included and the prayer of the petitioners; giving notice to all persons interested to appear at the office of the board at the time named in the notice and show cause in writing, if any they have, why the petition should not be granted. **If the petition also seeks exclusion from an ambulance district, then notice shall also be provided to such ambulance district board.** The fire district board shall at the time and place mentioned, or at such time or times to which the

hearing may be adjourned, proceed to hear the petition and all objections thereto presented in writing by any person showing cause why the petition should not be granted. The failure of any person interested to show cause in writing why such petition shall not be granted shall be deemed as an assent on his part to the inclusion of such lands in the district as prayed for in the petition.

4. If the board deems it for the best interest of the district, it shall grant the **petitioner's request to extend the boundaries of the district to include the property described in the** petition, but if the board determines that some portion of the property mentioned in the petition cannot as a practical matter be served by the district, or if it deems it for the best interest of the district that some portion of the property in the petition not be included in the district, then the board shall grant the petition in part only. **If the petition also seeks the exclusion of the property from an ambulance district, then, to the extent the board has granted the petition to include all or some portion of the property, the board shall grant the request that such property be removed from the ambulance district unless it determines that it would not be in the best interest of the district, or the owners of such property, to be excluded from the ambulance district, in which case the board should grant such request to be excluded as to none or only part of the property described in the petition.** If the petition is granted, the board shall make an order to that effect and file the same with the circuit clerk; and upon the order of the court having jurisdiction over the district, the property shall be included in the district **and, if applicable, shall be excluded from the ambulance district.** If the petition contains the signatures of all the owners of the property pursuant to the provisions of subdivision (2) of subsection 2 of this section, the property shall be included in the district **and, if applicable, excluded from the ambulance district,** upon the order of the court. If the petition contains the signatures of twenty-five percent of the number of voters who voted in the most recent gubernatorial election in the area to be annexed pursuant to subdivision (1) or subdivision (3) of subsection 2 of this section, the property shall be included in the district subject to the election provided in section 321.301. The circuit court having jurisdiction over the district shall proceed to make any such order including such additional property within the district **and, if applicable, excluded from the ambulance district,** as is provided in the order of the board, unless the court shall find that such order of the board was not authorized by law or that such order of the board was not supported by competent and substantial evidence.

5. Any person aggrieved by any decision of the board made pursuant to the provisions of this section may appeal that decision to the circuit court of the county in which the property is located within thirty days of the decision by the board.

6. No fire protection district, or employee thereof, in which territory is annexed pursuant to this section shall be required to comply with any prescribed firefighter training program or regimen which would not otherwise apply to the district or its employees, but for the requirements applicable to the annexed territory.

321.301. 1. If the petition to add any territory or tract of land to the district **or exclude the same from an ambulance district** contained fewer than all of the signatures required pursuant to subdivision (2) of subsection 2 of section 321.300, the decree [of extension of boundaries] shall not become final and conclusive until it has been submitted to an election of the voters residing within the boundaries described in such decree and until it has been assented to by a majority vote of the voters in the newly included area voting on the question. The decree shall also provide for the holding of the election to vote on the proposition of extending the boundaries of the district, and shall fix the date for holding the election.

2. **For a petition to add property to the district**, the question shall be submitted in substantially the following form:

Shall the boundaries of the..... Fire Protection District be extended to include the following described property? (Describe property.)

G Yes

G No

3. **For a petition to add property to the district and to exclude such property from an ambulance district**, the question shall be submitted in substantially the following form:

Shall the boundaries of the Fire Protection District be extended to include the following described property? (Describe property).

9 Yes

9 No

If the boundaries of the Fire Protection District are extended to include the following described property (describe property) shall the same property be excluded from the Ambulance District?

9 Yes

9 No

4. If, on a proposition only to extend the boundaries of the district, a majority of the voters voting on the proposition vote in favor of the extension of the

boundaries of the district, then the court shall enter its further order declaring the decree of extension of the boundaries to be final and conclusive. In the event, however, that the court finds that a majority of the voters voting thereon voted against the proposition to extend the boundaries of the district, then the court shall enter its further order declaring the decree of extension of boundaries to be void and of no effect.

5. If, on a proposition both to extend the boundaries of the district and to exclude property from an ambulance district, a majority of the voters voting on the proposition vote in favor of the extension of the boundaries of the district and the exclusion of the property from the ambulance district, then the court shall enter its further order declaring the decree of extension of the boundaries and exclusion of the property from the ambulance district to be final and conclusive. In the event that the court finds that a majority of the voters voting thereon voted only for the extension of the boundaries, but not for the exclusion of the property from the ambulance district, then the court shall enter its further order declaring the decree of extension of the boundaries to be final and conclusive, but declaring the decree exclusion of the property from the ambulance district to be void and of no effect. If the court finds that a majority of the voters voting thereon voted against the proposition to extend the boundaries of the district, then the court shall enter its further order declaring the decree of extension of boundaries and of exclusion of the property from the ambulance district to be void and of no effect.

321.302. Within thirty days after the final order of the circuit court [extending the boundaries of the district], the circuit clerk of that court shall transmit to the county clerk and to the recorder of deeds in each county in which the district is located copies of the findings and decrees of the court extending the boundaries of the district. The same shall be filed in the same manner as articles of incorporation are required to be filed under the general laws concerning corporations, and each recorder and clerk shall receive a fee of one dollar for filing and preserving the same. **If the decree shall exclude property from an ambulance district, then the clerk shall also transmit a copy of the same to the board of the ambulance district.**