

FIRST REGULAR SESSION

HOUSE BILL NO. 381

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WALTON (Sponsor), OXFORD, WILDBERGER, RUPP,
HUNTER, BROWN (30), QUINN, VIEBROCK, STEVENSON, PORTWOOD,
BOYKINS AND RUCKER (Co-sponsors).

Read 1st time January 27, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1244L.011

AN ACT

To repeal section 321.600, RSMo, and section 321.243 as enacted by senate substitute for senate committee substitute for house committee substitute for house bills nos. 452, 203, 377, 472, 473, 556 & 647, eighty-eighth general assembly, first regular session, section 321.701 as enacted by conference committee substitute no. 2 for senate substitute no. 2 for house committee substitute for house bills nos. 484, 199 & 72, eighty-eighth general assembly, first regular session, and section 321.714 as enacted by conference committee substitute no. 2 for senate substitute no. 2 for house committee substitute for house bills nos. 484, 199 & 72, eighty-eighth general assembly, first regular session relating to fire protection districts.

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

Section A. Section 321.600, RSMo, and section 321.243 as enacted by senate substitute
2 for senate committee substitute for house committee substitute for house bills nos. 452, 203, 377,
3 472, 473, 556 & 647, eighty-eighth general assembly, first regular session, section 321.701 as
4 enacted by conference committee substitute no. 2 for senate substitute no. 2 for house committee
5 substitute for house bills nos. 484, 199 & 72, eighty-eighth general assembly, first regular
6 session, and section 321.714 as enacted by conference committee substitute no. 2 for senate
7 substitute no. 2 for house committee substitute for house bills nos. 484, 199 & 72, eighty-eighth
8 general assembly, first regular session are repealed as follows:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

2 [321.243. 1. Notwithstanding any other provision of law to the contrary,
3 an additional tax of not to exceed three cents per one hundred dollars of assessed
4 valuation may be levied and collected by any city, town, village, county, or fire
5 protection district, or a central fire and emergency services board established in
6 subsection 4 of this section. All the funds derived from such tax shall be used
7 solely for the purpose of establishing and providing a joint, central fire and
8 emergency dispatching service.

9 2. The additional tax prescribed by this section shall be levied only when
10 the governing body of the city, town, village, county, fire protection district, or
11 central fire and emergency services board determines that a central fire and
12 emergency dispatching center will meet the minimum requirements set by section
13 321.245, and, except where a central fire and emergency services board is
14 established in accordance with subsection 4 of this section, when the governing
15 body has entered into a contract with the center for fire and emergency
16 dispatching services. The funds from the tax shall be kept separate and apart
17 from all other funds of the city, town, village, county, fire protection district, or
18 central fire and emergency services board and shall be paid out only on order of
19 the governing body. Except as provided in subsection 4 of this section, all funds
20 received by such center, and all operations of such center shall be governed and
21 controlled by a board of directors consisting of one member from each such
22 agency using the joint, central fire and emergency dispatching service. Except
23 as otherwise provided in subsection 4 of this section, in any county, city, town,
24 or village, where a tax-supported fire protection district is provided emergency
25 dispatching services by any form of joint communication organization or
26 emergency dispatching center, receiving directly or indirectly any funds so levied
27 and collected as provided in this section including any funds or tariffs paid by
28 telephone subscribers for 911 emergency service, such joint communication
29 organization, however organized, shall be governed by a board of directors, and
30 the board of directors shall consist in part of one member appointed by each
31 county, city, town, village or tax-supported fire protection district, so served. The
32 members shall be an elected official of a fire protection district, ambulance
33 district or city council appointed by each such agency to serve for a one-year term
34 or until a successor is duly appointed.

35 3. In addition to the tax prescribed by subsections 1 and 2 of this section,
36 an additional tax of not to exceed two cents per one hundred dollars of assessed
37 valuation which has been approved by the voters may be levied and collected by
38 any city, town, village, county, or fire protection district, or a central fire and
39 emergency services board established in subsection 4 of this section of a county
40 of the first classification with a charter form of government which has a
41 population between two hundred thousand and five hundred thousand
42 inhabitants, but all of the funds derived from such tax shall be used solely for the
43 purpose of establishing and providing a joint, central fire and emergency
dispatching service.

44 4. A central fire and emergency services board shall be established in any
45 county of the first classification with a charter form of government which has a
46 population between two hundred thousand and five hundred thousand inhabitants
47 in the manner prescribed in this subsection. The board shall have all powers and
48 duties prescribed in this section and section 321.245 to establish and provide a
49 joint, central fire and emergency dispatching service. The initial board shall be
50 established at the April, 1996, election. The election authority shall be ordered
51 to conduct such election, which shall be conducted as a nonpartisan election. The
52 board shall consist of one member elected from each county council district. All
53 board members shall serve for four-year terms, except that of the initial members
54 elected, the members elected from odd-numbered county council districts shall
55 serve for terms of two years and the members elected from even-numbered
56 county council districts shall serve for terms of four years. Each member shall
57 be a resident of the county council district from which the member is elected. No
58 person who is a paid employee of any fire protection district, ambulance district,
59 joint, central fire and emergency dispatch board, or a paid employee of a fire or
60 ambulance department of a municipality shall be elected to the joint, central fire
61 and emergency dispatch board. At such election, the election authority of the
62 county shall submit to the qualified voters of the county a proposal for the board
63 to levy and collect the taxes prescribed in this section, and such tax shall be
64 conditioned on the replacement of the tax levied in such county by the county
65 under this section with the new tax levied by the board. A portion of the funds
66 derived from the tax levied pursuant to this subsection shall be used to reimburse
67 the county for the cost of the election held in April, 1996, and any subsequent
68 elections that are necessary for the operation of the board and the board's duties.
69 In addition, if such a tax is approved, any funds remaining in the separate fund
70 kept by the county, as required by subsection 2 of this section, and any property
71 and equipment purchased with moneys in such separate fund held by the county
72 shall be transferred to the fund maintained by the board for the same purpose.
73 The board shall abide by section 50.660, RSMo, in the letting of contracts. The
74 board shall be audited by the state auditor pursuant to section 29.230, RSMo.
75 Except as otherwise provided in this subsection, the board shall meet once each
76 month as established in the bylaws. Any other meeting may be called by four of
77 the seven members voting in favor of having an additional meeting.]
78

2 [321.600. For the purpose of providing fire protection to the property
3 within the district, the district and, on its behalf, the board shall have the
4 following powers, authority and privileges:
5 (1) To have perpetual existence;
6 (2) To have and use a corporate seal;
7 (3) To sue and be sued, and be a party to suits, actions and proceedings;
8 (4) To enter into contracts, franchises and agreements with any person,
partnership, association or corporation, public or private, affecting the affairs of

9 the district, including contracts with any municipality, district or state, or the
10 United States of America, and any of their agencies, political subdivisions or
11 instrumentalities, for the planning, development, construction, acquisition or
12 operation of any public improvement or facility, or for a common service relating
13 to the control or prevention of fires, including the installation, operation and
14 maintenance of water supply distribution, fire hydrant and fire alarm systems;
15 provided, that a notice shall be published for bids on all construction or purchase
16 contracts for work or material or both, outside the authority contained in
17 subdivision (9) of this section, involving an expense of ten thousand dollars or
18 more;

19 (5) Upon approval of the voters, as herein provided, to borrow money
20 and incur indebtedness and evidence the same by certificates, notes or
21 debentures, and to issue bonds, in accordance with the provisions of sections
22 321.010 to 321.450;

23 (6) To acquire, construct, purchase, maintain, dispose of and encumber
24 real and personal property, fire stations, fire protection and fire-fighting apparatus
25 and auxiliary equipment therefor, and any interest therein, including leases and
26 easements;

27 (7) To refund any bonded indebtedness of the district without an election.
28 The terms and conditions of refunding bonds shall be substantially the same as
29 those of the original issue of bonds, and the board shall provide for the payment
30 of interest, at not to exceed the legal rate, and the principal of such refunding
31 bonds in the same manner as is provided for the payment of interest and principal
32 of bonds refunded;

33 (8) To have the management, control and supervision of all the business
34 and affairs of the district, and the construction, installation, operation and
35 maintenance of district improvements therein;

36 (9) To hire and retain agents, employees, engineers and attorneys,
37 including part-time or volunteer firemen;

38 (10) To have and exercise the power of eminent domain and in the
39 manner provided by law for the condemnation of private property for public use
40 to take any property within the district necessary to the exercise of the powers
41 herein granted;

42 (11) To receive and accept by bequest, gift or donation any kind of
43 property. Notwithstanding any other provision of law to the contrary, any
44 property received by the fire protection district as a gift or any property purchased
45 by the fire protection district at a price below the actual market value of the
46 property may be returned to the donor or resold to the seller if such property is
47 not used for the specific purpose for which it was acquired;

48 (12) To adopt and amend bylaws, fire protection and fire prevention
49 ordinances, and any other rules and regulations not in conflict with the
50 constitution and laws of this state, necessary for the carrying on of the business,
51 objects and affairs of the board and of the district, and refer to the proper

52 authorities for prosecution any violation thereof detrimental to the district. Any
53 person violating any such ordinance is hereby declared to be guilty of a class B
54 misdemeanor, and upon conviction thereof shall be punished as is provided
55 herein:

56 (a) The prosecuting attorney for the county in which the violation occurs
57 shall prosecute such violations in the circuit court of that county. The legal
58 officer or attorney for the fire district may be appointed by the prosecuting
59 attorney as special assistant prosecuting attorney for the prosecution of any such
60 violation; or

61 (b) The board may adopt a specific ordinance to impose a fine or a series
62 of fines for specific offenses of not more than five hundred dollars. The accused
63 person may either appear in court at a set date or make payment to the officer
64 appointed by the board, either in person or through the United States mail, with
65 the moneys handled as are all other moneys of the district. If the fine is not paid
66 by the deadline imposed, the violation and the failure to pay the fine or appear in
67 court at the set date may be further prosecuted as provided in paragraph (a) of this
68 subdivision.

69
70 The enactments of the fire district in delegating administrative authority to
71 officials of the district may provide standards of action for the administrative
72 officials, which standards are declared as industrial codes adopted by nationally
73 organized and recognized trade bodies;

74 (13) To pay all court costs and expenses connected with the first election
75 or any subsequent election in the district;

76 (14) To have and exercise all rights and powers necessary or incidental
77 to or implied from the specific powers granted herein. Such specific powers shall
78 not be considered as a limitation upon any power necessary or appropriate to
79 carry out the purposes and intent of sections 321.010 to 321.450;

80 (15) To provide for health, accident, disability, and pension benefits,
81 through either or both a contributory or noncontributory plan, of the salaried
82 members and such other benefits for their spouses and eligible unemancipated
83 children of its organized fire department of the district. For purposes of this
84 section, "eligible unemancipated child" means a natural or adopted child of an
85 insured, or a stepchild of an insured who is domiciled with the insured, who is
86 less than twenty-three years of age, who is not married, not employed on a
87 full-time basis, not maintaining a separate residence except for full-time students
88 in an accredited school or institution of higher learning, and who is dependent on
89 parents or guardians for at least fifty percent of his or her support. Such benefits
90 shall be determined by the board of directors of the fire protection district within
91 the level of available revenues of the pension program and other available
92 revenues of the district. If an employee contributory plan is adopted, then at least
93 one voting member of the board of trustees shall be a member of the fire district

94 elected by the contributing members, which shall not be the same as the board of
95 directors;

96 (16) To provide for life insurance, accident, sickness, health, disability,
97 annuity, uniform, length of service, pension, retirement and other employee-type
98 fringe benefits, subject to the provisions of section 70.615, RSMo, through either
99 a contributory or noncontributory plan or both, for the volunteer members and
100 such other benefits for their spouses and minor children of any organized fire
101 department of the district. The type and amount of such benefits shall be
102 determined by the board of directors of the fire protection district within available
103 revenues of the district, including the pension program of the district. The
104 provision and receipt of such benefits shall not make the recipient an employee
105 of the district. Directors who are also volunteer members may receive such
106 benefits while serving as a director of the district;

107 (17) To contract for services with any rural, volunteer or subscription fire
108 department or organization, or volunteer fire protection association, as defined
109 in section 320.300, RSMo, for the purpose of providing the benefits described in
110 subdivision (16) of this section.]

111

[321.701. 1. Each member of a fire protection district board located in
2 any county of the first classification with a population of nine hundred thousand
3 or more inhabitants shall be subject to recall from office by the registered voters
4 of the district from which he was elected. Proceedings may be commenced for
5 the recall of any fire protection district board member by the filing of a notice of
6 intention to circulate a recall petition pursuant to sections 321.701 to 321.716.

7 2. Proceedings may not be commenced against any member if, at the time
8 of commencement, that member:

9 (1) Has not held office during his current term for a period of more than
10 one hundred eighty days; or

11 (2) Has one hundred eighty days or less remaining in his term; or

12 (3) Has had a recall election determined in his favor within the current
13 term of office.]

14

[321.714. 1. If the election authority finds the signatures on the petition,
2 together with the supplementary petition sections if any, to be sufficient, it shall
3 submit its certificate as to the sufficiency of the petition to the fire protection
4 district board prior to its next meeting. The certificate shall contain:

5 (1) The name of the member whose recall is sought;

6 (2) The number of signatures required by law;

7 (3) The total number of signatures on the petition;

8 (4) The number of valid signatures on the petition.

9 2. Following the fire protection board's receipt of the certificate, the
10 county election authority shall order an election to be held on one of the election
11 days specified in section 115.123, RSMo. The election shall be held not less than

12 forty-five days nor more than one hundred twenty days after the fire protection
13 district board receives the petition. Nominations hereunder shall be made by
14 filing a statement of candidacy with the election authority.

15 3. At any time prior to forty-two days before the election, the member
16 sought to be recalled may offer his resignation. If his resignation is offered, the
17 recall question shall be removed from the ballot and the office declared vacant.
18 The member who resigned may not fill the vacancy which shall be filled as
19 provided by law.]