



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4868

Introduced 1/15/2010, by Rep. Lisa M. Dugan

SYNOPSIS AS INTRODUCED:

70 ILCS 705/4

from Ch. 127 1/2, par. 24

Amends the Fire Protection District Act. Provides that under either of the following circumstances, a trustee of a fire protection district may hold a position on the board of a not-for-profit corporation that is interested in a contract, work, or business of the fire protection district: (1) if the trustee is appointed by the governing body of the fire protection district to represent the interests of the district on a not-for-profit corporation's board, then the trustee may actively vote on matters involving either that board or the district, at any time, so long as the membership on the not-for-profit board is not a paid position, except that the trustee may be reimbursed by the not-for-profit board for expenses incurred as the result of membership on the not-for-profit board; or (2) if the trustee is not appointed to the governing body of a not-for-profit corporation by the governing body of the fire protection district, then the trustee may continue to serve; however, the trustee shall abstain from voting on any proposition before the governing body of the district directly involving the not-for-profit corporation and, for those matters, shall not be counted as present for the purposes of a quorum of the governing body of the district. Effective immediately.

LRB096 16804 RLJ 32111 b

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 changing Section 4 as follows:

6 (70 ILCS 705/4) (from Ch. 127 1/2, par. 24)

7 Sec. 4. Trustees; conflict of interest; violations.

8 (a) A board of trustees consisting of 3 members for the
9 government and control of the affairs and business of a fire
10 protection district incorporated under this Act shall be
11 created in the following manner:

12 (1) If the district lies wholly within a single
13 township but does not also lie wholly within a
14 municipality, the board of trustees of that township shall
15 appoint the trustees for the district but no township
16 official who is eligible to vote on the appointment shall
17 be eligible for such appointment.

18 (2) If the district is wholly contained within a
19 municipality, the governing body of the municipality shall
20 appoint the trustees for the district.

21 (3) If the district is wholly contained within a single
22 county but does not lie wholly within a single township or
23 a single municipality, the trustees for the district shall

1 be appointed by the presiding officer of the county board
2 with the advice and consent of the county board; except
3 that in counties with a population in excess of 3,000,000,
4 2 trustees for the district shall be appointed by the board
5 of trustees of the township that has the greatest
6 population within the district as determined by the last
7 preceding federal census. That board of trustees shall also
8 appoint the remaining trustee if no other township
9 comprises at least 10% of the population of the district.
10 If only one other township comprises at least 10% of the
11 population of the district, then the board of trustees of
12 that district shall appoint the remaining trustee. If 2 or
13 more other townships each comprise at least 10% of the
14 population of the district, then the boards of trustees of
15 those townships shall jointly appoint the remaining
16 trustee. No township official who is eligible to vote on
17 the appointment shall be eligible for the appointment.

18 (4) If the district is located in more than one county,
19 the number of trustees who are residents of a county shall
20 be in proportion, as nearly as practicable, to the number
21 of residents of the district who reside in that county in
22 relation to the total population of the district.

23 (A) In counties with a population of 3,000,000 or
24 more, the trustees shall be appointed as provided in
25 paragraphs (1), (2), and (3) of subsection (a) of this
26 Section. For purposes of this item (A) and in item (B),

1 "district" means that portion of the total fire
2 protection district lying within a county with a
3 population in excess of 3,000,000.

4 (B) In counties with a population of less than
5 3,000,000, the trustees for the district shall be
6 appointed by the presiding officer of the county board
7 with the advice and consent of the county board.

8 Upon the expiration of the term of a trustee who is in
9 office on October 1, 1975, the successor shall be a resident of
10 whichever county is entitled to such representation in order to
11 bring about the proportional representation required herein,
12 and he shall be appointed by the county board of that county,
13 or in the case of a home rule county as defined by Article VII,
14 Section 6 of the Constitution of 1970, the chief executive
15 officer of that county, with the advice and consent of the
16 county board.

17 Thereafter, each trustee shall be succeeded by a resident
18 of the same county who shall be appointed by the same
19 appointing authority; however, the provisions of the preceding
20 paragraph shall apply to the appointment of the successor to
21 each trustee who is in office at the time of the publication of
22 each decennial Federal census of population.

23 Within 60 days after the adoption of this Act as provided
24 in Section 1, or within 60 days after the adoption of an
25 ordinance pursuant to subsection (c) of Section 4.01, the
26 appropriate appointing authority shall appoint 3 trustees who

1 are electors in the district, not more than one of whom shall
2 be from any one city or village or incorporated town in a
3 district unless such city or village or incorporated town has
4 more than 50% of the population in the district according to
5 last preceding Federal census. Such trustees shall hold their
6 offices thenceforward and for one, 2 and 3 years from the first
7 Monday of May next after their appointment and until their
8 successors have been selected and qualified and thereafter,
9 unless the district has determined to elect trustees as
10 provided in Section 4a, on or before the second Monday in April
11 of each year the appointing authority shall appoint one trustee
12 whose term shall be for 3 years commencing on the first Monday
13 in May next after they are respectively appointed. The length
14 of term of the first trustees shall be determined by lot at
15 their first meeting.

16 Each trustee shall, before entering on the duties of his
17 office, enter into bond with security to be approved by the
18 appointing authority in such sum as the authority may
19 determine.

20 A majority of the board of trustees shall constitute a
21 quorum, but a smaller number may adjourn from day to day. No
22 trustee or employee of such district shall be directly or
23 indirectly interested financially in any contract work or
24 business or the sale of any article, the expense, price or
25 consideration of which is paid by the district; nor in the
26 purchase of any real estate or other property, belonging to the

1 district, or which shall be sold for taxes or assessments or by
2 virtue of legal process at the suit of the district. Nothing in
3 this Section prohibits the appointment or selection of any
4 person or trustee or employee whose only interest in the
5 district is as an owner of real estate in such fire protection
6 district or of contributing to the payment of taxes levied by
7 the district. The trustees shall have the power to provide and
8 adopt a corporate seal for the district.

9 (b) However, any trustee may provide materials,
10 merchandise, property, services or labor, if:

11 A. the contract is with a person, firm, partnership,
12 association, corporation or cooperative association in
13 which such interested trustee has less than a 7 1/2% share
14 in the ownership; and

15 B. such interested trustee publicly discloses the
16 nature and extent of his interest prior to or during
17 deliberations concerning the proposed award of the
18 contract; and

19 C. such interested trustee abstains from voting on the
20 award of the contract, though he shall be considered
21 present for the purposes of establishing a quorum; and

22 D. such contract is approved by a majority vote of
23 those trustees presently holding office; and

24 E. the contract is awarded after sealed bids to the
25 lowest responsible bidder if the amount of the contract
26 exceeds \$1500, but the contract may be awarded without

1 bidding if the amount is less than \$1500; and

2 F. the award of the contract would not cause the
3 aggregate amount of all such contracts so awarded to the
4 same person, firm, association, partnership, corporation,
5 or cooperative association in the same fiscal year to
6 exceed \$25,000.

7 (c) In addition to the above exemption, any trustee or
8 employee may provide materials, merchandise, property,
9 services or labor if:

10 A. the award of the contract is approved by a majority
11 vote of the board of trustees of the fire protection
12 district provided that any such interested member shall
13 abstain from voting; and

14 B. the amount of the contract does not exceed \$1000;
15 and

16 C. the award of the contract would not cause the
17 aggregate amount of all such contracts so awarded to the
18 same person, firm, association, partnership, corporation,
19 or cooperative association in the same fiscal year to
20 exceed \$2000; and

21 D. such interested member publicly discloses the
22 nature and extent of his interest prior to or during
23 deliberations concerning the proposed award of the
24 contract; and

25 E. such interested member abstains from voting on the
26 award of the contract, though he shall be considered

1 present for the purposes of establishing a quorum.

2 (d) A contract for the procurement of public utility
3 services by a district with a public utility company is not
4 barred by this Section by one or more members of the board of
5 trustees being an officer or employee of the public utility
6 company or holding an ownership interest if no more than 7 1/2%
7 in the public utility company, or holding an ownership interest
8 of any size if the fire protection district has a population of
9 less than 7,500 and the public utility's rates are approved by
10 the Illinois Commerce Commission. An elected or appointed
11 member of the board of trustees having such an interest shall
12 be deemed not to have a prohibited interest under this Section.

13 (e) Any officer or employee who violates this Section is
14 guilty of a Class 4 felony and in addition thereto any office
15 held by such person so convicted shall become vacant and shall
16 be so declared as part of the judgment of the court.

17 (f) Nothing contained in this Section, including the
18 restrictions set forth in subsections (b), (c) and (d), shall
19 preclude a contract of deposit of monies, loans or other
20 financial services by a fire protection district with a local
21 bank or local savings and loan association, regardless of
22 whether a member or members of the board of trustees of the
23 fire protection district are interested in such bank or savings
24 and loan association as an officer or employee or as a holder
25 of less than 7 1/2% of the total ownership interest. A member
26 or members holding such an interest in such a contract shall

1 not be deemed to be holding a prohibited interest for purposes
2 of this Act. Such interested member or members of the board of
3 trustees must publicly state the nature and extent of their
4 interest during deliberations concerning the proposed award of
5 such a contract, but shall not participate in any further
6 deliberations concerning the proposed award. Such interested
7 member or members shall not vote on such a proposed award. Any
8 member or members abstaining from participation in
9 deliberations and voting under this Section may be considered
10 present for purposes of establishing a quorum. Award of such a
11 contract shall require approval by a majority vote of those
12 members presently holding office. Consideration and award of
13 any such contract in which a member or members are interested
14 may only be made at a regularly scheduled public meeting of the
15 board of trustees of the fire protection district.

16 (g) Beginning on the effective date of this amendatory Act
17 of 1990 and ending 3 years after the effective date of this
18 amendatory Act of 1990, in the case of a fire protection
19 district board of trustees in a county with a population of
20 more than 400,000 but less than 450,000, according to the 1980
21 general census, created under subsection (a), paragraph (3) of
22 this Section a petition for the redress of a trustee, charging
23 the trustee with palpable omission of duty or nonfeasance in
24 office, signed by not less than 5% of the electors of the
25 district may be presented to the township supervisor or the
26 presiding officer of the county board, as appropriate. Upon

1 receipt of the petition, the township supervisor or presiding
2 officer of the county board, as appropriate, shall preside over
3 a hearing on the matter of the requested redress. The hearing
4 shall be held not less than 14 nor more than 30 days after
5 receipt of the petition. In the case of a fire protection
6 district trustee appointed by the presiding officer of the
7 county board, the presiding officer shall appoint at least 4
8 but not more than 8 members of the county board, a majority of
9 whom shall reside in a county board district in which the fire
10 protection district is wholly or partially located, to serve as
11 the hearing panel. In the case of a fire protection district
12 trustee appointed by the board of town trustees, the township
13 supervisor and 2 other town trustees appointed by the
14 supervisor shall serve as the hearing panel. Within 30 days
15 after the hearing, the panel shall issue a statement of its
16 findings concerning the charges against the trustee, based upon
17 the evidence presented at the hearing, and may make to the fire
18 protection district any recommendations deemed appropriate.

19 (h) Any elected or appointed trustee of a fire protection
20 district shall be entitled to absent himself or herself from
21 any services or employment in which the trustee is then engaged
22 or employed on the day and time of a meeting of the board of
23 trustees of the fire protection district for the period of time
24 during which the meeting is held and during any necessary time
25 required to travel to and from the meeting. Any trustee
26 availing himself or herself of this provision shall not be

1 penalized in any manner by his or her employer as a result of
2 an absence authorized by this subsection; however, the employer
3 shall not be required to compensate the trustee for the time
4 during which the trustee is absent. No employer shall refuse to
5 grant to a trustee of a fire protection district the privilege
6 granted by this subsection, nor shall any employer penalize or
7 otherwise discriminate against any trustee who avails himself
8 or herself of the provisions of this subsection, except as
9 otherwise provided herein. No employer may directly or
10 indirectly violate the provisions of this subsection. A
11 "meeting" for purposes of this subsection shall have the same
12 meaning as that provided under Section 1.02 of the Open
13 Meetings Act.

14 (i) Under either of the following circumstances, a trustee
15 may hold a position on the board of a not-for-profit
16 corporation that is interested in a contract, work, or business
17 of the fire protection district:

18 (1) If the trustee is appointed by the governing body
19 of the fire protection district to represent the interests
20 of the district on a not-for-profit corporation's board,
21 then the trustee may actively vote on matters involving
22 either that board or the fire protection district, at any
23 time, so long as the membership on the not-for-profit board
24 is not a paid position, except that the trustee may be
25 reimbursed by the not-for-profit board for expenses
26 incurred as the result of membership on the not-for-profit

1 board.

2 (2) If the trustee is not appointed to the board of a
3 not-for-profit corporation by the governing body of the
4 fire protection district, then the trustee may continue to
5 serve; however, the trustee shall abstain from voting on
6 any proposition before the governing body of the fire
7 protection district directly involving the not-for-profit
8 corporation and, for those matters, shall not be counted as
9 present for the purposes of a quorum of the governing body
10 of the fire protection district.

11 (Source: P.A. 95-866, eff. 1-1-09.)

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