

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1605

6 By: Sherrer

7 COMMITTEE SUBSTITUTE

8 An Act relating to fire departments; amending 18 O.S.  
9 2011, Section 593, as amended by Section 1, Chapter  
10 343, O.S.L. 2014 (18 O.S. Supp. 2014, Section 593),  
11 which relates to charitable corporations; requiring  
12 annual audit; amending 19 O.S. 2011, Section 351,  
13 which relates to county fire departments; requiring  
14 annual audit; providing an effective date; and  
15 declaring an emergency.

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

17 SECTION 1. AMENDATORY 18 O.S. 2011, Section 593, as  
18 amended by Section 1, Chapter 343, O.S.L. 2014 (18 O.S. Supp. 2014,  
19 Section 593), is amended to read as follows:

20 Section 593. A. Any charitable corporation formed for the  
21 purpose of providing either a volunteer or a full-time fire  
22 department, pursuant to Section 592 of this title, shall have  
23 authority to establish a reasonable schedule of fees to be charged  
24 for its services in extinguishing fires and all other emergencies of  
its members and nonmembers who utilize such fire department to  
extinguish or control a fire or provide services in response to an

1 emergency either within or without the unincorporated area wherein  
2 it is situated. Such schedule of fees may contain one fee for  
3 members and another fee for nonmembers, except that no fee shall be  
4 established in excess of the approximate cost of providing the  
5 service. Any member or nonmember utilizing the services of such a  
6 fire department to extinguish or control a fire or provide services  
7 in response to an emergency shall be liable to said corporation in  
8 the amount of the established fee. However, no fee shall be charged  
9 by a fire department for merely appearing at the scene of a  
10 controlled fire unless called by the person setting the fire or at  
11 such person's request. If it is necessary for suit to be brought  
12 for collection of such amount due, such liability shall include  
13 costs of suit and a reasonable attorney's fee.

14 B. If insurance coverage is provided for the fee specified in  
15 subsection A of this section or for the cost of providing the  
16 service rendered by the fire department and an insurer makes payment  
17 for the service it shall be the duty of the insured party or the  
18 responding fire department to notify the insurer of services  
19 rendered. The instrument of payment for the services of the fire  
20 department shall be made to the order of the responding fire  
21 department and the insured.

22 C. A charitable corporation formed for the purpose of providing  
23 either a volunteer or a full-time fire department that receives  
24 county sales tax funds for providing fire protection services to

1 such county shall cause an audit to be made of, including but not  
2 limited to, the funds, accounts and fiscal affairs of such fire  
3 department. The audits shall be prepared by a certified public  
4 accountant or a licensed public accountant. The audit shall be  
5 ordered within thirty (30) days of the close of each fiscal year of  
6 the charitable corporation which shall commence July 1 and end on  
7 June 30. The audit shall adhere to standards set by the State  
8 Auditor and Inspector. One copy of the annual audit shall be filed  
9 with the State Auditor and Inspector and one copy shall be filed  
10 with the appropriate county clerk or county clerks in the county in  
11 which the corporation provides fire protection services not more  
12 than one hundred twenty (120) days following the close of each  
13 fiscal year of the corporation. In the event that a copy of the  
14 audit as required by this subsection is not filed with the State  
15 Auditor and Inspector within the time provided in this subsection or  
16 for any other reason deemed expedient by him or her, the State  
17 Auditor and Inspector is authorized to either commence an audit or  
18 employ a certified public accountant or licensed public accountant  
19 to make the audit herein required at the cost and expense of the  
20 corporation.

21 SECTION 2. AMENDATORY 19 O.S. 2011, Section 351, is  
22 amended to read as follows:

23 Section 351. A. The board of county commissioners of each  
24 county of this state is hereby authorized to provide firefighting

1 service in the county and for such purpose to use county funds to  
2 rent, lease or purchase firefighting equipment and to rent or  
3 construct and equip and operate fire stations and to employ  
4 necessary personnel to provide such service. The board of county  
5 commissioners shall also have the authority to determine and collect  
6 charges for firefighting services performed by the county from any  
7 person to whom such services are provided.

8 B. The board of county commissioners of each county of this  
9 state shall have the power to take by grant, purchase, gift, devise  
10 or lease, and to dispose of, any real property for the purpose of  
11 acquiring right-of-ways and easements necessary in providing  
12 firefighting services to the county, including the construction and  
13 maintenance of roads and the installation of dry hydrants. The  
14 board may use county funds and equipment to construct and maintain  
15 such roads and to install such dry hydrants. Provided, nothing in  
16 this subsection shall be construed to prohibit the installation of  
17 dry hydrants on privately owned property by the owner thereof at the  
18 expense of the owner.

19 C. The board of county commissioners of each county of this  
20 state shall have the authority to use county personnel operating  
21 county equipment to fight fires in situations where an emergency is  
22 determined to exist, provided the firefighting service is requested  
23 by the county civil defense director or upon a request of a rural  
24 fire department.

1       D. A county fire department organized pursuant to the  
2 provisions of subsection A of this section shall cause an audit to  
3 be made of, including but not limited to, the funds, accounts and  
4 fiscal affairs of such fire department. The audits shall be  
5 prepared by a certified public accountant or a licensed public  
6 accountant. The audit shall be ordered within thirty (30) days of  
7 the close of each fiscal year of the fire department which shall  
8 commence July 1 and end on June 30. The audit shall adhere to  
9 standards set by the State Auditor and Inspector. One copy of the  
10 annual audit shall be filed with the State Auditor and Inspector and  
11 one copy shall be filed with the appropriate county clerk not more  
12 than one hundred twenty (120) days following the close of each  
13 fiscal year of the county fire department. In the event that a copy  
14 of the audit as required by this subsection is not filed with the  
15 State Auditor and Inspector within the time provided in this  
16 subsection or for any other reason deemed expedient by him or her,  
17 the State Auditor and Inspector is authorized to either commence an  
18 audit or employ a certified public accountant or licensed public  
19 accountant to make the audit herein required at the cost and expense  
20 of the county fire department.

21       E. 1. A corporate fire department organized pursuant to the  
22 provisions of Section 592 of Title 18 of the Oklahoma Statutes or a  
23 county fire department organized pursuant to the provisions of  
24 subsection A of this section may petition the board of county

1 commissioners of the county in which the fire department provides  
2 protection to convert to a county fire department organized pursuant  
3 to the provisions of this subsection. The petition shall set forth  
4 and particularly describe the proposed boundaries of such county  
5 fire department and shall be accompanied by a map of such proposed  
6 fire department, drawn to a scale of not less than one (1) inch to a  
7 mile. The petition shall also set forth the administration, control  
8 and ownership of all the corporate fire department's assets in the  
9 event such petition is approved. Such petition shall be filed with  
10 the county clerk of such county who shall present it to the board of  
11 county commissioners at their next regular or special meeting. Upon  
12 presentation of such petition, the board of county commissioners  
13 shall set the same for hearing at a time not less than twenty (20)  
14 days nor more than forty (40) days from the date of presentation and  
15 shall direct the county clerk to give notice of such hearing by  
16 publication in a newspaper of general circulation in the county in  
17 which the proposed county fire department is located. Such notice  
18 shall describe the boundaries of the proposed county fire  
19 department, shall state the time and place of the hearing, and shall  
20 state that any person may appear and protest the organization of the  
21 county fire department or the proposed boundaries thereof. The  
22 board of county commissioners shall hold the hearing described in  
23 said notice, and it shall have jurisdiction to hear and determine  
24 all protests to the creation of such county fire department and all

1 matters pertaining to the same. It may amend the plan of such  
2 proposed county fire department by excluding from within its  
3 boundaries any lands which it may deem will not be benefited by the  
4 formation of such county fire department, or by including other  
5 lands as a part thereof upon application of the owners of such land;  
6 provided, however, it shall not exclude from such district any  
7 unincorporated lands which are completely surrounded by lands which  
8 are included in the proposed county fire department. If the board  
9 of county commissioners determines that the conversion of such  
10 corporate fire department to a county fire department will be  
11 conducive to the public safety of the affected area therein, then  
12 said board shall give such proposed county fire department a name  
13 and shall authorize and approve the organization of said county fire  
14 department.

15 2. To be eligible to convert to a county fire department formed  
16 pursuant to this subsection, a fire department shall have a Public  
17 Protection Classification of nine (9) or better from ISO Commercial  
18 Risk Services, Inc., limit the size of such volunteer county fire  
19 department to not less than six or more than twenty members per fire  
20 station, and shall be subject to the laws of the State of Oklahoma  
21 regarding the administration and operation of a fire department,  
22 including, but not limited to, the laws of the State Department of  
23 Labor and the State Fire Marshal Commission. For purposes of this  
24

1 subsection, a volunteer fire department is one which has in its  
2 employ not more than two full-time salaried firefighters.

3 3. Directors of a county fire department organized pursuant to  
4 this subsection shall be owners of real property in and residents of  
5 said district. At the time of making its order organizing such  
6 county fire department, the board of county commissioners shall  
7 appoint five directors, one of which shall hold his or her  
8 respective office for a term of five (5) years, one of which shall  
9 hold his or her respective office for a term of four (4) years, one  
10 of which shall hold his or her respective office for a term of three  
11 (3) years, one of which shall hold his or her respective office for  
12 a term of two (2) years, and one of which shall hold his or her  
13 respective office for a term of one (1) year. On or before January  
14 1, 2002, the board of county commissioners shall, for fire  
15 departments which operate more than five fire stations, appoint  
16 additional directors of a county fire department until the number of  
17 directors equals the number of fire stations operated by that county  
18 fire department. Each additional director shall be appointed by the  
19 board of county commissioners for a term that matches the term of  
20 one of the first five directors appointed. Whenever a new fire  
21 station is added to a county fire department which has five or more  
22 fire stations, the board of county commissioners shall appoint an  
23 additional director from that district in which the new fire station  
24 has been added. Each year thereafter, there shall be appointed by



1 the board of county commissioners for a term of five (5) years so  
2 many members as are necessary to replace all members whose terms are  
3 expiring on the board of directors for such county fire department.

4 4. The board of directors of a county fire department organized  
5 pursuant to this subsection shall select one of its members to serve  
6 as chair and shall appoint a clerk and a treasurer. The board of  
7 directors shall fix the term and duties of the chair, clerk and  
8 treasurer. The chair and members of the board of directors shall  
9 serve without compensation. The treasurer shall give an official  
10 bond, in an amount fixed and with sureties approved by the board of  
11 county commissioners, conditioned upon the faithful accounting for  
12 all money pertaining to the county fire department and coming into  
13 his or her hands.

14 5. The board of directors of a county fire department organized  
15 pursuant to this subsection shall have the following powers and  
16 duties:

- 17 a. to manage and conduct the business affairs of such  
18 county fire department,
- 19 b. to make and execute all necessary contracts,
- 20 c. to purchase or lease-purchase and maintain all  
21 necessary and convenient engines, hoses, hose carts or  
22 other appliances and supplies for the full equipment  
23 of a fire company or department from available funds,  
24

- 1 d. to appoint the fire chief, fire company officers and  
2 employees (whether paid or volunteer), sufficient to  
3 maintain and operate the equipment owned by the county  
4 fire department,
- 5 e. to take by grant, purchase, gift, devise or lease, and  
6 to dispose of real or personal property of every kind  
7 necessary for the operation of the county fire  
8 department,
- 9 f. to construct or otherwise acquire from available funds  
10 suitable firehouses and other buildings or structures  
11 suitable for the housing of equipment and supplies of  
12 the county fire department, or for carrying on its own  
13 business and affairs,
- 14 g. to employ such officers and employees as may be  
15 required from available funds, fix their compensation  
16 and prescribe their duties,
- 17 h. to establish rules for such county fire department and  
18 for the prevention of fires and conflagrations within  
19 the department's boundaries and for the protection of  
20 property at and during any fire,
- 21 i. to do any and all other things necessary and proper in  
22 the management and operation of the county fire  
23 department for the purpose of protecting property  
24 within its boundaries from fire, and

1           j.    to prepare an annual budget and follow existing laws  
2                    pertaining to the budget process such as public  
3                    notice, public hearings, protest periods and filing  
4                    requirements in the same manner as they apply to other  
5                    forms of government in Oklahoma.

6           6.    The board of directors of a county fire department organized  
7   pursuant to this subsection may submit an application to include the  
8   firefighters of such county fire department in the Oklahoma  
9   Firefighters Pension and Retirement System.  The application for  
10   participation in the Oklahoma Firefighters Pension and Retirement  
11   System shall be submitted in accordance with subsection A of Section  
12   49-105.2 of Title 11 of the Oklahoma Statutes.  For purposes of  
13   complying with Sections 49-103 and 49-104 of Title 11 of the  
14   Oklahoma Statutes, the chair, clerk and treasurer of the board of  
15   directors of the county fire department shall serve on the local  
16   firefighters pension and retirement board along with three  
17   firefighters of such county fire department elected by the members  
18   of the county fire department.  The chair of the board of directors  
19   of the county fire department shall be the chair of the local board  
20   of the county fire department and the clerk of the board of  
21   directors of the county fire department shall be the secretary of  
22   the local board of the county fire department.  The chair of the  
23   local board of the county fire department shall have a casting vote  
24   with the members of the local board of the county fire department

1 only when necessary to avoid a tie vote. The local board of the  
2 county fire department shall promulgate such rules as may be  
3 necessary to ensure the orderly conduct of a local board meeting.  
4 While participating in the Oklahoma Firefighters Pension and  
5 Retirement System, the board of directors, local board and fire  
6 chief of the county fire department shall perform all administrative  
7 requirements of the pension system.

8 7. Any board of directors of a county fire department organized  
9 pursuant to this subsection having volunteers enrolled as members of  
10 such county fire department shall adopt a code of minimum rules and  
11 regulations in substantial compliance with the following:

12 a. Fire chief.

13 (1) The fire chief shall be at the head of the  
14 department, subject to the laws of the State of  
15 Oklahoma, rules of the board of directors, and  
16 the rules and regulations herein adopted.

17 (2) The fire chief shall be held responsible for the  
18 general condition and efficient operation of the  
19 department, the training of members, and the  
20 performance of all other duties imposed upon him  
21 or her by law or the board of directors.

22 (3) The fire chief may inspect or cause to be  
23 inspected by members of the department, the fire  
24

1 hydrants, cisterns and other sources of water  
2 supply at least twice a year.

3 (4) The fire chief shall maintain a library or file  
4 of publications on fire prevention and fire  
5 protection and shall make use of the library or  
6 file to the best advantage of all members.

7 (5) The fire chief shall make every effort to attend  
8 all fires and direct the officers and members of  
9 the fire department in the performance of their  
10 duties.

11 (6) The fire chief shall see that the citizens are  
12 kept informed on fire hazards within the  
13 boundaries of the department and on the  
14 activities of the department.

15 (7) The fire chief shall see that each fire is  
16 carefully investigated to determine its cause,  
17 and in the case of suspicion of incendiarism  
18 shall notify proper authorities. The fire chief  
19 shall secure and preserve all possible evidence  
20 for future use in the case of a suspicious  
21 incendiarism.

22 (8) The fire chief shall file the appropriate  
23 activity report forms with the Office of the  
24 State Fire Marshal in Oklahoma City on an annual

1 basis. The activity report forms shall be  
2 designed by the State Fire Marshal and shall  
3 include, but not be limited to, the amount of  
4 property and vehicle fire loss, types of fires,  
5 inspections and investigations. The report shall  
6 include notification of all fire-related civilian  
7 deaths and injuries in the respective  
8 jurisdiction and of firefighter deaths in the  
9 line of duty and of firefighter injuries in the  
10 line of duty requiring the services of a hospital  
11 or physician or both.

12 b. Assistant fire chief.

13 In the absence of the fire chief, the assistant fire  
14 chief on duty shall command the department and be held  
15 responsible therefore in all respects with the full  
16 powers and responsibilities of the fire chief.

17 c. Company officers.

18 The company officers shall be selected upon their  
19 ability to meet the following requirements:

- 20 (1) their knowledge of firefighting,
- 21 (2) their leadership ability, and
- 22 (3) their knowledge of firefighting equipment.

23 d. Secretary-treasurer.

24

1 One member elected by the fire department shall be  
2 secretary-treasurer. His or her duties shall consist  
3 of the following:

- 4 (1) calling the roll at the opening of each meeting,
- 5 (2) keeping the minutes of each meeting, and
- 6 (3) collecting any money due the department by the  
7 members.

8 e. New members.

9 (1) An applicant of a participating county fire  
10 department of the Oklahoma Firefighters Pension  
11 and Retirement System shall meet the membership  
12 requirements of the Oklahoma Firefighters Pension  
13 and Retirement System before he or she may be  
14 appointed as a new member of the county fire  
15 department.

16 (2) A new member shall be on probation for one (1)  
17 year after his or her appointment.

18 (3) A new member of a participating county fire  
19 department of the Oklahoma Firefighters Pension  
20 and Retirement System shall be immediately  
21 enrolled as a member of the Oklahoma Firefighters  
22 Pension and Retirement System regardless of  
23 whether such member has completed his or her  
24 probation period.

1 (4) The majority of the fire department members must  
2 approve new volunteer members upon completion of  
3 their probation period.

4 f. Bylaws.

5 The bylaws of the department shall include:

6 (1) All volunteer firefighters are required, when  
7 notified, to respond to fire alarms and other  
8 emergencies.

9 (2) A volunteer firefighter is required to be present  
10 at all regular meetings, call meetings and  
11 schools presented for the benefit of the  
12 firefighters.

13 (3) There shall be at least one regular business  
14 meeting each month.

15 (4) Any volunteer firefighter having two unexcused  
16 absences in succession or three unexcused  
17 absences in a period of three (3) months will be  
18 dropped from the fire department rolls.

19 (5) Volunteer firefighters leaving the boundaries of  
20 the department for an extended period of time  
21 will be required to notify the fire chief.

22 (6) Any volunteer firefighter refusing to attend  
23 training classes provided for him or her will be  
24 dropped from the fire department rolls.



1 (7) Any volunteer member of the fire department shall  
2 be dropped from the fire department rolls for the  
3 following offenses:

4 (a) conduct unbecoming a firefighter,

5 (b) any act of insubordination,

6 (c) neglect of duty,

7 (d) any violation of rules and regulations  
8 governing the fire department, or

9 (e) conviction of a felony.

10 8. a. A county fire department organized pursuant to the  
11 provisions of this subsection shall maintain,  
12 according to its own accounting needs, some or all of  
13 the funds and account groups in its system of accounts  
14 that are consistent with legal and operating  
15 requirements and as prescribed by the State Auditor  
16 and Inspector. The required funds may include, but  
17 not be limited to:

18 (1) a general fund, to account for all monies  
19 received and disbursed for general department  
20 purposes, including all assets, liabilities,  
21 reserves, fund balances, revenues and  
22 expenditures which are not accounted for in any  
23 other fund or special ledger account,  
24

1 (2) special revenue funds, as required, to account  
2 for the proceeds of specific revenue sources that  
3 are restricted by law to expenditures for  
4 specific purposes,

5 (3) a capital improvement fund, to account for  
6 financial resources segregated for acquisition,  
7 construction or other improvement related to  
8 capital facilities, and

9 (4) a ledger or group of accounts in which to record  
10 the details relating to the general fixed assets  
11 of the county or department.

12 b. Funds raised by a nonprofit organization for the  
13 purpose of supporting the fire protection services of  
14 a county fire department organized pursuant to the  
15 provisions of this subsection, whether such funds were  
16 raised before or after a corporate fire department  
17 converts to a county fire department, shall not be  
18 commingled with public funds and shall be used only  
19 for designated benevolent or charitable purposes,  
20 including, but not limited to, fire protection  
21 purposes.

22 c. No expenditure may be authorized or made by any  
23 employee or member of the board of directors of a  
24 county fire department organized pursuant to the

1 provisions of this subsection which exceeds any fund  
2 balance of any fund of the budget as adopted or  
3 amended or which exceeds the appropriation for any  
4 fund of the budget as adopted or amended. Any balance  
5 remaining in a fund at the end of the budget year  
6 shall be carried forward to the credit of the fund for  
7 the next budget year. It shall be unlawful for any  
8 employee or member of the board of directors of a  
9 county fire department organized pursuant to the  
10 provisions of this subsection in any budget year to  
11 create or authorize creation of a deficit in any fund.

12 SECTION 3. This act shall become effective July 1, 2015.

13 SECTION 4. It being immediately necessary for the preservation  
14 of the public peace, health and safety, an emergency is hereby  
15 declared to exist, by reason whereof this act shall take effect and  
16 be in full force from and after its passage and approval.

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18 55-1-6752 AMM 02/11/15  
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