

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 90th General Assembly
3 Regular Session, 2015
4

A Bill

DRAFT KLC/BAT
HOUSE BILL

5 By: Representative Hammer
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING THE COLLECTION OF
9 DUES FOR VOLUNTEER FIRE DEPARTMENTS; AND FOR OTHER
10 PURPOSES.
11

Subtitle

12
13 TO AMEND THE LAW CONCERNING THE
14 COLLECTION OF DUES FOR VOLUNTEER FIRE
15 DEPARTMENTS.
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. Arkansas Code § 14-20-108 is amended to read as follows:

22 (a)(1)(A) The quorum court of each county, upon request filed with the
23 quorum court by one (1) or more volunteer fire departments in the county, may
24 adopt an ordinance authorizing a designated county official to collect and
25 remit to the volunteer fire department the annual or quarterly dues charged
26 by the volunteer fire department in consideration of providing fire
27 protection to unincorporated areas in the county.

28 (B)(i)(a) When a quorum court receives a request for the
29 levy of volunteer fire department dues and the request has been signed by the
30 fire chief and the chair and secretary of the board of directors, if any, of
31 a volunteer fire department and filed with the county clerk, the quorum court
32 by ordinance shall call for an election on the issue of the levy of the
33 volunteer fire department dues on each residence and on each business having
34 an occupiable structure.

35 (b)(1) The issue may be placed on the ballot
36 at a special election by order of the quorum court in accordance with § 7-11-

DRAFT

1 201 et seq.

2 (2) The special election shall be held
3 by August 1.

4 (c) If an attested petition is filed with the
5 county clerk and signed by a majority of registered voters in the volunteer
6 fire department district voting in the immediately preceding general
7 election, then the quorum court by ordinance shall dispense with a special
8 election on the issue of the levy of volunteer fire department dues.

9 ~~(e)~~(d)(1) If the levy of volunteer fire
10 department dues is approved by a majority of those voting on the issue or the
11 county clerk determines that the number of signatures of registered voters is
12 sufficient and the quorum court dispenses with a special election, the
13 volunteer fire department dues shall be listed annually on real property tax
14 statements and collected by the county collector at the same time and in the
15 same manner as real property taxes.

16 (2)(A) The county collector shall report
17 delinquencies to the volunteer fire department for collection.

18 (B) A volunteer fire department
19 may collect volunteer fire department dues that have become delinquent and
20 may enforce collection by proceedings in a court of proper jurisdiction.

21 (ii) The cost of the election shall be borne by the
22 volunteer fire department that requested the levy.

23 (2) The ordinance enacted by the quorum court shall set forth
24 the terms and conditions on which the volunteer fire department dues are to
25 be collected by the county and for the remission of the volunteer fire
26 department dues to the volunteer fire department.

27 (3) However, an active member of a volunteer fire department
28 whose annual or quarterly volunteer fire department dues are collected in
29 this manner may be exempt from the annual or quarterly ~~dues charged by the~~
30 volunteer fire department dues at the discretion of the volunteer fire
31 department in consideration of providing services to the volunteer fire
32 department.

33 (b)(1) The quorum court by majority vote may designate the
34 geographical area that a volunteer fire department serves.

35 (2) Upon request by a volunteer fire department, the quorum
36 court of each county involved may authorize a volunteer fire department to

1 ~~serve a geographical area to~~ extend its geographical service area across the
2 county boundary lines.

3 (c) The quorum court may establish its own countywide fire department,
4 either regular or voluntary.

5 (d) This section does not change the authority of intergovernmental
6 cooperation councils to enter into reciprocal agreements or to distribute
7 funds under § 14-284-401 et seq. and § 26-57-614.

8 (e)(1) If approved by ordinance by the governing body of an
9 incorporated town or a city of the second class on the signed request of ~~and~~
10 ~~signed by~~ the fire chief and the chair and secretary of the board of
11 directors, if any, of a volunteer fire department, an incorporated town or a
12 city of the second class located in the volunteer fire department district
13 that is not served by a fire department may be included in the fire
14 protection area with the volunteer fire department dues levied and collected
15 in the same manner as in the unincorporated areas served by the volunteer
16 fire department district.

17 (2)(A) The governing body of the incorporated town or city of
18 the second class by ordinance shall call for an election on the ordinance
19 under subdivision (e)(1) of this section.

20 (B) The issue may be placed on the ballot at a special
21 election by order of the governing body in accordance with § 7-11-201 et
22 seq., and the special election shall be held by August 1.

23 (C) If the issue is approved by a majority of those voting
24 on the issue, the incorporated town or city of the second class shall be
25 served by the volunteer fire department district with the volunteer fire
26 department dues levied and collected in the same manner as in the
27 unincorporated areas served by the volunteer fire department district.

28 (D) The cost of the election shall be borne by the
29 governing body of the incorporated town or city of the second class that
30 called for the election.

31 (f) At the discretion of a volunteer fire department, a church served
32 by a volunteer fire department may be exempt from volunteer fire department
33 dues if the church is exempt from real property taxes.

34 (g) This section applies to all volunteer fire departments, however
35 organized.

36

Challenges facing rural volunteer fire departments in Arkansas

How can we lower ISO Ratings for Fire Departments in Arkansas? Fire Departments in Arkansas face major challenges in delivering fire protection services statewide. Finding volunteers committed to training, readiness and undertaking life-threatening risks is a major task for every fire department. Establishing, collecting and administrating state and local revenues for fire houses, equipment, and water sources presents an immense set of hurdles. The sheer number of fire departments in Arkansas amplifies the challenges for acquiring and retaining trained volunteers and administrators; and creates inefficiencies in collecting and administrating revenues. According to the Arkansas Department of Emergency Management there are approximately 980 certified fire departments in Arkansas and of these there are approximately 546 rural volunteer fire departments and 343 municipal fire departments (of which 26 municipal fire departments are paid or not VFD).

Headwinds for fire departments and volunteers

Charles Gangluff, Arkansas Association of Resource Conservation and Development Councils program manager, says the challenge of finding and keeping volunteer firefighters and administrators is becoming more difficult each year. This concern is found not only in Arkansas, but nationwide. Between 2008 and 2011 the number of volunteer firefighters in the U.S. declined by almost 9 percent. Training hours are increasing as the fire departments strive to efficiently provide the various services required by the public. Obviously training is very important, but the hours required to become proficient at these demanding tasks can often discourage new recruits. Most fire departments are seeing much higher call volume than they were just a few years ago. At the same time, there are fewer people willing to serve. This is often due to less free time for many citizens. The average age of volunteer firefighters in rural Arkansas continues to go up. Younger men and women seem to be impacted more severely by the current economic conditions and therefore have to travel further for work and may also have a second job.

The ultimate goal is to provide adequate fire protection services statewide and the acceptable method of measuring the level of fire protection services is the premium rating as per the Insurance Services Office. Calculations obtained by

the Bureau of Legislative Research reflect that an improvement statewide of 2 points under the Insurance Services Office (ISO) premium rating may result in a reduction in insurance premiums to Arkansans in excess of \$80 million. The percentage of Arkansas fire departments with ISO ratings of 9 is 49 percent and much higher than the national average of 26 percent. More detail can be found in the below charts showing the ISO ratings for Fire Departments in Arkansas and the national average of ISO ratings for fire departments nationwide.

Commitment of AAC, Counties and County Officials

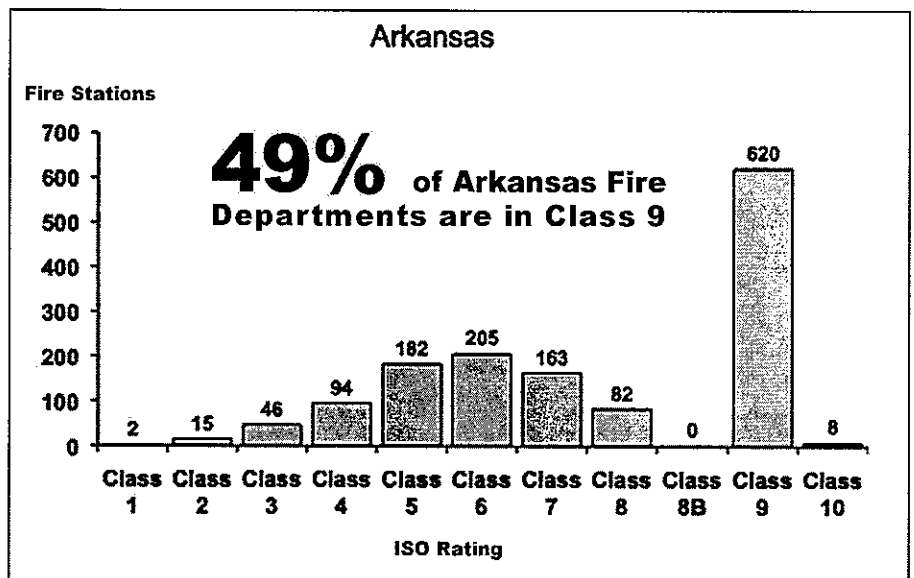
The Association of Arkansas Counties, the County Judges Association of Arkansas, the Arkansas Assessors Association, and the Arkansas Collectors Association along with the 75 county governments and many of our 1,334 county and district officials have a special commitment to fire departments and their officers and employees. Many counties have local taxes or appropriations for fire departments in accordance with A.C.A. 14-284-403(a). However, as per Attorney General Opinion 2012-007 and Legislative Audit this section of code must be read in light of the Constitutional prohibition for appropriating local funds to individuals or corporations. The AG stated the law is read to require as a predicate to appropriating funds contracts for services to be entered into by counties in consideration of fire services in the unincorporated areas of the county.

Worker's Compensation coverage offered by

the Association of Arkansas Counties Workers Compensation Trust ("AAC-WCT") are offered by counties for rural volunteer firefighters. Recently, the Association of Arkansas Counties Risk Management Fund ("AACRMF") adopted a program in conjunction with the Arkansas Association of Resource Conservation and Development Councils ("AARCD") to provide active volunteer firefighters with Accidental Death and Dismemberment Insurance as well as Wage Loss Protection. These policies are complementary to the current Worker's Compensation coverage and are expected to increase firefighter recruitment and retention. This program is being funded with a grant from the SAFER or the "Staffing for Adequate Fire and Emergency Response" Program. Meetings have been held throughout the state to inform the fire departments about the program and to answer questions.

Commitment of the State of Arkansas

In 1991 the General Assembly with the support of counties, cities and other organizations rose to offer a financial rescue of fire departments in Arkansas. Act 833 of 1991 codified as A.C.A. 14-284-401 et seq. and A.C.A. 26-57-



614 assessed and declared as the public policy of the state that it is necessary to assess an insurance premium tax to provide for adequate fire protection services to the citizens and their property through the use of properly trained and equipped fire fighters. The insurance premium tax of 1/2 of 1 percent on certain real and personal property insurance under Act 833 has resulted in disbursements of over \$158 million to fire departments since commencing with state fiscal year 1992. Act 833 disbursements have grown from about \$3.5 million in FY 1992 to about \$12.5 million in FY 2012.

Also, the General Assembly Act 1314 of 2007 and Act 884 of 2009 each funded \$4 million to fire departments. The Arkansas Supreme Court in *Wilson v. Weiss* in 2007 ruled adversely concerning local appropriations by the General Assembly (368 Ark. 300 (2006); and 370 Ark. 359 (2007)). As a result of the litigation the Governor and General Assembly have provided state funds to fire departments statewide. Funding to the Arkansas Department of Rural Services has recently been \$300,000 for fire protection grants. The funding to Arkansas Association of Resource Conservation and Development Councils ("AARCD") has recently declined to \$175,000. In 1996, the initial amount of \$1.1 million was allotted to the Arkansas Natural Resources Commission ("ARNC") to split this funding amongst their various boards funding the Rural Fire Protection Program administered by AARCD. The year end fiscal reports from 2003-2013 show appropriations of \$1.1 million to the commission, but unfortunately they also showed a consistent annual decrease in funding for the Rural Fire Protection Program. As a result, the Rural Fire Protection Program as well as Sewage and Water received fewer funds. The Rural Fire Pro-

tection Program began at \$497,000 in 2003 and dwindled to \$30,000 in a seven-year span (FY03-FY10) and to increase recently only to \$175,000 for (FY11-FY13).

Commitment to Taxpayer Fairness

It is apparent from information gathered by the Bureau of Legislative Research that the collection rates of fire departments are frequently below 30 percent. In contrast the collection rate of fire departments that utilize the county collector's office for collection is well above 90 percent and often higher. During the 2013 regular session of the General Assembly and frequently at the AAC, questions arose about the manner and laws on collecting fire dues. Rep. Kim Hammer (R, District 38) of Benton, Ark., made inquiry and has filed an ISP, Interim Study Proposal, ISP-2013-161

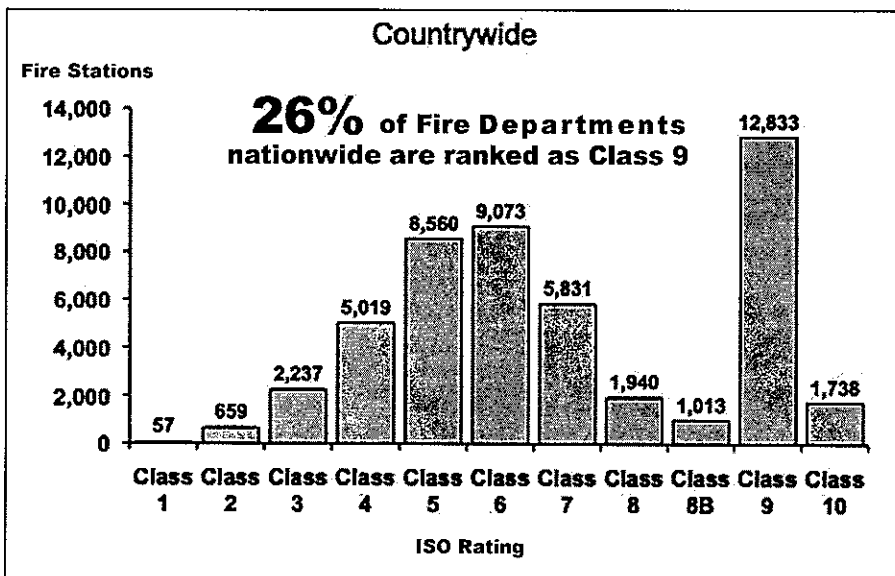
Act 1326 of 2003 funded a program that is now assisting fire departments in mailing their dues notices through AARCD. This program has successfully aided many fire departments by reducing the time consuming tasks and expense of mailing membership dues notices. The notices contain language to encourage public support of the fire department. The billing notices will appear to come from your fire department and the checks from the citizens will be mailed directly to your department at the address you specify. All of this is done at no cost to the fire department.

At the request of Rep. Hammer and the Bureau of Legislative Research, the Collectors Association polled county collectors statewide and determined that only 30 counties have collectors, sheriff-collectors or treasurer-collectors placing the fire dues on the tax statements. These fire departments had to front-end effort to organize their collection books and to comply with the law, but the return is several-fold

year after year. The remaining 45 counties indicate that they do not collect fire dues on the tax statements. Statewide the information gathered indicates that only 154 fire departments have their dues placed on the tax bills by their county collector. (See "On the Web" component for data on counties collecting fire dues.)

Some of the legal questions facing volunteer fire departments on collection of fire dues hinge upon the manner in which the particular fire department was formed. Many of these hundreds of volunteer fire departments were established as: nonprofit corporations; fire protection districts, fire improvement districts, suburban fire districts; and city or county created departments or entities such as public facilities boards, administrative boards, or advisory boards, etc. Volunteer fire departments have limited access to legal assistance and to financial administration, including collection of dues. Two laws provide an avenue for placing the collection of fire dues upon the property tax bills, A.C.A. 14-284-201 et seq. and A.C.A. 14-20-108. A.C.A. 14-284-215 is limited to fire protection districts. As per recent Attorney General Opinion No. 2013-08, A.C.A. 14-20-108 applies to any fire department including fire protection districts and including nonprofit fire departments in consideration of providing fire protection to unincorporated areas in the county.

A comparison may be needed between the ISO ratings of the fire department having their fire dues placed on the tax bills (and the resulting higher collection rate) versus those that are not having their dues placed on the tax bills (and have substantially lower collection rate). Considering the modest dues of voluntary fire departments, reduction in premiums from enhanced ISO ratings is a net gain to the constituents (often a significant net gain). Fire departments with collection rates of about 30 percent are unlikely to improve their ISO rating (and likewise unlikely to improve their constituents' ISO rating or reduce their premiums). It is our understanding that Rep. Hammer, the Bureau of Legislative Research and the General Assembly under the aforementioned ISP will continue to seek information on ways to enhance collection of fire dues. Meanwhile, the AAC, the CJAA and the Arkansas Collectors Association will assist in informing fire departments of the laws and attorney general opinions referenced in this memorandum.



On the Web:

Look for Counties & Fire Due Collection
www.arcountries.org

Search "county comparison of counties and fire dues."