

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1866 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Dell Kerbs

\_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 PROPOSED COMMITTEE  
4 SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 1866

By: Kerbs

7  
8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to county fire departments; amending  
10 19 O.S. 2021, Section 351, as amended by Section 1,  
11 Chapter 212, O.S.L. 2022 (19 O.S. Supp. 2022, Section  
12 351), which relates to the organization and  
13 regulations of county fire departments; prohibiting  
14 county commissioners from prematurely removing  
15 directors of a county fire department; providing  
16 exception for certain instances; prohibiting county  
17 commissioners from taking certain actions against  
18 certain funds belonging to the county fire  
19 department; clarifying application of act; and  
20 providing an effective date.

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

22 SECTION 1. AMENDATORY 19 O.S. 2021, Section 351, as  
23 amended by Section 1, Chapter 212, O.S.L. 2022 (19 O.S. Supp. 2022,  
24 Section 351), is amended to read as follows:

Section 351. A. The board of county commissioners of each  
county of this state is hereby authorized to provide firefighting  
service in the county and for such purpose to use county funds to  
rent, lease or purchase firefighting equipment and to rent or

1 construct and equip and operate fire stations and to employ  
2 necessary personnel to provide such service. The board of county  
3 commissioners shall also have the authority to determine and collect  
4 charges for firefighting services performed by the county from any  
5 person to whom such services are provided.

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

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

23 D. 1. A corporate fire department organized pursuant to the  
24 provisions of Section 592 of Title 18 of the Oklahoma Statutes or a

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

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

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

1 Labor and the State Fire Marshal Commission. For purposes of this  
2 subsection, a volunteer fire department is one which has in its  
3 employ not more than two full-time salaried firefighters.

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

1 thereafter, there shall be appointed by the board of county  
2 commissioners for a term of five (5) years so many members as are  
3 necessary to replace all members whose terms are expiring on the  
4 board of directors for such county fire department. The board of  
5 county commissioners shall not remove and replace a member of the  
6 board of directors of a county fire department who has not served  
7 his or her full term without a conviction or admission of a felony.

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

18 5. The board of directors of a county fire department organized  
19 pursuant to this subsection shall have the following powers and  
20 duties:

- 21 a. to manage and conduct the business affairs of such
- 22 county fire department,
- 23 b. to make and execute all necessary contracts,

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



- 1           i.    to do any and all other things necessary and proper in  
2                    the management and operation of the county fire  
3                    department for the purpose of protecting property  
4                    within its boundaries from fire, and
- 5           j.    to prepare an annual budget and follow existing laws  
6                    pertaining to the budget process such as public  
7                    notice, public hearings, protest periods and filing  
8                    requirements in the same manner as they apply to other  
9                    forms of government in Oklahoma.

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

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

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

16 a. Fire chief.

17 (1) The fire chief shall be at the head of the  
18 department, subject to the laws of the State of  
19 Oklahoma, rules of the board of directors, and  
20 the rules and regulations herein adopted.

21 (2) The fire chief shall be held responsible for the  
22 general condition and efficient operation of the  
23 department, the training of members, and the  
24

1 performance of all other duties imposed upon him  
2 or her by law or the board of directors.

3 (3) The fire chief may inspect or cause to be  
4 inspected by members of the department, the fire  
5 hydrants, cisterns and other sources of water  
6 supply at least twice a year.

7 (4) The fire chief shall maintain a library or file  
8 of publications on fire prevention and fire  
9 protection and shall make use of the library or  
10 file to the best advantage of all members.

11 (5) The fire chief shall make every effort to attend  
12 all fires and direct the officers and members of  
13 the fire department in the performance of their  
14 duties.

15 (6) The fire chief shall see that the citizens are  
16 kept informed on fire hazards within the  
17 boundaries of the department and on the  
18 activities of the department.

19 (7) The fire chief shall see that each fire is  
20 carefully investigated to determine its cause,  
21 and in the case of suspicion of incendiarism  
22 shall notify proper authorities. The fire chief  
23 shall secure and preserve all possible evidence  
24

1 for future use in the case of a suspicious  
2 incendiaryism.

3 (8) The fire chief shall file the appropriate  
4 activity report forms with the Office of the  
5 State Fire Marshal in Oklahoma City on an annual  
6 basis. The activity report forms shall be  
7 designed by the State Fire Marshal and shall  
8 include, but not be limited to, the amount of  
9 property and vehicle fire loss, types of fires,  
10 inspections and investigations. The report shall  
11 include notification of all fire-related civilian  
12 deaths and injuries in the respective  
13 jurisdiction and of firefighter deaths in the  
14 line of duty and of firefighter injuries in the  
15 line of duty requiring the services of a hospital  
16 or physician or both.

17 b. Assistant fire chief.

18 In the absence of the fire chief, the assistant fire  
19 chief on duty shall command the department and be held  
20 responsible therefore in all respects with the full  
21 powers and responsibilities of the fire chief.

22 c. Company officers.

23 The company officers shall be selected upon their  
24 ability to meet the following requirements:

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

4 d. Secretary-treasurer.

5 One member elected by the fire department shall be  
6 secretary-treasurer. His or her duties shall consist  
7 of the following:

- 8 (1) calling the roll at the opening of each meeting,
- 9 (2) keeping the minutes of each meeting, and
- 10 (3) collecting any money due the department by the  
11 members.

12 e. New members.

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

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

22 (3) A new member of a participating county fire  
23 department of the Oklahoma Firefighters Pension  
24 and Retirement System shall be immediately

1 enrolled as a member of the Oklahoma Firefighters  
2 Pension and Retirement System regardless of  
3 whether such member has completed his or her  
4 probation period.

5 (4) The majority of the fire department members must  
6 approve new volunteer members upon completion of  
7 their probation period.

8 f. Bylaws.

9 The bylaws of the department shall include:

10 (1) All volunteer firefighters are required, when  
11 notified, to respond to fire alarms and other  
12 emergencies.

13 (2) A volunteer firefighter is required to be present  
14 at all regular meetings, call meetings and  
15 schools presented for the benefit of the  
16 firefighters.

17 (3) There shall be at least one regular business  
18 meeting each month.

19 (4) Any volunteer firefighter having two unexcused  
20 absences in succession or three unexcused  
21 absences in a period of three (3) months will be  
22 dropped from the fire department rolls.

1 (5) Volunteer firefighters leaving the boundaries of  
2 the department for an extended period of time  
3 will be required to notify the fire chief.

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

7 (7) Any volunteer member of the fire department shall  
8 be dropped from the fire department rolls for the  
9 following offenses:

10 (a) conduct unbecoming a firefighter,

11 (b) any act of insubordination,

12 (c) neglect of duty,

13 (d) any violation of rules and regulations  
14 governing the fire department, or

15 (e) conviction of a felony.

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

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- 1 (1) a general fund, to account for all monies  
2 received and disbursed for general department  
3 purposes, including all assets, liabilities,  
4 reserves, fund balances, revenues and  
5 expenditures which are not accounted for in any  
6 other fund or special ledger account,
- 7 (2) special revenue funds, as required, to account  
8 for the proceeds of specific revenue sources that  
9 are restricted by law to expenditures for  
10 specific purposes,
- 11 (3) a capital improvement fund, to account for  
12 financial resources segregated for acquisition,  
13 construction or other improvement related to  
14 capital facilities, and
- 15 (4) a ledger or group of accounts in which to record  
16 the details relating to the general fixed assets  
17 of the county or department.

18 b. Funds raised by a nonprofit organization for the  
19 purpose of supporting the fire protection services of  
20 a county fire department organized pursuant to the  
21 provisions of this subsection, whether such funds were  
22 raised before or after a corporate fire department  
23 converts to a county fire department, shall not be  
24 commingled with public funds and shall be used only



1 for designated benevolent or charitable purposes,  
2 including, but not limited to, fire protection  
3 purposes.

4 c. No expenditure may be authorized or made by any  
5 employee or member of the board of directors of a  
6 county fire department organized pursuant to the  
7 provisions of this subsection which exceeds any fund  
8 balance of any fund of the budget as adopted or  
9 amended or which exceeds the appropriation for any  
10 fund of the budget as adopted or amended. Any balance  
11 remaining in a fund at the end of the budget year  
12 shall be carried forward to the credit of the fund for  
13 the next budget year. It shall be unlawful for any  
14 employee or member of the board of directors of a  
15 county fire department organized pursuant to the  
16 provisions of this subsection in any budget year to  
17 create or authorize creation of a deficit in any fund.

18 d. The board of county commissioners in any county shall  
19 not have the power to seize, sequester, impound, or  
20 otherwise take action with respect to funds from any  
21 board of directors of a county fire department  
22 organized pursuant to the provisions of this section  
23 without a finding of misuse from the State Auditor and  
24

1                   Inspector unless such funds were provided by the  
2                   taxing powers of such county.

3           E. The provisions of this act shall apply to any action or  
4 resolution of the board of county commissioners in any county that  
5 occurred both before and after January 1, 2023.

6           SECTION 2. This act shall become effective January 1, 2023.

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8           59-1-7454           MJ           02/15/23  
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