

FIRE DISTRICTS

Handbook

Updated November, 2006

INTRODUCTION

The purpose of this handbook is to provide information regarding the responsibilities of counties with regard to fire districts in a format that is easy to follow and understand. Although the focus of the handbook is primarily on county responsibilities, we have also included sections regarding boundary changes, reporting requirements and elections that we hope you will find useful.

Those who use this handbook should be aware that the information contained in it may change because of legislative action, and as a result **users are advised to treat this handbook only as a guide and to refer to the statutes for specific information.** We also cannot stress enough the importance of legal advice with regard to many of the procedures outlined in this book.

We are especially please to be able to provide this handbook on our website, and hope that you will find it useful. We welcome any comments or suggestions you may have. Please forward your comments and/or suggestions to:

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CREATION OF FIRE DISTRICTS

An impact statement requesting formation of a fire district is received by the Board of Supervisors. Those preparing the statement may request help from the Board of Supervisors in the completion of the statement, which must conform with the requirements of A.R.S. §48-261(A)(1). Information regarding valuation, taxes, and property ownership which is needed to prepare the impact statement is available in the office of the County Assessor and at the State Department of Revenue. The description of the boundaries of the proposed district must be a legal description.

The impact statement is considered to be "officially received" when the Board of Supervisors takes formal action at a regular Board meeting to accept the impact statement and set the hearing date. The hearing must be held not less than 30 days nor more than 60 days after receipt of the impact statement. Once the impact statement is officially received, staff will request information from the Assessor regarding assessed value to determine if the assessed value listed in the impact statement is accurate. Staff will also review the legal description and map submitted with the impact statement to determine if they are sufficient. If the assessed value listed in the impact statement is not reflective of current values, the person or persons submitting the impact statement will be contacted and given the new information and asked whether they wish to reduce their proposed tax rate or increase their proposed budget based on the new valuation information. Likewise, if the map and legal description are not sufficient, the person or persons submitting the impact statement will be contacted and asked to provide sufficient information. The Board may require amendment of the impact statement.

When officially receiving the impact statement and setting the hearing date, the Board may also set bond in an amount sufficient to cover the costs incurred by the County in the event the district is not formed. These costs may include any expense incurred from completion of the district impact statement, mailing of the notice of hearing to district property owners and electors, publication of the notice of hearing, and any other expenses reasonably incurred. If the district is ultimately established, then the bond is returned and the costs are charged against the new district.

Prior to the hearing on the impact statement, the Clerk of the Board mails a written notice of the statement and hearing to each owner of taxable property and to each household in which a qualified elector resides in the proposed district. In addition:

- Notice must be posted in 3 conspicuous public places within the proposed district.
- Notice must be published twice in a daily newspaper of general circulation in the area of the proposed district, at least 10 days prior to the hearing. If no daily newspaper of general circulation exists in the area of the proposed district, then notice must be published at least twice at any time before the hearing.

At the hearing, the Board of Supervisors notes any changes to the impact statement and determines whether creation of the proposed district will promote public health, comfort, convenience, necessity or welfare. If the Board determines that the public health, comfort, convenience, necessity or welfare will be promoted by the creation of the district, and approves the impact statement, it then authorizes the circulation of petitions to form the district. Once the impact statement is approved, it **cannot** be amended. Once the Board authorizes circulation of petitions, if the petitions turned in meet statutory requirements the Board **must** order formation of the district. Within 15 days after the Board authorizes circulation of petitions, the Clerk of the Board determines the minimum number of signatures required for qualified electors and that number remains fixed, regardless of any subsequent changes in voter registration records or property records.

If the Board of Supervisors finds that the public health, comfort, convenience, necessity or welfare will not be promoted by creation of the district, it will not approve the impact statement and will not authorize circulation of petitions. In such a case, another impact statement for substantially the same district may not be filed with the Board until 6 months after the date of denial.

Two petitions are required for formation of a fire district. One is a petition to be signed only by qualified electors, and the other is a petition to be signed only by property owners. Although the organizing board of a fire district can contain only three members, the petition should state that whether the elected board will have three or five members. The petition to be signed by qualified electors must:

- Be in a form substantially similar to the form prescribed A.R.S. §48-265.

The petition to be signed by property owners must:

- Be in a form substantially similar to the form prescribed in A.R.S. §48-266.

The petitions must, at all times, contain a legal description of the boundaries of the proposed district; a detailed, accurate map of the proposed district; and the names, addresses and occupations of the three proposed members of the district's organizing board of directors.

In order to establish the district, the petitions must comply with A.R.S. §48-261(A)(7)(b) and (c) which requires that the petitions be signed by more than one-half of the property owners in the area of the proposed district and that they be signed by persons owning collectively more than one-half of the assessed valuation of the property in the area of the proposed district. They must also comply with A.R.S. §48-261(A)(7)(c), which requires that the petitions be signed by more than one-half of the qualified electors within the proposed district.

Proponents of the district have one year from the date the Board authorizes circulation

of petitions in which to obtain signatures and file the petitions with the Clerk of the Board. **Property owner petitions will be verified as of the date of submittal of the petitions - not as of the date an individual signed a petition.** Therefore, the longer petitions are out, the greater the chance that property will have transferred ownership between the time petitions are signed and the time the petitions are submitted to the Board. **Qualified elector petitions will be verified as of the date the individual signed the petition.**

Petitions submitted without the statutorily required attachments will be considered invalid and no signatures on them will be counted

When petitions are submitted, the Board of Supervisors will be asked to formally accept the petitions and set a hearing not less than 10 nor more than 30 days from the date the Board officially receives the petitions. "Official receipt" means official action by the Board at a regular Board meeting to accept the petitions. After the Board accepts the petitions and sets the hearing, no more petitions or signatures may be filed. Following official receipt, copies of the petitions will be made and distributed as follows:

- A copy of the petitions signed by qualified electors is sent to the County Recorder, who is required to conduct a signature verification that is substantially similar to the verification required by Title 19, Chapter 1 (or by A.R.S. §19-208.02, if the minimum number of signatures required is less than 200). The County Recorder must report the results of the verification to the Board of Supervisors within 10 days, excluding Saturdays, Sundays and other legal holidays. (A.R.S. §48-265)
- A copy of the petitions signed by property owners is sent to the County Assessor, who is required to verify that the petitions contain the names of more than one-half of the property owners in the proposed district and determine the total assessed valuation of the property owned by the persons who signed the petitions. The Assessor must report the results of the verification to the Board of Supervisors within 10 days, excluding Saturdays, Sundays and other legal holidays. (A.R.S. §48-266)

If the petitions are valid, at the hearing the Board of Supervisors approves an Order of Establishment of the district, which shall be completed no later than 10 days from the date of the hearing and which is filed with the County Recorder. **The district is considered created 30 days after the Board of Supervisors votes to create it.** The decision of the Board of Supervisors is subject to judicial review under Title 12, Chapter 7, Article 6 (A.R.S. §12-901 et seq).

The Order of Establishment should contain the dates on which elections may be called for the district, including the date of the first election, the names of the three members of the organizing board of directors, and the form of government specified in the petition for establishment. For fire districts, all elections except for special elections to fill a vacancy, reorganize a district, or dissolve a district, are held on the first Tuesday after the first Monday in November of the first even numbered year following the year in

which the district is established. If the district is administered by a district board, elections are held every two years thereafter and if by a fire chief and secretary-treasurer, every four years. The order should conform with the format required by the County Recorder for recording. The text of the order must start two inches from the top of each page.

Although current statutes do not require that the Order of Establishment be *recorded* (statute requires "filing"), it is imperative that recording is done in order to ensure that property records and voter registration records are changed to reflect the new district. In Greenlee County, the Clerk of the Board is responsible for recording all Orders of Establishment.

Following establishment and recording of the Order of Establishment, the Clerk of the Board will notify the Arizona Department of Revenue and the County Elections Department of the establishment of the district. The Elections Department will notify the U.S. Department of Justice.

The first board of directors of the district, called the "organizing board of directors", consists of the three people named in the impact statement. If there is a vacancy on the organizing board, the remaining members appoint the interim member. The organizing board elects a chairman and clerk from its members. In the first regular election after establishment of the district, if the governing body is comprised of three people, the two people receiving the first and second highest number of votes are elected to four-year terms and the person receiving the third highest number of votes is elected to a two-year term. If the governing body is comprised of five people, the three people receiving the first, second and third highest number of votes are elected to four-year terms and the two people receiving the fourth and fifth highest number of votes are elected to two-year terms. Thereafter, the term of office for each board member is four years. *(Note: There is no legal requirement that the organizing board of directors be qualified electors residing in the district.)*

The Clerk of the Board provides the new district with a copy of the Open Meeting Law for each member, Oath of Office forms, and a notice of posting of notices of meetings which should be completed and returned to the Clerk of the Board. Upon completion of the Oaths of Office, one copy is retained by the district and another copy may be sent to the Clerk of the Board. **No member may be officially seated on the board until his or her Oath of Office has been completed.**

To review:

- Impact statement is received by Board of Supervisors.
- Board of Supervisors official receives impact statement, sets hearing, and sets bond.
- Clerk of the Board of Supervisors mails notice to property owners and qualified

electors and posts and publishes notices.

- Hearing is held.
- Board of Supervisors may approve circulation of petitions. Proponents have one year in which to circulate petitions and file them with the Clerk of the Board. The Clerk of the Board determines the number of qualified elector and property owner signatures necessary to meet the "more than one-half" requirement.
- Petitions are presented to Board of Supervisors for official receipt and Board sets hearing on establishment not less than 10 nor more than 30 days from receipt of the petitions.
- Board of Supervisors determines validity of petitions.
- Board of Supervisors holds hearing.
- If petitions meet statutory requirements, the Board of Supervisors approves establishment of the district, and the district is deemed created 30 days following the Board's decision.
- Order of Establishment is recorded and conformed copy sent to new governing body of district. Clerk of the Board provides each member of the governing body with a summary of the Open Meeting Law, Oath of Office forms, and Public Notice of meetings form.
- Clerk of the Board notifies Arizona Department of Revenue and County Elections Department of establishment. Elections Department notifies U.S. Department of Justice.
- Governing body completes Oaths of Office and elects chairman and clerk from its members.
- Governing body files with Board of Supervisors notice of posting of meeting notices and posts copy at posting place.

BOUNDARY CHANGES FOR FIRE DISTRICTS

Individuals interested in making a change in the boundaries (adding or withdrawing property) of a fire district prepare a boundary change impact statement and present it to the governing body of the district. The statement must include at least the items outlined in A.R.S. §48-262(A)(1) (a), (b), (c), (d), (e), and (f). Information regarding valuation, taxes, and property ownership which is needed to prepare the boundary change impact statement is available in the office of the County Assessor and at the State Department of Revenue. The description of boundaries in the impact statement must be a legal description. The boundaries of the proposed change shall not overlap with the boundaries of any other proposed new district of the same type or any annexation by a district of the same type for which petitions are being circulated on the date that the boundary change impact statement is filed with the governing body.

In the alternative, any property owner whose property is adjacent to the boundaries of the district may request in writing that the governing body of the district amend the district's boundaries to include his or her property, except that such a request must be made before the county board of supervisors orders the creation of a proposed new district of the same type or the district governing body orders the annexation by a district of the same type in which the property owner's land is proposed for inclusion and for which petitions are being circulated. If the governing body concludes that annexing the property is beneficial to the district, it may order the boundary change and no impact statement or petitions are required. A boundary change accomplished in this manner must be recorded and the order amending the boundary must include a description of the property.

A fire district cannot annex or otherwise add territory that is already included in another existing fire district, unless the territory is first deannexed from the existing district. A fire district cannot approve an annexation unless the territory to be annexed is contiguous with the fire district's existing boundary. Lands owned by or under the jurisdiction of the United States government, the state of Arizona or any political subdivision of the state other than an incorporated city or town are not considered as intervening between a district's existing boundary and lands adjacent to them for purposes of annexation. A fire district also may not approve an annexation if the area proposed to be annexed surrounds any unincorporated territory and that unincorporated territory is not also included in the district.

If an annexation contains area within an incorporated city or town, the governing body of that entity must endorse the impact statement. In addition, annexations must be contiguous to the district boundaries and any withdrawal of property must not result in a noncontiguous portion of the district that is less than one square mile in size.

If an incorporated city or town has previously adopted a resolution designating a fire district as the fire service agency for the city or town, the jurisdictional boundaries of the fire district are automatically changed to include any property annexed into the city or

town. Boundary changes to fire districts that are accomplished in this manner are effective on the effective date of the annexation by the city or town. In a case where a city or town has designated a fire district as its fire service agency and the city or town annexes property that is already part of a different fire district, the annexed property remains in the fire district in which it was located prior to the annexation by the city or town. The district should notify the U.S. Department of Justice and the Arizona Department of Revenue of the change.

In the case of withdrawal of property, circulation of petitions is to be approved only if the withdrawal would not result in a noncontiguous portion of the district that is less than one square mile in size and only after the governing body determines if the district has any existing bonds or other evidences of indebtedness.

Upon receipt of the boundary change impact statement, the governing body sets a hearing for not fewer than 20 nor more than 30 days from receipt of the statement.

A copy of the boundary change impact statement is sent to the Board of Supervisors by the clerk of the governing body, along with the notice of the hearing on the statement. The Board of Supervisors reviews the proposed change and **may** submit comments to the governing body within 10 days of receipt of the statement and notice. The governing body also may, at any time prior to the hearing, require that the statement be amended to include any information that the governing body deems relevant and necessary. In Greenlee County, the impact statement is circulated to members of the Board and to the Assessor and other necessary staff. Any comments that are received are forwarded to the district.

The clerk of the governing body sends by first class mail a written notice of the statement, its purpose, and notice of the day, hour and place of the hearing to each owner of taxable property within the boundaries of the proposed change. Notice of the hearing is posted at three public places in the area of the proposed change and is also published twice in a daily newspaper of general circulation in the area of the proposed change, or at least twice at any time before the hearing if no such paper exists.

At the hearing, the comments of the Board of Supervisors are considered, as well as those for and against the proposed change. The governing body determines whether the proposed change will promote the public health, comfort, convenience, necessity or welfare. If so, the impact statement is approved and the persons proposing the change are authorized to circulate petitions. If the governing body denies circulation of petitions, another request for a similar boundary change may be presented to the governing body after 6 months from the date of denial. Within 15 days after the governing body grants approval to circulate petitions, and after resolution of any appeal of the governing body's action, the Clerk of the Board determines the minimum number of property owner signatures necessary in order to meet statutory requirements that the petitions be signed by more than one-half of the property owners within the proposed boundary change. Once the Clerk has determined that number, it remains fixed regardless of any

subsequent changes in property records.

Aggrieved persons may appeal the governing body's decision to the Superior Court, as spelled out in A.R.S. §48-262(A)(14).

Proponents of the boundary change circulate petitions in accordance with A.R.S. §48-262(A)(10), which refers to A.R.S. 48-266. The petitions must be in substantially the same form as prescribed in A.R.S. 48-266(B). **Petitions must, at all times, contain a legal description of the boundaries of the area to be included within the proposed change and a detailed, accurate map of the area. No alteration of the described area shall be made after the hearing to consider the boundary impact statement. Proponents present the petitions to the governing board, being sure all maps and legal descriptions remain attached to the petitions.**

The petitions must be returned to the governing body of the fire district within one year from the date of the approval to circulate. Any petition returned more than one year from that date is void. If an appeal is filed against the governing body's decision to authorize circulation of petitions, the time period for gathering signatures begins on the date an action is filed in Superior Court and ends when the time period for any further appeal has expired. In any event, proponents of a boundary change should be encouraged to turn in the completed petitions in a timely fashion to avoid changes in property ownership which can severely complicate the verification process and can jeopardize efforts to achieve the boundary change.

After the petitions are filed with the governing body, the governing body sets a hearing no less than 10 nor more than 30 days from receipt of the petitions. At the same time, the governing body sends the original petitions to the Board of Supervisors, which must determine the validity of the petitions, according to A.R.S. §48-262(B). Petitions must contain the signatures of more than one-half of the property owners within the boundaries of the proposed change with such number having been determined by the Clerk of the Board of Supervisors, and the signatures of property owners of more than one-half of the assessed valuation of the property within the boundaries of the proposed change. **Property owner petitions will be verified as of the date of submittal of the petitions - not as of the date an individual signed a petition.** Therefore, the longer petitions are out, the greater the chance that property will have transferred ownership between the time petitions are signed and the time the petitions are submitted to the Board.

Petitions submitted without the statutorily required attachments will be considered invalid and no signatures on them will be counted

If the petitions contain the required signatures, the governing body, after its hearing, is required to approve the boundary change. It approves an Order of Boundary Change and a copy of the Order is recorded with the County Recorder. The boundary change becomes effective 30 days after the governing body approves it. Any appeal of the

boundary change must be presented to the Board of Supervisors during the 30 day period. The Order of Boundary Change should conform with the format required by the County Recorder for recording, with the text of the order starting two inches from the top of each page.

The governing body is responsible for notifying the Arizona Department of Revenue, United States Department of Justice, and Greenlee County Elections Department of boundary change action.

Counties may charge fire districts for the cost of processing boundary changes.

To review:

- A boundary impact statement is presented to the district governing board.
- The governing body sets a hearing.
- Boundary Impact Statement is sent to the Board of Supervisors along with notice of hearing, and notice of the hearing is mailed to each owner of taxable property within the proposed boundary change by the clerk of the governing body. The clerk of the governing body posts and publishes the notice.
- Board of Supervisors reviews the Boundary Impact Statement.
- Governing body holds hearing and either authorizes or denies circulation of petitions. The Clerk of the Board determines the number of property owner signatures necessary to meet the "more than one-half" requirement.
- Proponents have one year from the date the governing body authorizes circulation of petitions to obtain signatures and file them with the district. If an appeal is filed, the time allowable for the collection of signatures begins on the date an action is filed in Superior Court and continues until the time for any further appeal has expired.
- Governing body receives completed petitions and sets hearing on the boundary change for not fewer than 10 nor more than 30 days from the date of receipt of the petitions.
- Governing body sends petitions to Board of Supervisors, which provides for verification in accordance with the provisions of A.R.S. §48-262(B).
- If the petitions contain the necessary signatures to meet statutory requirements, the governing body, at its hearing, approves an order changing the district boundaries.
- Governing body records Order of Boundary Change and notifies the Arizona Department of Revenue, United States Department of Justice, and Greenlee County Elections Department of the action.

Persons interested in making boundary changes to a fire district should contact the fire district.

FIRE DISTRICT REORGANIZATION

A fire district that is administered by an elected chief and secretary-treasurer may be reorganized to a district administered by a board. A district that is administered by a board may be reorganized to a district administered by an elected chief and secretary-treasurer. A fire district which is administered by a three-member board may also be reorganized to allow for a five-member board. (A.R.S. §48-816).

Petitions to reorganize a fire district must contain the signatures of a least 25% of the qualified electors within the district. There is no statutorily prescribed petition form for reorganization. Persons circulating petitions for reorganization of a fire district are not required to file a \$500 threshold exemption statement or statement of organization. A.R.S. §16-901(19), which defines "political committee" says in part that "political committee means a candidate or any association or combination of persons that is organized...in support of or opposition to an initiative, referendum or recall or any other measure or proposition and that applies for a serial number..." There is no statutory requirement that petitions for reorganization have a serial number.

Petitions for reorganization of a fire district are filed with the Clerk of the Board of Supervisors, who will have the signatures verified through the County Recorder's Office.

If the County Recorder verifies that the petitions contain the signatures of at least 25% of the qualified electors in the district, the Clerk of the Board will, within 30 days of receiving the petitions, ask the Board of Supervisors to accept the petitions and approve an Order of Election for an election which may be held on any consolidated election date as prescribed in A.R.S. §16-204. Notice of the election is given in the same manner as that for bond elections under A.R.S. §48-806.

The Board of Supervisors may not call for a reorganization election for the same district more frequently than once every two years.

The Order of Election should contain the following information:

- The purpose of the election.
- The date the polls will be open and the date early voting will begin.
- The last date to register to vote in the election.
- The name of the election district affected by the election.

The ballot must contain the following language:

"Reorganize as a fire district administered by *(insert elected chief/secretary-treasurer or 3 or 5 member district board, as specified)* - Yes"

"Reorganize as a fire district administered by *(insert elected chief/secretary-treasurer or 3 or 5 member district board, as specified)* - No"

The ballot must also allow electors to indicate their choice for elected chief and secretary-treasurer or board members, as the case may be, in the event reorganization is approved. Therefore, the election provides for the question on whether or not to reorganize the district and it also provides for election of a fire chief and secretary-treasurer or board members.

If a tie vote occurs, the Board of Supervisors is required by A.R.S. §16-649 to draw lots to determine who will serve the four-year terms and who will serve the two-year terms. Notice of the drawing of lots must be provided to the candidates involved five days prior to the drawing of lots. It is not necessary for the candidates to be present for the drawing of lots.

Within 14 days following the election, the Board of Supervisors must meet and canvass the election. If it is determined that a majority of the votes cast at the election was in favor of reorganizing the district, the Board shall so declare and shall announce the names of those elected to the board.

The Clerk of the Board provides certificates of election, Oaths of Office, a Public Notice form, and copies of the Open Meeting Law to the newly-elected fire chief and secretary-treasurer or board members.

Counties may charge fire districts for the cost of reorganization.

To review:

- Fire districts may be reorganized from an elected chief and secretary-treasurer to a board, from a board to an elected chief and secretary-treasurer, and from a three-member board to a five-member board.
- Petitions to reorganize must contain at least 25% of the qualified electors in the district.
- Petitions are submitted to the Clerk of the Board of Supervisors and verified by the County Recorder.
- If the petitions are verified as containing the signatures of at least 25% of the qualified electors in the district, the Board of Supervisors accepts the petitions and approves an Order of Election, with the election to be held on any consolidated election date as prescribed in A.R.S. §16-204 in accordance with A.R.S. §48-802(D)(3).
- The election is held, and not less than 14 days following the election the Board of Supervisors conducts a canvass. If the result of the election is to reorganize the district, the Board so declares and announces the names of the individuals elected as the new fire chief and secretary-treasurer, or the names of those elected to the

new board of directors.

- The Clerk of the Board provides the new chief and secretary-treasurer or members of the board of directors with certificates of election, Oaths of Office, a Public Notice form, and copies of the Open Meeting Law.

Note:

If the Board of Supervisors determines at any time prior to 120 days before the next regular scheduled district board election that the population in a fire district with a three member board exceeds 4,000 residents, the Board shall order an increase to five in the number of members on the district's board. If the Board of Supervisors determines at any time prior to 180 days before the next regularly scheduled election for members of a district board that the population of a fire district administered by a five-member board exceeds 50,000 residents the Board shall inform the fire district board that it may expand to seven member upon a majority vote of the district board. (A.R.S. §48-803(A)).

FIRE DISTRICT MERGERS

A.R.S. §48-820 sets forth the basic requirements for a merger of fire districts. There are two methods for accomplishing a merger of fire districts; one method utilizes an election and the other method does not. Prior to consideration of adoption of a resolution calling a merger, the governing body of a fire district must obtain written consent to the merger from any single taxpayer residing within each of the affected districts who owns 30% or more of the net assessed valuation of the district. ***If written consent is not obtained, then a merger can only be accomplished by means of an election.***

Election Method

Following adoption of a resolution calling for consideration of a merger, the governing body of each fire district that is a party to the merger must send written notice of the resolution, its purpose and notice of a public hearing on the proposed merger to each owner of taxable property within the boundaries of the district. The notice must contain the name and description of the boundaries of each district proposed to be merged and a detailed, accurate map of the area to be included in the merger. ***No new territory may be included as a result of the merger.*** In addition to mailing notice, the clerk of each fire district governing body must also post notice in at least three public places in the district and publish notice twice in a daily newspaper of general circulation in the county in which the district is located. Such posting and publication must occur at least ten (10) days prior to the public hearing.

The clerk of each fire district governing body must also mail a copy of the resolution in support of the merger to the chairman of the Board of Supervisors of the county in which the proposed merged district is located, or to the chairman of each Board of Supervisors if more than one county is involved. Within 10 days of receiving the resolution, the chairman of the Board of Supervisors orders a review of the proposed merger and submits written comments to the governing body of each fire district that is a party to the merger.

At the public hearing on the proposed merger, the governing body of each fire district considers the comments of the Board of Supervisors and takes comments from the public for and against the proposed merger. Following the hearing the governing body of each fire district may adopt, by a three-fourths vote, a resolution that the merger will promote public health, comfort, convenience, necessity or welfare. The resolutions are then submitted to the Board of Supervisors by each of the affected fire districts. If the proposed merged district is located in more than one county, the resolutions from the fire districts are submitted to the Board of Supervisors of the county in which the majority of the assessed valuation of the proposed merged district is located.

Upon receipt of the resolutions, the Board of Supervisors issues an order calling for an election on the merger. A merger election can only be held every two years, and is held

in conjunction with the general election. The ballot language is as follows:

"(Insert fire districts' names) merge as a fire district - Yes"

"(insert fire districts' names) merge as a fire district - No"

The Board of Supervisors must meet and canvass the returns within 14 days following the election, and if it determines that a majority of the votes cast at the election in each of the affected districts is in favor of merger it enters that fact on its minutes.

Within 30 days following the canvass, the governing body of the merging fire district with the largest population calls a joint meeting of the governing bodies of the merging fire districts. At the meeting, the governing bodies appoint a total of five persons from those currently serving on the governing bodies of the fire districts who will complete their regular terms of office, except that no more than 3 of the persons appointed may serve terms that end in the same year. No more than 3 persons can be appointed to the newly-merged governing body from the same fire district. Subsequent terms of office are filled by means of electing board members who are qualified electors of the merged district.

The newly-appointed governing body elects a chairman and a clerk and by resolution declares the districts merged and declares the name of the newly-merged district. The resolution and the names of the new board members are sent to the Board of Supervisors, and the merger is deemed to be completed 30 days after the adoption of the resolution. The Board of Supervisors records the resolution with the County Recorder and sends a copy to the governing board of the merged districts.

NON-ELECTION METHOD

Merger without an election is possible only when written consent to the merger has been obtained from any single taxpayer residing within each of the affected districts who owns 30% or more of the net assessed valuation of the district, and when the resolution calling for consideration of a merger and the resolution following the public hearing and calling for a merger are both approved by unanimous vote by the governing bodies of each of the affected fire districts.

The governing body of the newly-merged district notifies the State Department of Revenue, the United States Department of Justice, the County Assessor, Treasurer, and Elections Department of the merger.

The members of the new governing body must take oaths of office.

To review:

- Governing bodies of the districts wishing to merge request written consent to the merger from any single taxpayer residing within each of the affected districts who

owns 30% or more of the net assessed valuation in the district. If written consent is not obtained, an election must be held.

- Governing bodies of the districts wishing to merge adopt resolutions calling for consideration of the merger.
- Governing bodies send notice of the resolution, its purpose and notice of a public hearing on the proposed merger to each owner of taxable property within the boundaries of the district. Each governing body must also post notice in at least three public places in the district and publish notice twice in a daily newspaper of general circulation in the county in which the district is located.
- Governing bodies send copies of their resolutions to the chairman of the Board of Supervisors, who, within 10 days of receipt orders a review of the matter and submits written comments to each district governing board.
- Each governing body holds a public hearing at which the comments of the Board of Supervisors are considered and comments for and against the merger are taken from the public. In order to proceed with the merger, each governing body must approve, by a three-fourths vote, a resolution finding that a merger will promote public health, comfort, convenience, necessity or welfare.
- Following the public hearing the resolution is forwarded to the Board of Supervisors, which orders an election on the question of merger. Such an election can be held only every two years and it coincides with the general election date.
- After the election, the Board of Supervisors has 14 days in which to canvass the results of the election.
- If the election to merge is successful, within 30 days following the canvass the governing body of the merging fire district with the largest population calls a joint meeting of the governing bodies of all of the merging fire districts. A total of five people are appointed from those currently serving on the governing bodies who serve as directors for the newly-merged district. Oaths of office are signed.
- The newly-appointed governing body by resolution elects a chairman and clerk, declares the districts merged and declares the name of the newly-merged district. The resolution and the names of the new board members are sent to the Board of Supervisors. The merger is deemed to be completed 30 days after adoption of the resolution.
- If written consent to the merger has been obtained from any single taxpayer residing within each of the affected districts who owns 30% or more of the net assessed valuation of the district, and when the resolution calling for consideration of a merger and the resolution following the public hearing and calling for a merger are both

approved by unanimous vote by the governing bodies of each of the affected fire districts, the merger is deemed completed.

- The original resolution is sent to the Board of Supervisors, which records it and returns a copy to the new governing body.
- The new governing body notifies the State Department of Revenue, United States Department of Justice, County Assessor, Treasurer, and Elections Department of merger.

FIRE DISTRICT CONSOLIDATION

There are two methods for consolidating fire districts. One method involves an election and the other method does not. An election for consolidation is called by the Board of Supervisors upon receipt of a resolution for consolidation from the requesting fire district, and such an election may only be called every two years and would be held on the general election date. The ballot language for the election is as follows:

"(Insert fire districts' names) consolidate as a fire district - Yes"

"(Insert fire districts' names) consolidate as a fire district - No"

The election must be canvassed within 14 days after the election.

Consolidation without an election is possible only when written consent to the consolidation has been obtained from any single taxpayer residing within each of the affected districts who owns 30% or more of the net assessed valuation of the district, and when each vote required by statute with regard to the consolidation process is approved by unanimous vote by the governing bodies of each of the affected fire districts.

GENERAL PROCEDURE FOR CONSOLIDATION

A resolution requesting the consolidation of one fire district into another fire district is passed by a majority vote of the governing body of the district making the request, and a copy of the resolution is sent by first class mail to the fire district into which consolidation is being requested. If the request for consolidation is approved by a majority vote of the governing body of the fire district receiving the request, the two fire districts by mutual agreement prepare a consolidation impact statement. The consolidation impact statement includes:

- A legal description of the boundaries of the proposed consolidated district and a detailed, accurate map of the area to be included in the consolidated district.
- An estimate of the assessed valuation in the proposed consolidated district.
- An estimate of the change in the property tax liability of a typical resident of the proposed consolidated district that would result from consolidation.
- A list and explanation of benefits that will result from consolidation.
- A list and explanation of injuries that will result from consolidation.

No new territory may be included as a result of district consolidation.

When the consolidation impact statement is completed, the governing body of each fire district sets a hearing on the impact statement that is not less than 60 nor more than 90 days after the date of the completion and approval of the consolidated impact statement. The consolidation impact statement may be amended at any time prior to the determination made at the hearing. The clerk of the governing body of each fire district sends, by first class mail, written notice of the statement, its purpose and notice of the day, hour and place of the hearing to each owner of taxable property within the boundaries of the respective fire districts. At least 10 days before the hearing, the clerks also post notice of the hearing in at least three conspicuous public places in their respective fire districts and publish notice of the hearing twice in a daily newspaper of general circulation in the area of the proposed consolidated district.

At the hearing, persons may appear for and against the proposed consolidation. If the governing body of each fire district determines that the public health, comfort, convenience, necessity or welfare will be promoted by consolidation, it will approve the consolidated district impact statement. Within 15 days after approval, the clerk of the governing body of the district requesting consolidation ("the requesting fire district") sends, by first-class mail, notice of the approval to the fire district in which consolidation is requested ("the receiving fire district"). On receipt of the request, the governing body of the receiving fire district sets hearing on consolidation of the districts. The hearing must be held not less than 30 nor more than 60 days after the date of approval by the requesting fire district. At the hearing, the governing body of the receiving fire district determines whether creation of a consolidated district will promote the public health, comfort, convenience, necessity or welfare, and if it so determines it approves a resolution declaring the districts consolidated and each district joined. If the consolidated district will include property located in an incorporated city or town, the governing body can approve the creation of the consolidated district only if the governing body of the affected city or town endorses the creation by ordinance or resolution.

A copy of the resolution is then sent to the Board of Supervisors. The persons currently serving as the governing body of the receiving fire district continue to serve as the governing body of the newly consolidated fire district and complete their regular terms. The governing body of a newly-consolidated district must have a least five members. However, if consolidation results in a new district population greater than 50,000 persons, the new governing board may appoint two additional members to serve until the next general election, at which time the two appointed positions would become elected positions.

The governing body of the newly-consolidated district declares the name of the district.

To review:

- Governing bodies of the districts wishing to consolidate adopt resolutions calling for consideration of the consolidation.
- Governing bodies send notice of the resolution, its purpose and notice of a public hearing on the proposed consolidation to each owner of taxable property within the boundaries of the district. Each governing body must also post notice in at least three public places in the district and publish notice twice in a daily newspaper of general circulation in the county in which the district is located.
- Governing bodies send copies of their resolutions to the chairman of the Board of Supervisors, who, within 10 days of receipt orders a review of the matter and submits written comments to each district governing board.
- Each governing body holds a public hearing at which the comments of the Board of Supervisors are considered and comments for and against the consolidation are taken from the public. In order to proceed with the consolidation, each governing body must approve, by a three-fourths vote, a resolution finding that a consolidation will promote the public health, comfort, convenience, necessity or welfare.
- If written consent to the consolidation has been obtained from any single taxpayer residing within each of the affected districts who owns 30% or more of the net assessed valuation of the district, and when the resolution calling for consideration of consolidation and the resolution following the public hearing and calling for consolidation are both approved by unanimous vote by the governing bodies of each of the affected fire districts, the consolidation is deemed completed.
- Following the public hearing the resolution is forwarded to the Board of Supervisors, which orders an election on the question of consolidation. Such an election can be held only every two years and it coincides with the general election date.
- After the election, the Board of Supervisors has 14 days in which to canvass the results of the election.
- The governing body of the consolidated fire district notifies the State Department of Revenue, United States Department of Justice, County Assessor, Treasurer, and Elections Department of the consolidation.

NOTE: The statutory language for consolidation is somewhat confusing, but the process for consolidation is essentially the same as that for mergers. The difference between a consolidation and a merger is that the governing body of a merged district is comprised of governing board members of each fire district that is a party to the merger, while the governing body of a consolidated district is the same governing body in place for the receiving district at the time consolidation is requested. If consolidation is successful, the governing body of the district requesting consolidation into the receiving district is eliminated.

FILLING VACANCIES ON THE BOARD

If a vacancy other than term expiration occurs in a **fire district administered by an elected chief and secretary-treasurer**, the Board of Supervisors fills the vacancy by appointment upon notification by the fire district. As a general rule, the fire district also recommends an appointee as part of its notification to the Board. If the Board of Supervisors fails to act within 30 days of receiving notice of the vacancy, a special election is held to fill the vacancy (A.R.S. §48-804(B)).

Vacancies from other than term expiration that occur in a **fire district administered by an elected board of directors** are filled by the remaining members of the board. If an entire board of directors resigns, or for any reason cannot fulfill its duties, the Board of Supervisors is required to appoint an administrator for the district. However, if the Board fails to appoint an administrator within 30 days of receiving notice that the district board of directors has, in its entirety, resigned or is unable to fulfill its responsibilities, then a special election is held to fill the vacancies on the district board. (A.R.S. §48-803(B)).

Vacancy in office is defined in A.R.S. §38-291.

DISSOLUTION OF FIRE DISTRICTS

The dissolution of fire districts is addressed in A.R.S. §48-812 and §48-815. A.R.S. §48-264 also provides for dissolution of inactive special taxing districts upon approval of a resolution by the Board of Supervisors to dissolve the district.

If the district is entirely annexed into a city or town which elects to provide service, the dissolution of the district is automatic and all assets of the district become part of the fire department of the annexing city or town.

In the alternative, a petition signed by at least 10% of the qualified electors of the district is filed with the district's governing board requesting dissolution. Within 30 days of receipt of the petitions requesting dissolution of the district, the governing board must call for an election to decide the question. The election must be held on one of the four consolidated election dates set forth in A.R.S. §16-204:

- The second Tuesday in March.
- The third Tuesday in May.
- The eighth Tuesday before the first Tuesday after the first Monday in November.
- The first Tuesday after the first Monday in November.

The Order of Election should contain the following information:

- The purpose of the election.
- The date of holding the election.
- The last date to register to vote in the election.
- The name of the election district conducting the election.

The Order of Election must be published in both English and Spanish at least twice in a newspaper of general circulation in the district not less than once a week during each of the two calendar weeks preceding 90 days before the election. Instead of publishing the Order, a copy of the Order of Election may be mailed to each household in the district containing a qualified elector not later than 90 days before the election.

In addition, notice of the election must also be published in both English and Spanish in a newspaper published within the County and which has a general circulation in the district. Such publication must occur not less than once a week during each of the two

calendar weeks preceding 20 days before the election. The notice of election should contain at least the following information:

- The date of the election.
- The location of the polls.
- The hours the polls will be open.
- The purpose of the election.
- The election district conducting the election.
- The ballot for dissolution shall state:

"Dissolution of *(insert district name)* fire district - Yes"

"Dissolution of *(insert district name)* fire district - No"

Within 5 days of the election, the district must provide to the Clerk of the Board of Supervisors the results of the election. At its next regular meeting the Board of Supervisors makes a written order of the facts forwarded by the district in its Order of Dissolution and lists the unpaid valid claims against the district, which are paid by the County Treasurer on warrants drawn from district funds. The Order of Dissolution is recorded with the County Recorder by the Board of Supervisors. Once the Order of Dissolution is recorded, the fire district is considered to be dissolved and any funds remaining after payment of valid claims against the district are transferred to the County General Fund. If there are any outstanding bonds in the district, taxes will continue to be levied for payment of principal and interest on the bonds.

The Board of Supervisors notifies the Arizona Department of Revenue and the Elections Department of the dissolution. The County Elections Department will notify the U.S. Department of Justice of the dissolution of the district.

