

SECOND REGULAR SESSION

# HOUSE BILL NO. 2415

## 94TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WALTON.

Read 1st time March 12, 2008 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 321.220 and 321.600, RSMo, and to enact in lieu thereof two new sections relating to fire protection district board powers, with penalty provisions and an emergency clause.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 321.220 and 321.600, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 321.220 and 321.600, to read as follows:

321.220. For the purpose of providing fire protection to the property within the district, the district and, on its behalf, the board shall have the following powers, authority and privileges:

(1) To have perpetual existence;

(2) To have and use a corporate seal;

(3) To sue and be sued, and be a party to suits, actions and proceedings;

(4) To enter into contracts, franchises and agreements with any person, partnership, association or corporation, public or private, affecting the affairs of the district, including contracts with any municipality, district or state, or the United States of America, and any of their agencies, political subdivisions or instrumentalities, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service relating to the control or prevention of fires, including the installation, operation and maintenance of water supply distribution, fire hydrant and fire alarm systems; provided, that a notice shall be published for bids on all construction or purchase contracts for work or material or both, outside

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 the authority contained in subdivision (9) of this section, involving an expense of ten thousand  
15 dollars or more;

16 (5) Upon approval of the voters as herein provided, to borrow money and incur  
17 indebtedness and evidence the same by certificates, notes or debentures, and to issue bonds, in  
18 accordance with the provisions of this chapter;

19 (6) To acquire, construct, purchase, maintain, dispose of and encumber real and personal  
20 property, fire stations, fire protection and fire-fighting apparatus and auxiliary equipment  
21 therefor, and any interest therein, including leases and easements;

22 (7) To refund any bonded indebtedness of the district without an election. The terms and  
23 conditions of refunding bonds shall be substantially the same as those of the original issue of  
24 bonds, and the board shall provide for the payment of interest, at not to exceed the legal rate, and  
25 the principal of such refunding bonds in the same manner as is provided for the payment of  
26 interest and principal of bonds refunded;

27 (8) To have the management, control and supervision of all the business and affairs of  
28 the district, and the construction, installation, operation and maintenance of district  
29 improvements therein;

30 (9) (a) To hire and retain agents, employees, engineers and attorneys, including  
31 part-time or volunteer firemen.

32 (b) **The board of any fire protection district of this state may appoint and employ**  
33 **as many district police officers as they may deem necessary to protect persons, property,**  
34 **and to preserve peace and good order only in the public buildings, properties, grounds, and**  
35 **other facilities and locations over which they have charge or control.**

36 (c) **The district police officers, before they enter upon their duties, shall take and**  
37 **subscribe an oath of office before some officer authorized to administer oaths, to faithfully**  
38 **and impartially discharge the duties thereof, which oath shall be filed in the office of the**  
39 **fire protection district board, and the secretary of the board shall give each district police**  
40 **officer so appointed and qualified a certificate of appointment, under the seal of the board,**  
41 **which certificate shall empower the police officer with the same authority to maintain**  
42 **order, preserve peace, and make arrests as is now held by peace officers. The district**  
43 **police officer may in addition expel from the public buildings, properties, and grounds**  
44 **persons violating the rules and regulations that may be prescribed by the board or others**  
45 **under the authority of the board. Such officer or employee of the fire protection district**  
46 **as may be designated by the board shall have immediate charge, control, and supervision**  
47 **of fire protection district police officers appointed by authority of this section. Unless**  
48 **licensed as peace officers under chapter 590, RSMo, such fire protection district police**  
49 **officers shall have satisfactorily completed before appointment, or before entering upon**

50 **their duties, a training course for fire protection district police officers similar to the course**  
51 **provided for under section 178.862, RSMo, which shall consist of at least three hundred**  
52 **twenty hours as prescribed by the superintendent of the Missouri state highway patrol.**  
53 **The fire protection district shall reimburse all such fire protection district police officers**  
54 **appointed by them who complete the training course for all reasonable and necessary**  
55 **expenses incurred in taking the training course, and shall reimburse the highway patrol**  
56 **for any expenses directly relating to the prescribed or holding of a training course which**  
57 **are recommended by the patrol.**

58 **(d) Nothing in this subdivision shall be construed as denying the board the right**  
59 **to appoint guards or watchmen who shall not be given the authority and powers hereby**  
60 **authorized;**

61 (10) To have and exercise the power of eminent domain and in the manner provided by  
62 law for the condemnation of private property for public use to take any property within the  
63 district necessary to the exercise of the powers herein granted;

64 (11) To receive and accept by bequest, gift or donation any kind of property.  
65 Notwithstanding any other provision of law to the contrary, any property received by the fire  
66 protection district as a gift or any property purchased by the fire protection district at a price  
67 below the actual market value of the property may be returned to the donor or resold to the seller  
68 if such property is not used for the specific purpose for which it was acquired;

69 (12) To adopt and amend bylaws, fire protection and fire prevention ordinances, and any  
70 other rules and regulations not in conflict with the constitution and laws of this state, necessary  
71 for the carrying on of the business, objects and affairs of the board and of the district, and refer  
72 to the proper authorities for prosecution any infraction thereof detrimental to the district. Any  
73 person violating any such ordinance is hereby declared to be guilty of a misdemeanor, and upon  
74 conviction thereof shall be punished as is provided by law therefor. The **special assistant**  
75 prosecuting attorney for the county in which the violation occurs shall prosecute such violations  
76 in the circuit court of that county. The legal officer or attorney for the fire district [may] **shall**  
77 **be appointed [by the prosecuting attorney] ex officio** as special assistant prosecuting attorney for  
78 the prosecution of any such violation. The enactments of the fire district in delegating  
79 administrative authority to officials of the district may provide standards of action for the  
80 administrative officials, which standards are declared as industrial codes adopted by nationally  
81 organized and recognized trade bodies. The board shall have the power to adopt an ordinance,  
82 rule, or regulation allowing the district to charge individuals who reside outside of the district,  
83 but who receive emergency services within the boundaries of the district, for the actual and  
84 reasonable cost of such services. However, such actual and reasonable costs shall not exceed one

85 hundred dollars for responding to each fire call or alarm and two hundred fifty dollars for each  
86 hour or a proportional sum for each quarter hour spent in combating a fire or emergency;

87 (13) To pay all court costs and expenses connected with the first election or any  
88 subsequent election in the district;

89 (14) To have and exercise all rights and powers necessary or incidental to or implied  
90 from the specific powers granted herein. Such specific powers shall not be considered as a  
91 limitation upon any power necessary or appropriate to carry out the purposes and intent of this  
92 chapter;

93 (15) To provide for health, accident, disability and pension benefits for the salaried  
94 members of its organized fire department of the district and such other benefits for their spouses  
95 and eligible unemancipated children, through either or both a contributory or noncontributory  
96 plan. For purposes of this section, "eligible unemancipated child" means a natural or adopted  
97 child of an insured, or a stepchild of an insured who is domiciled with the insured, who is less  
98 than twenty-three years of age, who is not married, not employed on a full-time basis, not  
99 maintaining a separate residence except for full-time students in an accredited school or  
100 institution of higher learning, and who is dependent on parents or guardians for at least fifty  
101 percent of his or her support. The type and amount of such benefits shall be determined by the  
102 board of directors of the fire protection district within the level of available revenues of the  
103 pension program and other available revenues of the district. If an employee contributory plan  
104 is adopted, then at least one voting member of the board of trustees shall be a member of the fire  
105 district elected by the contributing members, which shall not be the same as the board of  
106 directors;

107 (16) To contract with any municipality that is contiguous to a fire protection district for  
108 the fire protection district to provide fire protection to the municipality for a fee as hereinafter  
109 provided;

110 (17) To provide for life insurance, accident, sickness, health, disability, annuity, length  
111 of service, pension, retirement and other employee-type fringe benefits, subject to the provisions  
112 of section 70.615, RSMo, for the volunteer members of any organized fire department of the  
113 district and such other benefits for their spouses and eligible unemancipated children, through  
114 either a contributory or noncontributory plan, or both. For purposes of this section, "eligible  
115 unemancipated child" means a natural or adopted child of an insured, or a stepchild of an insured  
116 who is domiciled with the insured, who is less than twenty-three years of age, who is not  
117 married, not employed on a full-time basis, not maintaining a separate residence except for  
118 full-time students in an accredited school or institution of higher learning, and who is dependent  
119 on parents or guardians for at least fifty percent of his or her support. The type and amount of  
120 such benefits shall be determined by the board of directors of the fire protection district within

121 available revenues of the district, including the pension program of the district. The provision  
122 and receipt of such benefits shall not make the recipient an employee of the district. Directors  
123 who are also volunteer members may receive such benefits while serving as a director of the  
124 district;

125 (18) To contract for services with any rural, volunteer or subscription fire department  
126 or organization, or volunteer fire protection association, as defined in section 320.300, RSMo,  
127 for the purpose of providing the benefits described in subdivision (17) of this section.

321.600. For the purpose of providing fire protection to the property within the district,  
2 the district and, on its behalf, the board shall have the following powers, authority and privileges:

3 (1) To have perpetual existence;

4 (2) To have and use a corporate seal;

5 (3) To sue and be sued, and be a party to suits, actions and proceedings;

6 (4) To enter into contracts, franchises and agreements with any person, partnership,  
7 association or corporation, public or private, affecting the affairs of the district, including  
8 contracts with any municipality, district or state, or the United States of America, and any of their  
9 agencies, political subdivisions or instrumentalities, for the planning, development, construction,  
10 acquisition or operation of any public improvement or facility, or for a common service relating  
11 to the control or prevention of fires, including the installation, operation and maintenance of  
12 water supply distribution, fire hydrant and fire alarm systems; provided, that a notice shall be  
13 published for bids on all construction or purchase contracts for work or material or both, outside  
14 the authority contained in subdivision (9) of this section, involving an expense of ten thousand  
15 dollars or more;

16 (5) Upon approval of the voters, as herein provided, to borrow money and incur  
17 indebtedness and evidence the same by certificates, notes or debentures, and to issue bonds, in  
18 accordance with the provisions of sections 321.010 to 321.450;

19 (6) To acquire, construct, purchase, maintain, dispose of and encumber real and personal  
20 property, fire stations, fire protection and fire-fighting apparatus and auxiliary equipment  
21 therefor, and any interest therein, including leases and easements;

22 (7) To refund any bonded indebtedness of the district without an election. The terms and  
23 conditions of refunding bonds shall be substantially the same as those of the original issue of  
24 bonds, and the board shall provide for the payment of interest, at not to exceed the legal rate, and  
25 the principal of such refunding bonds in the same manner as is provided for the payment of  
26 interest and principal of bonds refunded;

27 (8) To have the management, control and supervision of all the business and affairs of  
28 the district, and the construction, installation, operation and maintenance of district  
29 improvements therein;

30 (9) (a) To hire and retain agents, employees, engineers and attorneys, including  
31 part-time or volunteer firemen.

32 (b) The board of any fire protection district of this state may appoint and employ  
33 as many district police officers as they may deem necessary to protect persons, property,  
34 and to preserve peace and good order only in the public buildings, properties, grounds, and  
35 other facilities and locations over which they have charge or control.

36 (c) The district police officers, before they enter upon their duties, shall take and  
37 subscribe an oath of office before some officer authorized to administer oaths, to faithfully  
38 and impartially discharge the duties thereof, which oath shall be filed in the office of the  
39 fire protection district board, and the secretary of the board shall give each district police  
40 officer so appointed and qualified a certificate of appointment, under the seal of the board,  
41 which certificate shall empower the police officer with the same authority to maintain  
42 order, preserve peace, and make arrests as is now held by peace officers. The district  
43 police officer may in addition expel from the public buildings, properties, and grounds  
44 persons violating the rules and regulations that may be prescribed by the board or others  
45 under the authority of the board. Such officer or employee of the fire protection district  
46 as may be designated by the board shall have immediate charge, control, and supervision  
47 of fire protection district police officers appointed by authority of this section. Unless  
48 licensed as peace officers under chapter 590, RSMo, such fire protection district police  
49 officers shall have satisfactorily completed before appointment, or before entering upon  
50 their duties, a training course for fire protection district police officers similar to the course  
51 provided for under section 178.862, RSMo, which shall consist of at least three hundred  
52 twenty hours as prescribed by the superintendent of the Missouri state highway patrol.  
53 The fire protection district shall reimburse all such fire protection district police officers  
54 appointed by them who complete the training course for all reasonable and necessary  
55 expenses incurred in taking the training course, and shall reimburse the highway patrol  
56 for any expenses directly relating to the prescribed or holding of a training course which  
57 are recommended by the patrol.

58 (d) Nothing in this subdivision shall be construed as denying the board the right  
59 to appoint guards or watchmen who shall not be given the authority and powers hereby  
60 authorized;

61 (10) To have and exercise the power of eminent domain and in the manner provided by  
62 law for the condemnation of private property for public use to take any property within the  
63 district necessary to the exercise of the powers herein granted;

64 (11) To receive and accept by bequest, gift or donation any kind of property.  
65 Notwithstanding any other provision of law to the contrary, any property received by the fire

66 protection district as a gift or any property purchased by the fire protection district at a price  
67 below the actual market value of the property may be returned to the donor or resold to the seller  
68 if such property is not used for the specific purpose for which it was acquired;

69 (12) To adopt and amend bylaws, fire protection and fire prevention ordinances, and any  
70 other rules and regulations not in conflict with the constitution and laws of this state, necessary  
71 for the carrying on of the business, objects and affairs of the board and of the district, and refer  
72 to the proper authorities for prosecution any violation thereof detrimental to the district. Any  
73 person violating any such ordinance is hereby declared to be guilty of a class B misdemeanor,  
74 and upon conviction thereof shall be punished as is provided herein:

75 (a) The **special assistant** prosecuting attorney for the county in which the violation  
76 occurs shall prosecute such violations in the circuit court of that county. The legal officer or  
77 attorney for the fire district [may] **shall** be appointed [by the prosecuting attorney] **ex officio** as  
78 special assistant prosecuting attorney for the prosecution of any such violation; or

79 (b) The board may adopt a specific ordinance to impose a fine or a series of fines for  
80 specific offenses of not more than five hundred dollars. The accused person may either appear  
81 in court at a set date or make payment to the officer appointed by the board, either in person or  
82 through the United States mail, with the moneys handled as are all other moneys of the district.  
83 If the fine is not paid by the deadline imposed, the violation and the failure to pay the fine or  
84 appear in court at the set date may be further prosecuted as provided in paragraph (a) of this  
85 subdivision.

86

87 The enactments of the fire district in delegating administrative authority to officials of the district  
88 may provide standards of action for the administrative officials, which standards are declared as  
89 industrial codes adopted by nationally organized and recognized trade bodies;

90 (13) To pay all court costs and expenses connected with the first election or any  
91 subsequent election in the district;

92 (14) To have and exercise all rights and powers necessary or incidental to or implied  
93 from the specific powers granted herein. Such specific powers shall not be considered as a  
94 limitation upon any power necessary or appropriate to carry out the purposes and intent of  
95 sections 321.010 to 321.450;

96 (15) To provide for health, accident, disability, and pension benefits, through either or  
97 both a contributory or noncontributory plan, of the salaried members and such other benefits for  
98 their spouses and eligible unemancipated children of its organized fire department of the district.  
99 For purposes of this section, "eligible unemancipated child" means a natural or adopted child of  
100 an insured, or a stepchild of an insured who is domiciled with the insured, who is less than  
101 twenty-three years of age, who is not married, not employed on a full-time basis, not maintaining

102 a separate residence except for full-time students in an accredited school or institution of higher  
103 learning, and who is dependent on parents or guardians for at least fifty percent of his or her  
104 support. Such benefits shall be determined by the board of directors of the fire protection district  
105 within the level of available revenues of the pension program and other available revenues of the  
106 district. If an employee contributory plan is adopted, then at least one voting member of the  
107 board of trustees shall be a member of the fire district elected by the contributing members,  
108 which shall not be the same as the board of directors;

109 (16) To provide for life insurance, accident, sickness, health, disability, annuity, uniform,  
110 length of service, pension, retirement and other employee-type fringe benefits, subject to the  
111 provisions of section 70.615, RSMo, through either a contributory or noncontributory plan or  
112 both, for the volunteer members and such other benefits for their spouses and minor children of  
113 any organized fire department of the district. The type and amount of such benefits shall be  
114 determined by the board of directors of the fire protection district within available revenues of  
115 the district, including the pension program of the district. The provision and receipt of such  
116 benefits shall not make the recipient an employee of the district. Directors who are also  
117 volunteer members may receive such benefits while serving as a director of the district;

118 (17) To contract for services with any rural, volunteer or subscription fire department  
119 or organization, or volunteer fire protection association, as defined in section 320.300, RSMo,  
120 for the purpose of providing the benefits described in subdivision (16) of this section.

Section B. Because immediate action is necessary to allow fire protection district boards  
2 to appoint and employ district police officers, section A of this act is deemed necessary for the  
3 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared  
4 to be an emergency act within the meaning of the constitution, and section A of this act shall be  
5 in full force and effect upon its passage and approval.

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