

SECOND REGULAR SESSION

# HOUSE BILL NO. 1578

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE CALLOWAY.

3794L.02I

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal section 321.120, RSMo, and to enact in lieu thereof one new section relating to fire protection district board members.

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

Section A. Section 321.120, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 321.120, to read as follows:

321.120. 1. The decree of incorporation shall not become final and conclusive until it has been submitted to an election of the voters residing within the boundaries described in such decree, and until it has been assented to by a majority vote of the voters of the district voting on the question. The decree shall also provide for the holding of the election to vote on the proposition of incorporating the district, and to select three or five persons to act as the first board of directors **except as provided in subsection 7 of this section**, and shall fix the date for holding the election.

2. The question shall be submitted in substantially the following form:

Shall there be incorporated a fire protection district?

☐ YES ☐ NO

3. The proposition of electing the first board of directors or the election of subsequent directors may be submitted on a separate ballot or on the same ballot which contains any other proposition of the fire protection district. The ballot to be used for the election of a director or directors shall be substantially in the following form:

OFFICIAL BALLOT

Instruction to voters:

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.

17 Place a cross (X) mark in the square opposite the name of the candidate or candidates you  
18 favor. (Here state the number of directors to be elected and their term of office.)

19 ELECTION

20 (Here insert name of district.) Fire Protection District.

21 (Here insert date of election.)

22 FOR BOARD OF DIRECTORS

23 ..... [ ]

24 ..... [ ]

25 ..... [ ]

26 4. If a majority of the voters voting on the proposition or propositions voted in favor of  
27 the proposition to incorporate the district, then the court shall enter its further order declaring the  
28 decree of incorporation to be final and conclusive. In the event, however, that the court finds that  
29 a majority of the voters voting thereon voted against the proposition to incorporate the district,  
30 then the court shall enter its further order declaring the decree of incorporation to be void and  
31 of no effect. If the court enters an order declaring the decree of incorporation to be final and  
32 conclusive, it shall at the same time designate the first board of directors of the district who have  
33 been elected by the voters voting thereon. **Except as provided in subsection 7 of this section,**  
34 if a board of three members is elected, the person receiving the third highest number of votes  
35 shall hold office for a term of two years, the person receiving the second highest number of votes  
36 shall hold office for a term of four years, and the person receiving the highest number of votes  
37 shall hold office for a term of six years from the date of the election of the first board of directors  
38 and until their successors are duly elected and qualified. If a board of five members is elected,  
39 the person who received the highest number of votes shall hold office for a term of six years, the  
40 persons who received the second and third highest numbers of votes shall hold office for terms  
41 of four years and the persons who received the fourth and fifth highest numbers of votes shall  
42 hold office for terms of two years and until their successors are duly elected and qualified.  
43 Thereafter, members of the board shall be elected to serve terms of six years and until their  
44 successors are duly elected and qualified, provided however, in any county with a charter form  
45 of government and with more than two hundred fifty thousand but fewer than three hundred fifty  
46 thousand inhabitants, any successor elected and qualified in the year 2005 shall hold office for  
47 a term of six years and until his or her successor is duly elected and qualified and any successor  
48 elected and qualified in the year 2006 or 2007 shall hold office for a term of five years and until  
49 his or her successor is duly elected and qualified, and thereafter, members of the board shall be  
50 elected to serve terms of four years and until their successors are duly elected and qualified. The  
51 court shall at the same time enter an order of record declaring the result of the election on the  
52 proposition, if any, to incur bonded indebtedness.

53           5. Notwithstanding the provisions of subsections 1 to 4 of this section to the contrary,  
54 upon a motion by the board of directors in districts where there are three-member boards, and  
55 upon approval by the voters in the district, the number of directors may be increased to five,  
56 except that in any county of the first classification with a population of more than nine hundred  
57 thousand inhabitants such increase in the number of directors shall apply only in the event of a  
58 consolidation of existing districts. The ballot to be used for the approval of the voters to increase  
59 the number of members on the board of directors of the fire protection district shall be  
60 substantially in the following form:

61           Shall the number of members of the board of directors of the ..... (Insert  
62 name of district) Fire Protection District be increased to five members?

63                           ☐ YES   ☐ NO

64

65 If a majority of the voters voting on the proposition vote in favor of the proposition then at the  
66 next election of board members after the voters vote to increase the number of directors, the  
67 voters shall select two persons to act in addition to the existing three directors as the board of  
68 directors. The court which entered the order declaring the decree of incorporation to be final  
69 shall designate the additional board of directors who have been elected by the voters voting  
70 thereon as follows: the one receiving the second highest number of votes to hold office for a  
71 term of four years, and the one receiving the highest number of votes to hold office for a term  
72 of six years from the date of the election of such additional board of directors and until their  
73 successors are duly elected and qualified. Thereafter, members of the board shall be elected to  
74 serve terms of six years and until their successors are duly elected and qualified, provided  
75 however, in any county with a charter form of government and with more than two hundred fifty  
76 thousand but fewer than three hundred fifty thousand inhabitants, any successor elected and  
77 qualified in the year 2005 shall hold office for a term of six years and until his or her successor  
78 is duly elected and qualified and any successor elected and qualified in the year 2006 or 2007  
79 shall hold office for a term of five years and until his or her successor is duly elected and  
80 qualified, and thereafter, members of the board shall be elected to serve terms of four years and  
81 until their successors are duly elected and qualified.

82           6. Members of the board of directors in office on the date of an election pursuant to  
83 subsection 5 of this section to elect additional members to the board of directors shall serve the  
84 term to which they were elected or appointed and until their successors are elected and qualified.

85           **7. (1) Beginning August 28, 2010, any decree of incorporation submitted to an**  
86 **election under this section shall provide for holding an election to select five persons to act**  
87 **as the first board of directors, and such persons shall be selected as provided in this section**

88 to serve terms as provided in this section, except that all members shall serve terms of three  
89 years.

90 (2) Any district that has a board of directors with fewer than five members shall  
91 increase the number of directors to five as provided in subsection 3 of this section at the  
92 next available election for the district authorized under state law. Such additional board  
93 members elected shall serve terms as provided in subsection 4 of this section, except that  
94 all members shall serve terms of three years.

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