

SECOND REGULAR SESSION

# HOUSE BILL NO. 1565

## 95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WALTON GRAY (Sponsor) AND  
CHAPPELLE-NADAL (Co-sponsor).

3880L.011

D. ADAM CRUMBLISS, Chief Clerk

### AN ACT

To repeal section 321.120, RSMo, and to enact in lieu thereof three new sections relating to fire protection.

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

Section A. Section 321.120, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 321.120, 321.731, and 321.732, to read as follows: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, 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.

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

18 ELECTION

19 (Here insert name of district.) Fire Protection District. (Here insert date of election.)

20 FOR BOARD OF DIRECTORS

21 ..... [ ] ..... [ ] ..... [ ]

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

51           **5. For any fire protection district located in whole or in part in any county with a**  
52 **charter form of government and with more than one million inhabitants, if a majority of**  
53 **the voters voting on the proposition or propositions vote in favor of incorporating the**  
54 **district, the court shall enter its further order declaring the decree of incorporation to be**  
55 **final and conclusive. If the court finds that a majority of the voters voting on the**  
56 **proposition to incorporate the district did not approve the proposition, the court shall enter**  
57 **its further order declaring the decree of incorporation to be void. If the court enters its**  
58 **order declaring the decree of incorporation to be final and conclusive, the court shall at the**  
59 **same time designate the first board of directors of the district who have been elected by the**  
60 **voters voting on the proposition. If a board of three members is elected, the person**  
61 **receiving the third highest number of votes shall hold office for a term of one year, the**  
62 **person receiving the second highest number of votes shall hold office for a term of two**  
63 **years, and the person receiving the highest number of votes shall hold office for a term of**  
64 **three years from the date of the election of the first board of directors and until successors**  
65 **are elected and qualified. If a board of five members is elected, the persons receiving the**  
66 **fourth and fifth highest number of votes shall hold office for a term of one year, the**  
67 **persons receiving the second and third highest number of votes shall hold office for a term**  
68 **of two years, and the person receiving the highest number of votes shall hold office for a**  
69 **term of three years until successors are elected and qualified. Thereafter, members shall**  
70 **be elected to hold office for a term of three years until a successor is elected and qualified.**  
71 **The court shall at the same time enter an order of record declaring the result of the election**  
72 **on the proposition, if any, to incur bonded indebtedness.**

73           **6. Except in any fire protection district located in whole or in part in any county**  
74 **with a charter form of government and with more than one million inhabitants,**  
75 **notwithstanding the provisions of subsections 1 to [4] 5 of this section to the contrary, upon a**  
76 **motion by the board of directors in districts where there are three-member boards, and upon**  
77 **approval by the voters in the district, the number of directors may be increased to five[, except**  
78 **that in any county of the first classification with a population of more than nine hundred**  
79 **thousand inhabitants such increase in the number of directors shall apply only in the event of a**  
80 **consolidation of existing districts]. The ballot to be used for the approval of the voters to**  
81 **increase the number of members on the board of directors of the fire protection district shall be**  
82 **substantially in the following form:**

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

85                   ☐ YES

☐ NO

86

87 If a majority of the voters voting on the proposition vote in favor of the proposition then at the  
88 next election of board members after the voters vote to increase the number of directors, the  
89 voters shall select two persons to act in addition to the existing three directors as the board of  
90 directors. The court which entered the order declaring the decree of incorporation to be final  
91 shall designate the additional board of directors who have been elected by the voters voting  
92 thereon as follows: the one receiving the second highest number of votes to hold office for a  
93 term of four years, and the one receiving the highest number of votes to hold office for a term  
94 of six years from the date of the election of such additional board of directors and until their  
95 successors are duly elected and qualified. Thereafter, members of the board shall be elected to  
96 serve terms of six years and until their successors are duly elected and qualified, provided  
97 however, in any county with a charter form of government and with more than two hundred fifty  
98 thousand but fewer than three hundred fifty thousand inhabitants, any successor elected and  
99 qualified in the year 2005 shall hold office for a term of six years and until his or her successor  
100 is duly elected and qualified and any successor elected and qualified in the year 2006 or 2007  
101 shall hold office for a term of five years and until his or her successor is duly elected and  
102 qualified, and thereafter, members of the board shall be elected to serve terms of four years and  
103 until their successors are duly elected and qualified.

104 **7. Only in the event of consolidation of an existing fire protection district located**  
105 **in whole or in part in any county with a charter form of government and with more than**  
106 **one million inhabitants, notwithstanding any provision of subsections 1 to 6 of this section**  
107 **to the contrary, upon a motion by the board of directors in districts with three-member**  
108 **boards and upon approval by a majority of the voters in the district voting on the proposal,**  
109 **the number of directors may be increased to five. The question submitted for the approval**  
110 **of the voters to increase the number of members to five shall be in substantially the**  
111 **following form:**

112 **Shall the number of members of the board of directors of the ..... (insert district**  
113 **name) Fire Protection District be increased to five?**  
114

115 **If a majority of the voters voting on the proposal vote in favor of the proposition, then at**  
116 **the next election of board members after the voters vote to increase the number of directors**  
117 **the voters shall select two persons to act in addition to the existing three directors as the**  
118 **board of directors. The court that entered the order declaring the decree of incorporation**  
119 **to be final shall designate the additional board of directors who have been elected by the**  
120 **voters voting thereon as follows: the person receiving the second highest number of votes**  
121 **shall hold office for a term of two years, and the person receiving the highest number of**  
122 **votes shall hold office for a term of three years from the date of the election of such**

123 **additional board of directors and until successors are duly elected and qualified.**  
124 **Thereafter, members of the board shall be elected to serve terms of three years and until**  
125 **successors are duly elected and qualified.**

126 [6.] **8. Members of the board of directors in office on the date of an election pursuant to**  
127 **[subsection 5] subsections 6 and 7 of this section to elect additional members to the board of**  
128 **directors shall serve the term to which they were elected or appointed and until their successors**  
129 **are elected and qualified. Thereafter, for any fire protection district located in any county**  
130 **with a charter form of government and with more than one million inhabitants, the**  
131 **successors shall be elected to a term of three years.**

132 **9. For any fire protection district located in any county with a charter form of**  
133 **government and with more than one million inhabitants, elected members of the board of**  
134 **directors in office on August 28, 2010, shall serve the term to which they were elected and**  
135 **until their successors are elected and qualified; thereafter, their successors shall be elected**  
136 **to a term of three years. Appointed members of the board of directors in any such district**  
137 **who are in office on or after August 28, 2010, shall serve until the next scheduled regular**  
138 **municipal election and until their successors are elected and qualified. Thereafter, for the**  
139 **successor to a director who was appointed to fill the unexpired term of an elected director**  
140 **whose six-year term ends in 2011 or 2012, their successors shall be elected to a term of**  
141 **three years. The successor to a director who was appointed to fill the unexpired term of**  
142 **an elected director whose six-year term ends in 2013 or 2014, who shall be elected in 2011**  
143 **or 2012, shall be elected to a term of two years. The successor to a director who was**  
144 **appointed to fill the unexpired term of an elected director whose six-year term ends in 2015**  
145 **or 2016, who shall be elected in 2011 or 2012, shall be elected to a term of four years. The**  
146 **successor to a director who was appointed to fill the unexpired term of an elected director**  
147 **whose six-year term ends in 2015 or 2016, who shall be elected in 2013 or 2014, shall be**  
148 **elected to a term of two years. Thereafter, successors shall be elected to a term of three**  
149 **years.**

321.731. **1. Notwithstanding any other provision of the law to the contrary, in any**  
2 **fire protection district located within, or is adjacent to any fire protection district in which**  
3 **is located, in whole or in part, a street light maintenance district with fewer than six**  
4 **thousand inhabitants and that is located in any county with a charter form of government**  
5 **and with more than one million inhabitants, the board of election commissioners of such**  
6 **county shall establish wards, equivalent to the number of directors, for the purpose of**  
7 **electing directors of such district. The ward boundaries shall be drawn, after notice and**  
8 **hearing, by the commissioners within sixty days after August 28, 2010, or after the**  
9 **establishment of any such fire protection district, or after the merger of any such fire**

10 protection district with any other fire protection district and within six months after each  
11 decennial census is reported to the President of the United States. In the event the board  
12 of election commissioners is unable to agree on the ward boundaries by the deadlines  
13 established in this section, the governing body of the county shall, sitting as an  
14 apportionment commission, draw the boundaries within sixty days of the failure of the  
15 board of election commissioners to do so. Ward boundaries drawn by the governing body  
16 of the county shall not be subject to veto by the chief executive of the county. The  
17 commissioners shall apportion the wards by dividing the population, determined by the  
18 last previous decennial census, of the district by the number of directors and shall establish  
19 each ward so that the population of each ward shall, as nearly as possible, equal such  
20 figure or be within two percent thereof. Each ward shall be composed of contiguous  
21 territory as compact as may be.

22       2. All board members shall be elected by the voters of the ward from which the  
23 member is elected to represent. All board members elected or appointed in such district  
24 shall be elected or appointed to represent one of the wards, beginning with the first general  
25 municipal election or vacancy occurring after such wards are established. Each member  
26 shall reside for one year before the date of the member's election in the ward from which  
27 the member is elected, or in the case of a vacancy, the ward from which the member is  
28 appointed, and shall forfeit office if the member removes the member's residence from the  
29 ward. Such vacancy may be declared and the office filled by the remaining members of  
30 the board as provided by law.

31       3. Elected members of the board in office after such wards are established shall  
32 hold office for the length of the term for which they were elected, and until their successors  
33 are elected and qualified, and any members appointed to fill vacancies in office occurring  
34 after such wards are established shall serve until the next general municipal election, at  
35 which time a successor shall be elected to serve for the remainder of the term to which the  
36 replaced member was elected.

37       4. If a vacancy occurs after the eleventh Tuesday but before the sixth Tuesday,  
38 before the general municipal election notice of election to fill such a vacancy shall be given,  
39 within two business days after such vacancy arises but not later than the sixth Tuesday  
40 before the general municipal election. Declarations of candidacy to fill such a vacancy  
41 shall be received for a period of five business days, between 8:00 a.m. and 5:00 p.m., after  
42 such notice is given, but not later than the fifth Tuesday before the general municipal  
43 election. The names of the candidates shall be certified to the election authority not later  
44 than two business days following the closing date for filing but not later than the fourth  
45 Tuesday before the general municipal election. Notice of election, declaration of candidacy,

46 and certification to the election authority of any vacancies occurring at any other times  
47 shall be filed as otherwise provided by law.

48       **5. At the first general municipal election to occur after such wards are established,**  
49 **the elections for the seats of any expiring terms or appointed terms as provided in this**  
50 **section of at-large board members shall be filled by persons elected from the**  
51 **lowest-numbered wards, as those wards are created and numbered by the board of election**  
52 **commissioners. The second such general municipal election shall be for the**  
53 **lowest-numbered wards not filled at the prior election, and the third such election shall be**  
54 **for the remaining wards not filled at the prior two elections.**

55       **6. The law governing fire protection districts shall continue to apply to any district**  
56 **described in this section, except as expressly provided in this section.**

**321.732. No employee of any fire protection district, municipal fire department, or**  
2 **other public employer of firefighters shall engage in any electioneering or any political**  
3 **activity while on duty or while wearing a uniform or official insignia identifying the**  
4 **employee as an employee of the fire protection district, municipal fire department, or other**  
5 **public employer of firefighters. No such employee shall use any fire protection equipment**  
6 **while electioneering or engaging in any political activity. Violation of this section shall be**  
7 **a class four election offense punishable under section 115.637, and may result in forfeiture**  
8 **of employment.**

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