

[As Amended by House Committee of the Whole]

As Amended by Senate Committee

Session of 2004

SENATE BILL No. 292

By Senators Barnett and Schmidt

12-22

12 AN ACT concerning fire protection [**and prevention**]; authorizing pay-
13 ment for acquisition, installation or maintenance of fire hydrants by
14 fire districts and townships; [**pertaining to the use of wood shingles**
15 **and similar materials;**] ~~amending~~ [**relating to fire investigations;**
16 **amending K.S.A. 31-137 and**] K.S.A. 2003 Supp. 12-3915, 19-3601a,
17 19-3612e, 19-3616, 19-3620, 80-1501, 80-1514a, 80-1904, 80-1913, 80-
18 1917 and 80-1921 and repealing the existing sections.

19
20 *Be it enacted by the Legislature of the State of Kansas:*

21 Section 1. K.S.A. 2003 Supp. 12-3915 is hereby amended to read as
22 follows: 12-3915. The governing body of any fire district created pursuant
23 to this act shall have the authority to:

24 (a) Levy taxes and special assessments as provided by law. Except as
25 provided by K.S.A. 12-3913, and amendments thereto, the governing
26 body shall fix the amount of the tax, not to exceed 11 mills, to be levied
27 upon all taxable tangible property in the consolidated fire district;

28 (b) enter into contracts;

29 (c) acquire and dispose of real and personal property;

30 (d) acquire, construct, reconstruct, equip, operate, maintain and fur-
31 nish buildings to house fire-fighting equipment;

32 (e) acquire, operate and maintain fire-fighting equipment;

33 (f) issue general obligation bonds and no-fund warrants;

34 (g) pay compensation and salaries to fire district employees;

35 (h) exercise eminent domain;

36 (i) pay the operation and maintenance expenses of the fire district
37 and other expenses legally incurred by the district;

38 (j) select regular employees, provide for their compensation and fur-
39 nish quarters for such employees if deemed desirable;

40 (k) provide for the organization of volunteer members who may be
41 compensated for fighting fires, responding to emergencies or attending
42 meetings;

43 (l) provide special clothing and equipment for such employees and

1 volunteers;

2 (m) insure such employees and volunteers against accidental death
3 and injury in the performance of their duties;

4 (n) *pay for the acquisition, installation or maintenance of one or more*
5 *fire hydrants, or other similar devices for fighting fires, including any*
6 *necessary equipment, services or supplies related thereto; and*

7 ~~(n)~~ (o) do all things necessary or desirable to maintain and operate
8 such department so as to furnish fire protection for the inhabitants of the
9 district and otherwise effectuate the purposes of this act.

10 ***The acquisition, installation or maintenance of any fire hydrant,***
11 ***or other similar device for fighting fires, shall be subject to the***
12 ***mutual agreement of the governing body of the fire district and the***
13 ***governing body of the entity which owns, operates or maintains the***
14 ***water line on which the fire hydrant, or other similar device for***
15 ***fighting fires, is to be installed.***

16 Sec. 2. K.S.A. 2003 Supp. 19-3601a is hereby amended to read as
17 follows: 19-3601a. Upon the creation of a fire district under the provisions
18 of K.S.A. 19-3601 *et seq.*, and amendments thereto, the governing body
19 shall have the authority to:

20 (a) Enter contracts;

21 (b) acquire and dispose of real and personal property;

22 (c) acquire, construct, reconstruct, equip, operate, maintain and fur-
23 nish buildings to house fire fighting equipment;

24 (d) acquire, operate and maintain fire fighting equipment;

25 (e) issue bonds as provided in this act;

26 (f) pay compensation and salaries to fire district employees;

27 (g) pay compensation to volunteer members of the fire district for
28 fighting fires, responding to emergencies or attending meetings;

29 (h) exercise eminent domain;

30 (i) pay the operation and maintenance expenses of the fire district
31 and any other expenses legally incurred by the fire district;

32 (j) *pay for the acquisition, installation or maintenance of one or more*
33 *fire hydrants, or other similar devices for fighting fires, including any*
34 *necessary equipment, services or supplies related thereto; and*

35 ~~(j)~~ (k) do all other things necessary to effectuate the purposes of this
36 act.

37 ***The acquisition, installation or maintenance of any fire hydrant,***
38 ***or other similar device for fighting fires, shall be subject to the***
39 ***mutual agreement of the governing body of the fire district and the***
40 ***governing body of the entity which owns, operates or maintains the***
41 ***water line on which the fire hydrant, or other similar device for***
42 ***fighting fires, is to be installed.***

43 Sec. 3. K.S.A. 2003 Supp. 19-3612e is hereby amended to read as

1 follows: 19-3612e. (a) The governing body of Reno county fire district
2 No. 2 and the governing body of Sedgwick county fire district No. 1, both
3 created under K.S.A. 19-3601 et seq., and amendments thereto, shall have
4 the power to levy a tax in an amount to be determined by such governing
5 body upon all taxable tangible property in the district for the purpose of
6 paying:

- 7 (1) Compensation to fire district employees;
- 8 (2) The expenses of operating and maintaining the fire district;
- 9 (3) compensation to volunteer members of the fire district for fight-
10 ing fires, responding to emergencies or attending meetings;
- 11 (4) *for the acquisition, installation or maintenance of one or more fire*
12 *hydrants, or other similar devices for fighting fires, including any*
13 *necessary equipment, services or supplies related thereto; and*
- 14 ~~(4)~~ (5) other legal expenses of the fire district.

15 ***The acquisition, installation or maintenance of any fire hydrant,***
16 ***or other similar device for fighting fires, shall be subject to the***
17 ***mutual agreement of the governing body of the fire district and the***
18 ***governing body of the entity which owns, operates or maintains the***
19 ***water line on which the fire hydrant, or other similar device for***
20 ***fighting fires, is to be installed.***

21 (b) Whenever the governing body of the fire district determines it is
22 necessary to increase the amount levied in the next preceding year, the
23 governing body shall give notice of its intent to increase such levy by
24 adopting a resolution which states the amount currently levied and the
25 amount proposed to be levied. The resolution shall be published once
26 each week for two consecutive weeks in a newspaper of general circula-
27 tion in the fire district. If within 30 days after the last publication, a
28 petition signed by not less than 5% of the qualified electors in the fire
29 district is filed in the office of the county election officer requesting an
30 election thereon no levy in an amount in excess of the amount levied in
31 the next preceding year shall be made unless the question of the levy
32 shall be submitted to and approved by a majority of the voters of the fire
33 district voting at an election called by the governing body. Such election
34 shall be called and held in the manner provided under the provisions of
35 K.S.A. 10-120, and amendments thereto.

36 Sec. 4. K.S.A. 2003 Supp. 19-3616 is hereby amended to read as
37 follows: 19-3616. Upon the creation of a fire district pursuant to K.S.A.
38 19-3613, and amendments thereto, the governing body of the fire district
39 shall have the authority to:

- 40 (a) Enter contracts;
- 41 (b) acquire, by lease or purchase, and dispose of real and personal
42 property;
- 43 (c) acquire, by lease or purchase, construct, reconstruct, equip, op-

- 1 erate, maintain and furnish buildings to house fire-fighting equipment;
2 (d) acquire, by lease or purchase, operate and maintain fire-fighting
3 equipment;
4 (e) issue bonds, if approved by the board of county commissioners,
5 as provided in K.S.A 19-3601b, and amendments thereto;
6 (f) pay compensation and salaries to fire district employees;
7 (g) pay compensation to volunteer members of the fire district for
8 fighting fires, responding to emergencies or attending meetings;
9 (h) issue no-fund warrants;
10 (i) exercise eminent domain;
11 (j) pay the operation and maintenance expenses of the fire district
12 and any other expenses legally incurred by the fire district;
13 (k) prepare and adopt a budget, subject to the approval of the board
14 of county commissioners;
15 (l) *pay for the acquisition, installation or maintenance of one or more*
16 *fire hydrants, or other similar devices for fighting fires, including any*
17 *necessary equipment, services or supplies related thereto; and*
18 ~~(m)~~ (m) do all other things necessary to effectuate the purposes of this
19 act.

20 ***The acquisition, installation or maintenance of any fire hydrant,***
21 ***or other similar device for fighting fires, shall be subject to the***
22 ***mutual agreement of the governing body of the fire district and the***
23 ***governing body of the entity which owns, operates or maintains the***
24 ***water line on which the fire hydrant, or other similar device for***
25 ***fighting fires, is to be installed.***

26 Sec. 5. K.S.A. 2003 Supp. 19-3620 is hereby amended to read as
27 follows: 19-3620. The governing body shall have full direction and control
28 over the operation of such district fire department. The governing body
29 shall have the power to:

- 30 (1) Select regular employees, provide for their compensation and fur-
31 nish quarters for such employees if deemed desirable;
32 (2) provide for the organization of volunteer members of such de-
33 partment and pay compensation to such members for fighting fires, re-
34 sponding to emergencies or attending meetings;
35 (3) provide special clothing and equipment for such employees and
36 volunteers;
37 (4) insure such employees and volunteers against accidental death
38 and injury in the performance of their duties;
39 (5) *pay for the acquisition, installation or maintenance of one or more*
40 *fire hydrants, or other similar devices for fighting fires, including any*
41 *necessary equipment, services or supplies related thereto; and*
42 ~~(5)~~ (6) do all things necessary or desirable to maintain and operate
43 such department so as to furnish fire protection for the inhabitants of

1 such district.

2 ***The acquisition, installation or maintenance of any fire hydrant,***
3 ***or other similar device for fighting fires, shall be subject to the***
4 ***mutual agreement of the governing body of the fire district and the***
5 ***governing body of the entity which owns, operates or maintains the***
6 ***water line on which the fire hydrant, or other similar device for***
7 ***fighting fires, is to be installed.***

8 Sec. 6. K.S.A. 2003 Supp. 80-1501 is hereby amended to read as
9 follows: 80-1501. (a) Any township or county may join with a municipality
10 in the maintenance of a fire department for the prevention and fighting
11 of fires within their boundaries. The cost of equipment and maintenance,
12 *the cost of the acquisition, installation or maintenance of one or more fire*
13 ***hydrants, or other similar devices for fighting fires, including any***
14 ***necessary equipment, services or supplies related thereto,*** the payment of
15 compensation to employees of the fire department, the rent or purchase
16 of buildings shall be paid in such proportion as agreed upon by the parties.
17 The supervision and control of the department shall be with the governing
18 body of the municipality if the municipality joins with a township or
19 county.

20 ***The acquisition, installation or maintenance of any fire hydrant,***
21 ***or other similar device for fighting fires, shall be subject to the***
22 ***mutual agreement of the governing body of the municipality and***
23 ***the governing body of the entity which owns, operates or maintains***
24 ***the water line on which the fire hydrant, or other similar device for***
25 ***fighting fires, is to be installed.***

26 The fire department members may be paid or may be volunteers and
27 shall be subject to the limitations of this section and such rules and reg-
28 ulations as the municipalities adopt. Volunteer members may be paid
29 compensation for fighting fires, responding to emergencies or attending
30 meetings. Such departments, when organized, may incorporate as fire-
31 fighters' relief associations, and such associations shall come within the
32 purview and be subject to the provisions of and entitled to the rights
33 under article 17, chapter 40, of the Kansas Statutes Annotated and
34 amendments thereto.

35 (b) When a municipality and a township join, the agreements shall
36 be entered into by the municipality by ordinance and by the township or
37 county by resolution, and the agreement as set out in the ordinance and
38 resolution shall be signed by the mayor of the city and attested by the
39 city clerk and, in the case of a township shall be signed by the township
40 trustee and attested by the township clerk and, in the case of a county
41 shall be signed by the chairperson of the board of county commissioners
42 and attested by the county clerk. The agreement shall state the amount
43 each party shall contribute, the rules and regulations governing the de-

1 partment, and such other matter as may be necessary to specify the duties
2 and responsibilities of the parties. The agreement may be amended or
3 changed or added to by mutual agreement of the parties in the same
4 manner as that in which the original contract was entered. Such agree-
5 ment may be terminated if one party passes or adopts an ordinance or
6 resolution declaring its intention to carry out the agreement no longer.
7 When an agreement is terminated, one party may pay the other for its
8 share of the equipment or apparatus or the apparatus may be sold. Any
9 money in the treasury shall be divided pro rata as it was paid into the
10 treasury. No election shall be required to authorize the township board,
11 board of county commissioners or governing body of any municipality to
12 enter into such agreement, but the township board, board of county com-
13 missioners or governing body of a municipality shall have the power to
14 decide whether to enter into such contract.

15 (c) The governing body of any joint fire department created pursuant
16 to this section may reorganize itself as a consolidated fire district in the
17 manner provided for the consolidation of fire districts pursuant to K.S.A.
18 12-3910 et seq., and amendments thereto.

19 Sec. 7. K.S.A. 2003 Supp. 80-1514a is hereby amended to read as
20 follows: 80-1514a. Upon the creation of a fire district under the provisions
21 of K.S.A. 80-1512 et seq., the governing body shall have the authority to:

- 22 (a) Enter contracts;
- 23 (b) acquire and dispose of real and personal property;
- 24 (c) acquire, construct, reconstruct, equip, operate, maintain and fur-
25 nish buildings to house fire fighting equipment;
- 26 (d) acquire, operate and maintain fire fighting equipment;
- 27 (e) issue bonds as provided in this act;
- 28 (f) pay compensation and salaries to fire district employees;
- 29 (g) pay compensation to volunteer members of the fire district for
30 fighting fires, responding to emergencies or attending meetings;
- 31 (h) exercise eminent domain;
- 32 (i) pay the operation and maintenance expenses of the fire district
33 and other expenses legally incurred by the fire district;
- 34 (j) *pay for the acquisition, installation or maintenance of one or more*
35 *fire hydrants, or other similar devices for fighting fires, including any*
36 *necessary equipment, services or supplies related thereto; and*
- 37 ~~(j)~~ (k) do all other things necessary to effectuate the purposes of this
38 act.

39 ***The acquisition, installation or maintenance of any fire hydrant,***
40 ***or other similar device for fighting fires, shall be subject to the***
41 ***mutual agreement of the governing body of the fire district and the***
42 ***governing body of the entity which owns, operates or maintains the***
43 ***water line on which the fire hydrant, or other similar device for***

1 ***fighting fires, is to be installed.***

2 Sec. 8. K.S.A. 2003 Supp. 80-1904 is hereby amended to read as
3 follows: 80-1904. The township board shall have full direction and control
4 over the operation of such township fire department. The governing body
5 shall have the power to:

6 (1) Select regular employees, provide for their compensation, and
7 furnish quarters for such employees and their families if deemed
8 desirable;

9 (2) provide for the organization of volunteer members of such de-
10 partment and pay compensation to such members for fighting fires, re-
11 sponding to emergencies or attending meetings;

12 (3) provide special clothing and equipment for such employees and
13 volunteers;

14 (4) insure such employees and volunteers against accidental death
15 and injury in the performance of their duties;

16 (5) *pay for the acquisition, installation or maintenance of one or more*
17 *fire hydrants, or other similar devices for fighting fires, including any*
18 *necessary equipment, services or supplies related thereto; and*

19 ~~(5)~~ (6) do all other things necessary or desirable to maintain and op-
20 erate such department so as to furnish fire protection for the inhabitants
21 of such township.

22 ***The acquisition, installation or maintenance of any fire hydrant,***
23 ***or other similar device for fighting fires, shall be subject to the***
24 ***mutual agreement of the township board and the governing body***
25 ***of the entity which owns, operates or maintains the water line on***
26 ***which the fire hydrant, or other similar device for fighting fires, is***
27 ***to be installed.***

28 Sec. 9. K.S.A. 2003 Supp. 80-1913 is hereby amended to read as
29 follows: 80-1913. The township board may organize a fire company and
30 prescribe rules of duty and the government thereof, and make all nec-
31 essary appropriations therefor and for the maintenance and operation of
32 its equipment from the general fund of the township and to compensate
33 employees of the fire company. The board may:

34 (a) Pay compensation to volunteer members of the fire company for
35 fighting fires, responding to emergencies or attending meetings; and

36 (b) *pay for the acquisition, installation or maintenance of one or more*
37 *fire hydrants, or other similar devices for fighting fires, including any*
38 *necessary equipment, services or supplies related thereto.*

39 ***The acquisition, installation or maintenance of any fire hydrant,***
40 ***or other similar device for fighting fires, shall be subject to the***
41 ***mutual agreement of the township board and the governing body***
42 ***of the entity which owns, operates or maintains the water line on***
43 ***which the fire hydrant, or other similar device for fighting fires, is***

1 **to be installed.**

2 Sec. 10. K.S.A. 2003 Supp. 80-1917 is hereby amended to read as
3 follows: 80-1917. The township board shall have full direction and control
4 over the operation of such township fire department. The board shall
5 have the power to:

6 (a) Select regular employees, provide for their compensation, and
7 furnish quarters for such employees and their families if deemed
8 desirable;

9 (b) provide for the organization of volunteer members of such de-
10 partment and pay compensation to such members for fighting fires, re-
11 sponding to emergencies or attending meetings;

12 (c) provide special clothing and equipment for such employees and
13 volunteers;

14 (d) insure such employees and volunteers against accidental death
15 and injury in the performance of their duties;

16 (e) *pay for the acquisition, installation or maintenance of one or more*
17 *fire hydrants, or other similar devices for fighting fires, including any*
18 *necessary equipment, services or supplies related thereto; and*

19 ~~(e)~~ (f) do all other things necessary or desirable to maintain and op-
20 erate such department so as to furnish fire protection for the inhabitants
21 of such township.

22 ***The acquisition, installation or maintenance of any fire hydrant,***
23 ***or other similar device for fighting fires, shall be subject to the***
24 ***mutual agreement of the township board and the governing body***
25 ***of the entity which owns, operates or maintains the water line on***
26 ***which the fire hydrant, or other similar device for fighting fires, is***
27 ***to be installed.***

28 Sec. 11. K.S.A. 2003 Supp. 80-1921 is hereby amended to read as
29 follows: 80-1921. (a) The township board of any such township shall have
30 full direction and control over the operation of such township fire de-
31 partment. The board shall have the power to:

32 (1) Provide for the organization of volunteer members of such de-
33 partment and pay compensation to such members for fighting fires, re-
34 sponding to emergencies or attending meetings;

35 (2) provide special clothing and equipment for such volunteers;

36 (3) insure such volunteers against accidental death and injury in the
37 performance of their duties;

38 (4) *pay for the acquisition, installation or maintenance of one or more*
39 *fire hydrants, or other similar devices for fighting fires, including any*
40 *necessary equipment, services or supplies related thereto; and*

41 ~~(4)~~ (5) do all other things necessary or desirable to maintain and op-
42 erate such department so as to furnish fire protection to the inhabitants
43 of such township.

1 ***The acquisition, installation or maintenance of any fire hydrant,***
2 ***or other similar device for fighting fires, shall be subject to the***
3 ***mutual agreement of the township board and the governing body***
4 ***of the entity which owns, operates or maintains the water line on***
5 ***which the fire hydrant, or other similar device for fighting fires, is***
6 ***to be installed.***

7 (b) Such township board may levy an annual tax on all the taxable
8 tangible property in such township for the purpose of paying the expenses
9 of equipping, operating and maintaining such fire department. Any tax
10 levy authorized by this section shall be in addition to the tax levy made
11 to pay for no-fund warrants issued pursuant to K.S.A. 80-1920, and
12 amendments thereto. Except as otherwise specifically provided in this act,
13 the provisions of K.S.A. 80-1906 and 80-1907, and amendments thereto,
14 shall apply to townships adopting the provisions of this act.

15 (c) In addition to the tax levy authorized by subsection (b), the town-
16 ship board of Kickapoo, Tonganoxie, Easton, Fairmount, Sherman and
17 Delaware townships located in Leavenworth county may levy an annual
18 tax of not to exceed two mills on all the taxable tangible property in such
19 township for the purpose of purchasing additional equipment for such
20 fire department. If a petition in opposition to the tax levy authorized
21 herein, signed by not less than 5% of the qualified electors of such town-
22 ship is filed with the township board of such township, within 40 days
23 after July 1, 1971, the tax levy shall not be made unless first approved as
24 a question submitted at the next general election or at a special election
25 called for the purpose of submitting the question. If such a petition is
26 filed, the township board may cause to be placed on the ballot at the next
27 general election the question of whether such tax shall be levied. If a
28 majority of the votes cast and counted at such election are in favor of the
29 resolution, such governing body may levy the tax authorized herein.

30 **[New Sec. 12. (a) On and after the effective date of this act,**
31 **any provision of a restrictive covenant which requires the use of**
32 **wood shingles or wood shakes as a roof covering material for any**
33 **residential dwelling is hereby declared to be against public policy**
34 **and such provision shall be void and unenforceable unless such**
35 **covenant also allows for the use of composition asphalt or wood**
36 **shingles or other alternative material which is comparable in ap-**
37 **pearance to the existing roof covering material, flame resistant or**
38 **retardant, and meets or exceeds any fire prevention standards es-**
39 **tablished by any municipal building code which has been adopted**
40 **as required by law applicable to such residential dwelling.**

41 **[(b) The provisions of this section shall apply to any restrictive**
42 **covenant:**

43 **[(1) In existence on the effective date of this act; or**

1 **[(2) entered into on or after the effective date of this act.**
2 **[(c) The provisions of this section shall not affect the enforce-**
3 **ability of a restrictive covenant which regulates or restricts the**
4 **color, style, dimension or other aesthetic characteristics of roofing**
5 **material to be used on a residential dwelling if such restrictive**
6 **covenant meets the requirements of subsection (a).]**
7 **[Sec. 13. K.S.A. 31-137 is hereby amended to read as follows:**
8 **31-137. The state fire marshal, his deputies of the fire marshal, the**
9 **chief of any organized fire department of any municipality,**
10 **whether such fire department is regular or volunteer, or any mem-**
11 **ber of any such fire department who has been duly authorized by**
12 **the chief thereof, shall enforce the provisions of this act and any**
13 **rules and regulations adopted pursuant thereto. ~~Said~~ Such persons**
14 **are authorized to make any investigations deemed necessary of**
15 **any fire or explosion occurring within this state, ~~and they.~~ Such per-**
16 **sons shall make an investigation of any fire or explosion occurring**
17 **within this state, or an attempt to cause any fire or explosion within**
18 **this state, if there is reason to believe that the fire was of an in-**
19 **incendiary origin or was an attempt to defraud an insurance com-**
20 **pany. In addition, the chief of any organized fire department of any**
21 **municipality may designate other qualified persons to conduct such in-**
22 **vestigations in such municipality. In order to carry out such investi-**
23 **gations, the state fire marshal and those persons herein designated**
24 **by or authorized to be designated by this section shall have the right**
25 **and authority at all times of day or night to enter upon or examine,**
26 **in accordance with existing laws and regulations, any building or**
27 **~~premise premises~~ where any fire or explosion or attempt to cause a**
28 **fire or explosion ~~shall have~~ has occurred. Every person designated**
29 **~~herein~~ Such persons shall make a written report of the findings of**
30 **any investigation conducted by ~~him~~ pursuant to this section which**
31 **shall be filed in the office of the state fire marshal.]**
32 Sec. ~~14~~ [14]. [K.S.A. 31-137 and] K.S.A. 2003 Supp. 12-3915, 19-
33 3601a, 19-3612e, 19-3616, 19-3620, 80-1501, 80-1514a, 80-1904, 80-
34 1913, 80-1917 and 80-1921 are hereby repealed.
35 Sec. ~~13~~ [15]. This act shall take effect and be in force from and after
36 its publication in the statute book.