

75A.120 Definitions for section -- Appointment of special firefighters, rules, powers -- Discipline of members and employees -- Appeals of disciplinary actions -- Political activities of members -- Attendance of chief at board meetings, definition of chief, members as peace officers -- Oath and bond of members -- Duties and powers of chief and members -- Reimbursement of private owners for water used -- Board minute book, contents, where kept, inspection -- Board may employ counsel -- Counsel's duties and compensation -- Duties of county attorney -- Audits and financial reports.

- (1) As used in this section, unless the context requires otherwise:
- (a) "Board" means the board of trustees a consolidated emergency services district organized under this chapter;
 - (b) "Chairman" means the chairman of the board of a consolidated emergency services district organized under this chapter;
 - (c) "Chief" means the chief of the consolidated emergency services district organized under this chapter;
 - (d) "Consolidated emergency services district" means districts organized under this chapter;
 - (e) "Dismissal" means the discharge of an employee by lawful authority;
 - (f) "Employees" means all persons employed, and paid wages, salary, or other compensation for emergency services performed, by the board of trustees of a consolidated emergency services district organized under this chapter. The term "employees" does not include any individual who is a volunteer as defined in paragraph (n) of this subsection.
 - (g) "Member" shall include the chief and all officers; all providers of emergency services, including volunteer, paid, regular, and all employees, or special firefighters; of a consolidated emergency services district organized under this chapter;
 - (h) "Paid emergency service worker" means all personnel who are employees of the consolidated emergency services district organized under this chapter involved in the provision of emergency medical services subject to the licensure provisions of KRS Chapter 311A or the provision of rescue services pursuant to KRS Chapter 39F;
 - (i) "Paid firefighters" means all firefighters who are employees of the consolidated emergency services district organized under this chapter;
 - (j) "Regular firefighters" means all firefighters who are members of a consolidated emergency services district organized under this chapter, except for special firefighters appointed by the chairman of the board of trustees pursuant to KRS 75.110;
 - (k) "Salary" and "wages" mean any compensation received by an employee by reason of his employment for services performed for a consolidated emergency services district organized under this chapter;
 - (l) "Suspension" means the separation of an employee from the service for a

temporary or fixed period of time, by his appointing authority, as a disciplinary measure;

- (m) "Trustees" means the board of trustees of a consolidated emergency services district organized under this chapter; and
 - (n) "Volunteer" means any person who is a member of a consolidated emergency services district organized under this chapter who volunteers to provide services for the district, if the individual receives no salary, wages, or other compensation for services performed, or if the individual is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered, and the services are not the same type of services which the individual is employed to perform for the consolidated emergency services district organized under this chapter.
- (2) (a) The chairman may, if in his or her discretion there is a case of need, appoint special firefighters to do special duties at any place within the limits of the consolidated emergency services district, on terms he or she deems proper.
- (b) These special firefighters shall be governed by rules as the board may provide, and be given the powers the board may provide, including the powers enumerated in KRS 75.160 in the discretion of the board; if rules are not provided they shall be deemed to have the powers and duties of regular firefighters.
- (3) (a) Except as provided in subsection (4) of this section no member or employee of a consolidated emergency services district shall be reprimanded, dismissed, suspended, or reduced in grade or pay for any reason except inefficiency, misconduct, insubordination, or violation of law or of the rules adopted by the board the district, and only after charges are preferred and a hearing conducted as provided in this section.
- (b) Any person may file charges against a member or employee of the district by filing them with the secretary of the board and by delivering or mailing the charges to the principal offices of the district. The secretary shall immediately communicate the charges to the board by mailing or delivering a copy of the charges to each member of the board within seven (7) days of receipt of the charges at the principal fire house. The chairman shall, after conducting or having conducted any inquiry or investigation which may be necessary, determine if probable cause appears. The chairman shall prefer charges to the board against any member or employee, against whom probable cause exists, of conduct justifying the dismissal or punishment of the member or employee. If probable cause does not exist, the chairman shall dismiss the charges. All charges shall be written and shall set out clearly the charges made. The person filing the charges may withdraw them at any time before the conclusion of the hearing. The charges may then be dismissed.
- (c) Charges preferred by the chairman shall be heard by either the full board or a committee consisting of at least three (3) members of the board appointed by the chairman. At the hearing all charges shall be considered, and the trial shall be confined to matters related to the issues presented. Within forty-five (45)

days after the charges have been preferred by the chairman to the board, that body, or a committee consisting of at least three (3) members of the board appointed by the chairman, shall proceed to hear the charges. At least ten (10) days before the hearing the member or employee accused shall be served personally or by registered mail with a copy of the charges and a statement of the day, place, and hour at which the hearing of the charges will begin. The person accused may, in writing, waive the service of charges and demand trial within thirty (30) days after the charges are preferred to the board.

- (d) The board of the district may summon and compel attendance of witnesses at hearings by subpoena issued by the secretary of that body and served upon the witnesses by any officer authorized to serve court subpoenas. If any witness fails to appear in response to a summons, or refuses to testify concerning any matter on which he may lawfully be interrogated, any District Judge, on application of the board, may compel obedience by proceedings for contempt, as in the case of disobedience of a subpoena issued from the District Court. The member or employee accused may have subpoenaed any witnesses he or she may desire, upon furnishing their names to the secretary of the board. The written records of the charges, the hearing, if held, and any other actions or decisions of the board on the charges shall be kept as an open public record and maintained as required by KRS Chapter 61.
 - (e) When the board or the chief of the district has probable cause to believe a member or employee of a district has been guilty of conduct justifying dismissal or punishment, the board or the chief may suspend the member or employee from duty or from both pay and duty, pending trial, and the member or employee shall not be placed on duty, or allowed pay, until the charges are heard. If the member is suspended, there shall be no continuances granted without the consent of the member or employee accused. If the member suspended is a paid firefighter or an employee, the hearing on the charges shall be conducted within fourteen (14) days after the charges have been preferred by the chairman of the board.
 - (f) The board of the district shall fix the punishment of a member or employee of the district found guilty, by a reprimand, suspension for any length of time not to exceed six (6) months, by reducing the grade if the accused is an officer, or by combining any two (2) or more of those punishments, or by dismissal as a member or employee of the district.
- (4) (a) Any member or employee of the district found guilty by the board of the district of any charge, as provided by KRS 75.130, may appeal to the Circuit Court of the county in which the district is located, but the enforcement of the judgment of the district shall not be suspended pending appeal. The notice of the appeal shall be filed not later than thirty (30) days after the date the board of the district makes its determination on the charge.
- (b) Upon request of the accused, the secretary of the board shall file a certified copy of the charges and the judgment of the board in the Circuit Court. Upon the transcript being filed, the case shall be docketed in the Circuit Court and

tried as an original action.

- (c) If the secretary of the board fails to certify the transcript to the Circuit Court within thirty (30) days after the request is made, the party aggrieved may file an affidavit in the Circuit Court setting out as fully as possible the charges made, the time of the hearing, and the judgment of the board, together with a statement that demand for transcript was made upon the secretary of the board more than thirty (30) days before the filing of the affidavit. Upon the filing of the affidavit in the Circuit Court, the case shall be docketed and the Circuit Court may compel the filing of the transcript by the secretary of the board by entering the proper mandatory order, and by fine and imprisonment for contempt. The appeal shall have precedence over other business, and be determined speedily.
 - (d) An appeal will lie from the judgment of the Circuit Court to the Court of Appeals as in other cases.
- (5)
- (a) No person shall be appointed a member of the district on account of any political service, contribution, sentiment, or affiliation. No member shall be dismissed, suspended, or reduced in grade or pay for any political opinion.
 - (b) Members and employees of the district, while off duty and out of uniform, shall be entitled to:
 - 1. Place political bumper stickers on their privately owned vehicles;
 - 2. Wear political buttons;
 - 3. Contribute money to political parties, political candidates, and political groups of their choice;
 - 4. Work at the polls on election days;
 - 5. Aid in the registration or purgation of voters;
 - 6. Become members of political groups; and
 - 7. Hold office in political groups and carry out the mandates of that group.
- (6)
- (a) The chief in the district shall attend all sessions of the board, except executive sessions, and shall execute all the orders of the board. Whenever "chief" is used in this chapter, it shall include the assistant chief when the chief is not on duty.
 - (b) The regular members of the district, except volunteer members, shall have the same powers of arrest as now given by law to sheriffs of this Commonwealth and they are hereby expressly declared conservators of the public peace whose duties, in addition to their other prescribed duties, are to conserve the peace, enforce all laws and preserve order, and they shall have and are hereby expressly given the same right and the same power to arrest, search, and seize as is now given by law to sheriffs of this Commonwealth, and they shall be at all times subject to the orders of the county judge/executive in which the district lies while enforcing this section. Provided, however, that members of these fire departments shall not have the power to serve subpoenas, summonses, and notices in civil cases and they shall receive no fees for performing any of the duties prescribed in this section as pertains to powers of

law enforcement. The members shall constitute a law enforcement agency in addition to the patrol and investigation functions of the sheriff and his deputies under KRS 75.150 to 75.170.

- (7) (a) Each member of the district shall, before entering upon the discharge of his or her various duties, take an oath before the county judge/executive of the county or a notary public, to faithfully discharge his duties, and the oath shall be subscribed by the person taking it and filed in the minute book kept by the secretary of the board.
- (b) Each member of the district shall give such bond as the board may designate and with a surety as required by the board conditioned upon faithful performance of the member's duties.
- (8) (a) The chief, assistant chief, or highest officer present at the fires answered by his or department shall investigate their causes. He or she may examine witnesses, compel the testimony of witnesses, administer oaths, compel production of evidence, and make arrests as provided in KRS 75.160. He or she may enter any building at all reasonable times for the purpose of examining the building if, in his or her opinion the building is in danger of fire. He shall report his or her findings, when requested, to the board, Kentucky Inspection Bureau, and state fire marshal.
- (b) The chief of the district shall direct and control the operation of the district and the control of the members in the discharge of their duties. He or she, and members of the district, shall have access to and the use of all cisterns, fireplugs, the waters of the waterworks of private persons and cisterns of private persons for the purpose of extinguishing fires and shall have the power to examine these water supplies at all reasonable times to see that they are in condition for use in case of fire. The chief shall have control of all hoses, buildings, engines, and other emergency equipment provided for the district under direction of the board, or those authorized by the board to exercise this direction, and shall perform such other duties prescribed by the board not inconsistent with law. Upon application within ten (10) days to the board, any owner of property where water is used for firefighting or the provision of other emergency services shall be reimbursed in a reasonable amount by the board for water used.
- (9) The secretary of the board shall keep a minute book, appropriately bound and marked, in which the minutes of each meeting of the board shall be kept, together with all resolutions, tax levies, and other important material the board may designate. A copy of all material required to be kept by the secretary shall be kept on file in the office of the clerk of the county containing the district. The public shall have the right to inspect the book and its contents at all times.
- (10) (a) The board may, in its discretion, employ or retain a regularly licensed attorney to advise them on all matters pertaining to their duties and shall have the discretion to delegate this authority to the attorney. This attorney shall attend all meetings of the board, except executive sessions when the board does not desire his or her presence, whenever the board shall request him or her to

attend and shall advise the board on all legal matters on which he or she is requested to give advice.

- (b) In addition to the attorney provided for in this subsection, the county attorney in the county in which the district lies shall advise and represent the board in all matters and on the occasions chosen by the board whenever the board so requests.
 - (c) The board may fix the salary or compensation of the attorney provided for in subsection (1) of this section, in their discretion.
- (11) With respect to audits and financial reports, the board of the district shall follow the procedures of KRS 65.065.

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