

“Best Practices” and some information for Fire District Boards related to Financial Records.
Prepared by the Nebraska Auditor of Public Accounts on March 25, 2022

District Boards should reorganize annually.

Neb. Rev. Stat. § 35-506 (Cum. Supp. 2020) requires Fire Districts to reorganize annually:

(1) After formation of a district by merger or reorganization under section 35-517, at the time and place fixed by the county board for public hearing as provided in section 35-514, the registered voters who are residing within the boundaries of the district shall have the opportunity to decide by majority vote of those present whether the organization of the district shall be completed. Permanent organization shall be effected by the election of a board of directors consisting of five residents of the district. Such directors shall at the first regular meeting after their election select from the board a president, a vice president, and a secretary-treasurer who shall serve as the officers of the board of directors for one year. The board shall reorganize itself annually. The elected member of the board of directors receiving the highest number of votes in the election shall preside over the first regular meeting until the officers of such board have been selected. The three members receiving the highest number of votes shall serve for a term of four years and the other two members for a term of two years; and this provision shall apply to directors elected at the organizational meeting of the district.

(2) The board shall reorganize itself annually. Election of directors of existing districts shall be held by the registered voters present at the regular annual meeting provided for in section 35-507 which is held in the calendar year during which the terms of directors are scheduled to expire. As the terms of these members expire, their successors shall be elected for four years and hold office until their successors have been elected. If the district contains more than one township, each township may be represented on the board of directors unless there are more than five townships within the district, and in such event there shall be only five directors on the board and no township shall have more than one member elected to such board of directors. In case of a vacancy on account of resignation, death, malfeasance, or nonfeasance of a member, the remaining members of the board shall fill the vacancy for the unexpired term. The person appointed to fill the vacancy shall be from the same area as the person whose office is vacated, if possible, otherwise from the district at large.

Make sure Board Members know the maximum payment allowed for meetings attended, and other expenditures.

Neb. Rev. Stat. § 35-506(3) (Cum. Supp. 2020) lays out the payments allowed for Board Members.

The members of the board of directors of a rural or suburban fire protection district may receive up to fifty dollars for each meeting of the board, but not to exceed twelve meetings in any calendar year, and reimbursement for any actual expenses necessarily incurred as a direct result of their responsibilities and duties as members of the board engaged upon the business of the district. When it is necessary for any member of the board of directors to travel on business of the district and to attend meetings of the district, he or she shall be allowed mileage at the rate provided in section 81-1176 for each mile actually and necessarily traveled.

District must have a regular meeting at the time of the budget hearing.

Neb. Rev. Stat. § 35-507 (Cum. Supp. 2020) requires a regular meeting at the time of the budget hearing.

A regular meeting of the registered voters who are residing within the boundaries of a district shall be held at the time of the budget hearing as provided by the Nebraska Budget Act, and special meetings may be called by the board of directors at any time. Notice of a meeting shall be given by the secretary-treasurer by one publication in a legal newspaper of general circulation in each county in which such district is situated. Notice of the place and time of a meeting shall be published at least four calendar days prior to the date set for meeting. For purposes of such notice, the four calendar days shall include the day of publication but not the day of the meeting.

Ensure the District Board understands its authority/responsibilities.

Neb. Rev. Stat. § 35-508 (Reissue 2016) outlines the powers of the District directors. Below are a few significant items as they relate to financial duties/responsibilities:

- (4) To manage and conduct the business affairs of the district;
- (5) To make and execute contracts in the name of and on behalf of the district;
- (6) To buy real estate when needed for the district and to sell real estate of the district when the district has no further use for it;
- (7) To purchase or lease such firefighting and rescue equipment, supplies, and other real or personal property as necessary and proper to carry out the general fire protection and rescue program of the district;
- (8) To incur indebtedness on behalf of the district;
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- (11) To employ and compensate such personnel as necessary to carry out the general fire protection and rescue program of the district;
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- (15) Generally to perform all acts necessary to fully carry out the purposes of sections 35-501 to 35-517.

As a public body, the Board is subject to the provisions of the Open Meetings Act, which is set out at Neb. Rev. Stat. § 84-1407 (Reissue 2014) et seq. In particular, Neb. Rev. Stat. § 84-1413(1) (Supp. 2021) requires public bodies, including Boards, to “keep minutes of all meetings,” showing, among other things, “the substance of all matters discussed.”

Ensure the District Secretary/Treasurer are covered by a security bond to protect the District against thefts.

Neb. Rev. Stat. § 35-509.01 (Reissue 2016) says the following concerning surety bonds.

The secretary-treasurer of each district shall, within ten days after his or her election, execute to the county and file with the county clerk a bond of not less than two thousand dollars in any instance nor less than the amount of money, as nearly as can be ascertained, to come into his or her hands as secretary-treasurer at any one time, with a surety company or companies of recognized responsibility as surety or sureties, to be approved by the president of such district, conditioned for the faithful discharge of the duties of his or her office. The premium on the bond shall be paid by the district. The bond when approved shall be filed in the office of the county clerk of the county in which the rural or suburban fire protection district is situated. If the district is located in two or more counties, such bond shall be filed in the office of the county clerk of the county in which the greatest portion of the valuation of the district is located. If the secretary-treasurer fails to execute such bond, his or her office shall be declared vacant by the board, and the board shall immediately appoint a secretary-treasurer, who shall be subject to the same conditions and possess the same powers as if elected to that office. The secretary-treasurer shall have no power or authority to withdraw or disburse the money of the district prior to his or her filing the bond required in this section.

Recommendations for District Boards related to financial records.

The following are some items the District should be aware of regarding its financial records.

- We recommend the District implement procedures to prevent one person from being in a position both to perpetrate and to conceal financial errors or irregularities. This would include ensuring the following:
 - A Board member, or a separately designated individual, reviews the monthly bank statements, obtained directly from the bank, for any discrepancies with approved claims. This may be done via electronic access to bank statements online.
 - All claims are adequately documented with receipts, invoices, or reason for payment, particularly claims paid to local Volunteer Fire Departments. Governments need to ensure public funds are adequately protected and cannot simply provide funds to an outside entity without ensuring those public funds were spent in accordance with applicable state statutes that govern political subdivisions, including Fire Districts.

The Local Government Miscellaneous Expenditure Act, which is found at Neb. Rev. Stat. § 13-2201 (Reissue 2012) et seq., places strict parameters upon certain expenditures of public funds by local governments, including rural and suburban fire protection districts.

Additionally, Neb. Rev. Stat. § 35-901(6) (Reissue 2016) requires the expenditure of all public funds by a Volunteer Department to be approved by the “taxing authority supporting” it, namely the District, and properly published, as follows:

All expenditures of public funds as defined in the Nebraska Budget Act for support of a volunteer department or its purposes shall be submitted as claims, approved by the taxing authority supporting such department or its purposes, and published as required by law. All such claims shall be properly itemized for proposed expenditure or reimbursement for costs already incurred and paid except as may be otherwise permitted pursuant to section 35-106.

According to Neb. Rev. Stat. § 13-503(7) (Cum. Supp. 2020) of the Nebraska Budget Act, the term “public funds” means “all money, including nontax money, used in the operation and functions of governing bodies.” Any public funds received by the Department attach to the District to which it belongs – and, therefore, may be assumed to be used for the operation and function of that governing political subdivision. Consequently, such funds are subject to both the requirements of the Act and § 35-901(6).

- All claims should be approved by the Board (prior to payment if possible or at the next District Board meeting, and the checks should bear two signatures. Neb. Rev. Stat. § 35-511 (Reissue 2016) requires proper approval of District claims, and for the District warrants/checks be dual signed by the Secretary/Treasurer and Chairperson, as follows:

All donations, contributions, bequests, annuities, or borrowed money received by or on behalf of the district shall be deposited with the secretary-treasurer of the district and shall be drawn out only upon proper check. Such check shall be authorized by the board of directors and shall bear the signature of the secretary-treasurer and the countersignature of the president of such district. The secretary-

treasurer of the district shall, at each annual public meeting of the district, present a financial report concerning the affairs of the district.

- Each actual claim amount paid agrees to the claim amount approved by the Board, and no adjustment is made to such payment without formal Board approval.
- District purchase/credit cards are used only by specifically named and authorized District personnel. Receipts should be maintained (required by §13-610(4)), reviewed, and reconciled to the monthly charge card statements to establish that all expenditures are reasonable, having been made by those authorized individuals for official purposes only, and no personal or other inappropriate expenses are included. The APA does not recommend using debit cards due to them not having as much protection against fraud.
- Signature cards on file at all banks used by the District are current and list only active District officers, including the Secretary/Treasurer and at least one Board member – preferably the Board Chair.
- A periodic review is performed with local banks to confirm that the District’s Federal Taxpayer Identification Number (FTIN) is being used only for financial accounts authorized by the Board to contain District funds.
- The District should monitor closely its budget status on an ongoing basis to avoid incurring expenditures in excess of the amount budgeted, and amend the budget as necessary. Neb. Rev. Stat. § 13-510 (Reissue 2012) prohibits the District from making an expenditure in excess of the amounts indicated in the adopted budget statement unless the budget is amended. Neb. Rev. Stat. § 13-511 (Cum. Supp. 2020) sets out the procedures for amending the adopted budget accordingly.
- The District should ensure sufficient funds are available in the District’s bank accounts to pay claims. The District should never have a negative bank balance when proper balancing procedures are followed.
- The District is exempt from Nebraska sales tax; therefore, the District should ensure procedures are in place to prevent the payment of State sales tax. Neb. Rev. Stat. § 77-2704.15(1)(a) (Reissue 2018) provides the District’s exemption.

Audit Information

In accordance with § 84-304(4)(b) (Supp. 2021), Districts may request audit waivers. When requesting an audit waiver, the District will be required to provide copies of its bank statements for the applicable fiscal year, the June 30 bank reconciliation, a completed audit waiver form, and a copy of the Board meeting minutes recording the formal decision to request a waiver. Details are available on the Nebraska Auditor of Public Accounts’ website: <http://auditors.nebraska.gov/>.

The Nebraska Auditor of Public Accounts may audit any District when it is deemed necessary to do so. Neb. Rev. Stat. § 84-304(6)(a) (Supp. 2021) authorizes the Auditor of Public Accounts to do the following:

To examine or cause to be examined the books, accounts, vouchers, records, and expenditures of a fire protection district. The expense of the examination shall be paid by the political subdivision.