

48-822. Election to consolidate fire districts; resolution; hearing

A. Except as provided in subsection F of this section, the board of supervisors shall make an order calling for an election to decide whether to consolidate two or more fire districts when a resolution for consolidation of fire districts from each district is submitted to the board of supervisors. The board of supervisors shall not make an order calling for an election to consolidate the same fire districts more frequently than once every two years. Whether or not the districts are consolidated, the participating fire districts are each liable to reimburse the counties for the expenses of the election, including the cost of mailing any notices. If the proposed district is located in more than one county, the resolutions shall be submitted to the board of supervisors of the county in which the majority of the assessed valuation of the proposed district is located as of the date of the adoption of the earliest resolution that called for the consolidation. The words appearing on the ballot shall be "(insert fire districts' names) consolidate as a fire district--yes" and "(insert fire districts' names) consolidate as fire district--no."

B. Within fourteen days after the election, the board of supervisors shall meet and canvass the returns, and if it is determined that a majority of the votes cast at the election in each of the affected districts is in favor of consolidating the fire districts, the board shall enter that fact on its minutes.

C. Except as proscribed by subsection D of this section, a fire district may consolidate with one or more other fire districts formed pursuant to section 48-261 as follows:

1. A resolution requesting the consolidation of a fire district is passed by a majority vote of the governing body requesting consolidation into another fire district. The requesting district shall send by first class mail the notice of request to consolidate districts to the fire district in which the consolidation is requested.

2. On receipt of the resolution requesting consolidation, and on approval by majority vote of the governing body receiving the request, two or more fire districts may consolidate if the governing body of each affected fire district by a majority vote of the members of each governing body adopts a resolution declaring that a consolidation be considered and a public hearing be held to determine if a consolidation would be in the best interest of the districts and would promote the public health, comfort, convenience, necessity or welfare. The governing body of each district that adopts a resolution calling for a public hearing by first class mail shall send notice of the day, hour and place of a hearing on the proposed consolidation to each owner of taxable property within the boundaries of the district. The notice shall state the purpose of the hearing and shall describe where information on the proposed consolidation may be obtained and reviewed. The information provided by the affected districts shall include the name and a general description of the boundaries of each district that is proposed to be consolidated and a detailed, accurate map of the area to be included in the consolidation. The notice also shall contain an estimate of the assessed value of the consolidated district, the estimated change in the property tax liability for a typical resident of the proposed consolidated district and a list of the benefits and injuries that may result from the proposed consolidated district. No new territory may be included as a result of the consolidation.

3. The clerk of the governing body of each of the fire districts affected by the proposed consolidation shall post notice in at least three conspicuous public places in the district and also shall publish or request to be published notice twice in a newspaper of general circulation in the county in which the district is located at least ten days before the public

hearing. Publication by one affected district is sufficient for all affected districts if publication by more than one district would be duplicative. The clerk of each governing body affected by the proposed consolidation shall also mail notice and a copy of the resolution in support of considering consolidation to the chairman of the board of supervisors of the county or counties in which the affected districts are located. The chairman of the board of supervisors shall order a review of the proposed consolidation and shall submit written comments to the governing body of each fire district located in the county within ten days after receipt of the notice.

4. At the hearing held as prescribed by paragraph 2 of this subsection, the governing body of the district shall consider the comments of the board of supervisors, hear those persons who appear for or against the proposed consolidation and determine whether the proposed consolidation will promote the public health, comfort, convenience, necessity or welfare. If, after the public hearing, each of the governing bodies of the districts affected by the proposed consolidation adopt a resolution by a majority vote that the consolidation will promote the public health, comfort, convenience, necessity or welfare, each of the governing bodies of the districts affected by the proposed consolidation shall submit the resolutions calling for an election to the board of supervisors.

5. If the proposal for consolidation is approved as provided in subsections A and B of this section, the governing body of the district into which consolidation was requested shall by resolution declare the district consolidated and each affected district joined. Those persons currently serving as the governing body of the district into which consolidation was requested shall serve as the governing body of the newly consolidated district and complete their regular terms of office. The newly consolidated district governing body shall consist of at least five members who shall immediately have the powers and duties prescribed by law for governance and operation of the newly consolidated district.

6. If the consolidation results in a new district population that is greater than fifty thousand persons, the new governing board may appoint an additional two members to serve until the next general election at which time the newly elected member with the highest number of votes serves a four year term and the other member serves a two year term. Thereafter, the term of office for these two new members is four years.

7. The governing body of the newly consolidated district by resolution shall declare the name of the newly consolidated fire district. If the newly consolidated fire district is authorized to operate an ambulance service pursuant to title 36, chapter 21.1, article 2, the name of the ambulance service shall be changed administratively by the director of the department of health services to the name of the newly consolidated district and a hearing on the matter is not required pursuant to section 36-2234.

8. If a proposed newly consolidated district would include property located in an incorporated city or town, in addition to the other requirements of this section, the governing body of the district shall approve the creation of the consolidated district only if the governing body of the city or town endorses the creation by ordinance or resolution.

9. Before considering any resolution of consolidation pursuant to this section, the governing body of each affected district shall obtain written consent to the consolidation from any single taxpayer residing within each of the affected districts who owns thirty percent or more of the net assessed valuation of the total net assessed valuation of the district as of the date of the adoption of the earliest resolution that called for the consolidation as prescribed in subsection A of this section. If one of the affected districts does not have a single taxpayer residing in the district who owns thirty percent or more of the net assessed valuation of the total net

assessed valuation of the district, this paragraph does not apply to that district and written consent is not required for that district.

D. A noncontiguous county island fire district formed pursuant to section 48-851 shall not consolidate with a fire district formed pursuant to section 48-261.

E. The merger of two or more fire districts pursuant to section 48-820 or the consolidation with one or more fire districts pursuant to this section shall not expand the boundaries of an existing certificate of necessity unless authorized pursuant to title 36, chapter 21.1, article 2.

F. If the requirements of subsection C, paragraph 9 of this section are met and the governing body votes required by subsection C, paragraph 4 of this section are unanimous, the following apply:

1. The governing bodies of each or either affected district may choose to consolidate by unanimous resolution without an election and subsections A and B of this section do not apply.

2. The governing bodies of each or either affected district may choose to hold an election on the question of consolidation and subsections A and B of this section apply.

3. If fewer than all of the affected districts choose to hold an election, the proposed consolidation is not effective until approved at the election.

4. Consolidation may not occur unless each affected district approves the consolidation, either by resolution or by election.

G. If the consolidation is approved pursuant to subsection B or F of this section, the adopted fire code of the district into which the consolidation was requested shall apply to the entirety of the newly consolidated district.