

48-851. Noncontiguous county island fire district; formation; alternate formation; definition

A. A noncontiguous county island fire district is formed by the following procedures:

1. One or more persons who wish to petition for a noncontiguous county island fire district shall request and the county assessor shall provide a map and a detailed list of all property parcels that includes the assessed values of all of the county island areas that are contained within the municipal planning area of a city.

2. Within sixty days after receiving a map from the county assessor, the person shall submit a revised map that indicates those county island areas that are proposed to be included in the noncontiguous county island fire district and shall submit a district impact statement that shall contain at least the following:

(a) A general description of the boundaries of the proposed district, a map of the area to be included in the district and a list of the parcels to be included in the district by assessor parcel number.

(b) An estimate of the assessed valuation within the proposed district.

(c) An estimate of the change in the property tax liability, as a result of the proposed district, of a typical resident of the proposed district.

(d) A list and explanation of benefits that will result from the proposed district.

(e) A list and explanation of the injuries that will result from the proposed district.

(f) The names, addresses and occupations of the three proposed members of the district's organizing board of directors.

(g) A description of the scope of services to be provided by the district during its first five years of operation.

3. On receipt of the revised map and the impact statement, the board of supervisors shall set a day for a hearing on the proposed district formation not more than sixty days from the date the map and impact statement are received.

4. The clerk of the board of supervisors shall mail, by first class mail, written notice of the day, hour and place of the hearing on the proposed district to each owner of taxable property within the boundaries of the proposed district. The written notice shall state the purpose of the hearing and shall state where a copy of the impact statement may be viewed or requested. The clerk of the board of supervisors shall post the notice in at least three conspicuous public places in the area of the proposed district and shall publish twice in a daily newspaper of general circulation in the area of the proposed district, at least ten days before the hearing, or, if no daily newspaper of general circulation exists in the area of the proposed district, at least twice at any time before the date of the hearing, a notice stating the purpose of the proposed district formation, the description of the area of the proposed district and the day, hour and place of the hearing.

5. At the hearing called pursuant to paragraph 3 of this subsection, the board of supervisors shall hear those who appear for and against the proposed district and shall determine whether the creation of the district will promote public health, comfort, convenience, necessity or welfare. If the board of supervisors determines that the public health, comfort, convenience, necessity or welfare will be promoted, it shall authorize the persons proposing the district to circulate petitions as provided in this subsection. The order of the board of supervisors is final, but if the request to circulate petitions is denied, a subsequent request for a similar district may be refiled with the board of supervisors after six months from the date of the denial.

6. Within fifteen days after receiving the approval of the board of supervisors as prescribed by paragraph 5 of this subsection, the clerk of the board shall:

(a) Determine the minimum number of signatures required for compliance with paragraph 8, subdivision (b) of this subsection. After making that determination, that number of signatures shall remain fixed.

(b) Certify whether the petition form to be used is valid and in compliance with section 48-266.

7. After receiving the approval of the board of supervisors as provided in paragraph 5 of this subsection, any adult person may circulate and present petitions to the board of supervisors of the county in which the district is located. All petitions circulated shall be returned to the board of supervisors within one year from the date of the approval of the board of supervisors pursuant to paragraph 5 of this subsection. Any petition that is returned more than one year from that date is void.

8. The petitions presented pursuant to paragraph 7 of this subsection shall comply with the provisions regarding verification in section 48-266 and shall:

(a) At all times, contain a general description of the boundaries of the proposed district, the assessor's map of the proposed district and the names, addresses and occupations of the proposed members of the district's organizing board of directors. No alteration of the proposed district shall be made after receiving the approval of the board of supervisors as provided in paragraph 5 of this subsection.

(b) Be signed by more than one-half of the aggregate number of property owners in the county island areas contained in the proposed district.

9. On receipt of the petitions, the board of supervisors shall set a day, not more than thirty days from that date, for a hearing on the petition.

10. Before the hearing called pursuant to paragraph 9 of this subsection, the board of supervisors shall determine the validity of the petition signatures presented. At the hearing called pursuant to paragraph 9 of this subsection, the board of supervisors, if the petitions are valid, shall order the formation of the district. The board of supervisors shall enter its order stating its determination in the minutes of the meeting, not later than ten days from the day of the hearing, and a copy of the order shall be filed in the county recorder's office. The order of the board of supervisors is final, and the proposed district is formed thirty days after the board of supervisors votes to form the district. A decision of the board of supervisors under this subsection is subject to judicial review under title 12, chapter 7, article 6.

B. For the purpose of determining the validity of the petitions presented pursuant to subsection A, paragraph 7 of this section, property held in multiple ownership shall be treated as if it had only one property owner, so that the signature of only one of the owners of property held in multiple ownership is required on the formation petition.

C. If a district is formed pursuant to this section, the cost of publication of the notice of hearing and the mailing of notices to electors and property owners and all other costs incurred by the county as a result of this section shall be a charge against the district.

D. A district organized pursuant to this section shall have an organizing board of directors to administer the affairs of the district until a duly constituted board of directors is elected as provided in this title. The organizing board has all the powers, duties and responsibilities of an elected board. The organizing board shall consist of the three individuals named in the petitions presented pursuant to subsection A of this section. If a vacancy occurs on the organizing board, the remaining board members shall fill the vacancy by appointing an interim member. Members of the organizing board shall serve without compensation but may be reimbursed for actual expenses incurred in performing their duties. The organizing board shall elect from its members a chairperson and a clerk. For any challenge to the formation of the district, the district board is a proper party to the challenge and any petition circulators are not proper parties.

E. Notwithstanding subsections A, B, C and D of this section, an alternate form of a noncontiguous county island fire district may be established if a fire district organized pursuant to section 48-261 that is surrounded by incorporated areas in a county and that contracts for fire protection services from an adjacent municipality

receives approval from the county board of supervisors to re-form as a noncontiguous county island fire district that operates pursuant to this article as follows:

1. The fire district board of directors sets a date for a hearing on the issue of district re-formation pursuant to this article. The hearing shall be held not less than thirty days or more than sixty days after the board of directors mails notice of the date of the hearing.
2. The notice of hearing shall be mailed by first class mail to each owner of taxable property within the district and shall include the date, time and place of the hearing and a brief description of the proposed re-formation of the district.
3. At the hearing, the district board shall hear those who appear for and against the proposed re-formation of the district and shall determine whether the re-formation of the district will promote the public health, comfort, convenience, necessity or welfare. If the district board determines the public health, comfort, convenience, necessity or welfare will be promoted, the district board shall approve the proposed re-formation of the district under this article and shall notify the county board of supervisors.
4. On receipt of notice from the district board and after providing any information that the county board of supervisors deems relevant or necessary, the county board of supervisors shall determine whether the fire district may re-form as a noncontiguous county island fire district. The decision of the county board of supervisors is final.
5. If the county board of supervisors approves the re-formation of the district, that re-formation is effective and the fire district is re-formed as a noncontiguous county island fire district sixty days after the date of approval.
6. The re-formed noncontiguous county island fire district retains all existing board members and their terms of office, its taxing authority and fund balances and its contracts, assets and liabilities. The re-formed noncontiguous county island fire district does not constitute a new or separate legal entity but is deemed a continuation of the previous legal entity.
7. On completion of the re-formation of the fire district, the county board of supervisors may assign the territory of the fire district to a municipal planning area solely for the purpose of contracting for fire protection services.

F. For the purposes of this article, "noncontiguous county island fire district" means a district that is formed pursuant to this section and for which either:

1. All of the following apply:
 - (a) The district consists of only noncontiguous county islands in a geographic boundary area that is contained in a municipal planning area and is within the boundaries of an automatic aid or mutual aid consortium.
 - (b) Fire protection services are not funded pursuant to section 48-807 at the time of the district's formation.
 - (c) There is only one fire district within the geographic area of the municipal planning area for any one city or town.
2. The district is re-formed as a noncontiguous county island fire district as prescribed by subsection E of this section.

