

FIRE COUNSEL NOTES



Happy New Year!

*Time to Check the
Calendar & Checklist Again*

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While this issue of the Fire Call is primarily devoted to the important topic of EMS in the fire service, it also includes the Calendar and Checklist of Annual Responsibilities for Illinois Fire Protection Districts. Each year, the IAFPD includes the Calendar & Checklist in the Winter Issue of the Fire Call to assist member districts in planning their administrative responsibilities for the year. This year is no exception and the 2008 Calendar & Checklist follows this article on pages 40 and 41. There are a few items on the checklist worth noting in particular for 2008.

First, readers will note that there is no reference to the election of trustees in 2008. This is because fire protection district trustee elections are held only in the spring of odd numbered years on a 2 year cycle. However, appointed trustees still need to seek reappointment if their terms expire in 2008. Appointments are to be made in April by the appointing authority for terms beginning the first Monday in May. It is each trustee's individual responsibility—not the Board Secretary or the County Clerk—to see to his or her reappointment. Appointed trustees should ascertain whether their terms are expiring in 2008 and, if so, request reappointment in writing well in advance of the April appointment period.

Second, although the time limit to place matters on the spring election ballot has passed due to the rescheduling of that election to February 5, districts should also take care to note

the deadlines for matters to be placed on the fall election ballot as well. Resolutions by boards of trustees for referendum items such as tax levy or PTELL proposals must be adopted by September 2, 2008 and certified to the district's election authority (County Clerk) by September 4, 2008 to be on the November election ballot. District creation propositions have an earlier deadline for initial filing and along with annexation or disconnection proposals must also meet the September 4 certification deadline, but because they are filed through the Circuit Court require more lead time than matters placed on the ballot by resolution.

Third, readers should pay particular attention to items 21 through 23 of the Calendar & Checklist. These items deal with the financial reporting requirements for fire protection districts and in the author's experience, there is considerable confusion and misunderstanding about the financial reporting rules. Because different rules apply under different state laws and can vary based on the financial size of the district, it is important to determine just what the district's annual legal obligations are for financial reporting. The rules can be summarized as follows:

- All districts, regardless of financial size, are required to prepare, file, and publish the annual Treasurer's Statement of Receipts and Disbursements. This is required by the "Public Funds Statement Publication Act" (30 ILCS 15/0.01 et seq.) It is to be prepared

and filed within six months of the close of the district's fiscal year. It must report the actual receipts by category and the actual disbursements by category, in addition, and it must contain a breakdown of payments to vendors which total in excess of \$2,500 for the year and for compensation, regardless of amount, paid by the district to firefighters, employees, and trustees. It must be published in the newspaper one time. The report must be filed with the County Clerk and the County Treasurer of each county in which the district is located. A change in the law effective this year now requires that the certificate of publication for the report be filed only with the County Clerk (previously it was filed with the County Treasurer). The failure to file and publish the report can result in the district's receipt of real estate tax revenues being held by the County Treasurer until the report is filed and published. It is also a Class A misdemeanor to fail to comply and, in addition, a fine of up to \$500 can be imposed for noncompliance.

- Likewise, all districts must comply with the "Governmental Account Audit Act", a different state law imposing financial reporting requirements. This law, located at 50 ILCS 310/0.01, requires the filing of a report, called the "Annual Financial Statement" ("AFS" for short) with the office of the Illinois Comptroller. This report is also due within six months of the close of the fiscal year of

the district and is submitted on forms specified by the Comptroller's office. The type of form varies depending on the accounting method used by the district and the amount of funds reported. The failure to file this report will result in the Comptroller's office requiring an audit to be performed of the district's financial records by a certified public accountant selected by the Comptroller's office *at the district's expense*.

- Districts which receive revenues in excess of \$850,000 for the year are also required by the Governmental Account Audit Act to have an audit performed by a certified public accountant. The audit must be completed and filed within six months of the close of the fiscal year of the district. Under changes made within the last few years in the accounting standards applicable to governmental units, an audit is required to comply with "GASB 34" which sets the auditing requirements for governmental audits. The audit requirement

applies on a yearly basis which means that a district may be required to have an audit performed in one year, but not in a subsequent year. It is also important to note that the audit requirement is based on *revenue received*—not simply real estate tax funds collected. Arguably, this includes grant funds which may push a district into the audit category in a particular year.

- Last, all districts must also file a copy of their Annual Financial Statement with the County Clerk of each county in which the district is located in order to satisfy the requirements of the "Fiscal Responsibility Report Card Act" which is found at 35 ILCS 200/30-1). The AFS must be filed with the County Clerk within six months of the end of the district's fiscal year.

As the above explanation indicates, the financial reporting requirements for districts are both extensive and varied. It is important for boards of trustees and district treasurers to be clear about these requirements and plan for

compliance with them within the time allowed by the applicable statutes. The failure to comply can have substantial negative effects on the district and the persons responsible for compliance. Where districts rely on outside services, such as accountants, to prepare financial reports, they should be certain that the service provider has a full understanding of all of the reporting requirements applicable to the district to avoid incomplete reporting and additional costs which can otherwise occur when work must be re-accomplished in order to comply.

As the disclaimer at the bottom of the Calendar & Checklist indicates, it is only a guide and not a substitute for consultation with the district's attorney regarding the legal requirements which apply to each district. Nevertheless, the Calendar & Checklist can be a useful tool to assist districts and their legal counsel in seeing that the district fulfills its primary legal requirements annually. ■