

Aug 29, 2006

Questions about new laws for districts abound

by Bradley M. Pinsky, Attorney-Firefighter-EMT

As commissioners and their attorneys begin to delve into the numerous new laws affecting fire districts and fire departments, questions are being raised. This article will act as a forum to attempt to answer or at least pose some of those questions.

This article will be updated continuously as questions come in to our office. Please check back often for updates.

Date for Audits to Begin

Regarding the new law requiring fire districts to obtain annual, independent audits, a question arose as to the date of the first audit. The law states that the requirement to conduct an audit does not apply until 2007 for districts with revenues of one million or more, until 2008 for districts with revenues of \$500,000 or more, and 2009 for districts with revenues under \$500,000.

The question is whether that provision requires a fire district to obtain its first audit OF THE YEAR of the effective date or OF THE PRIOR YEAR. For example, does a district with revenues of one million dollars or more have to obtain an audit of the year 2006 in the year 2007 or does it have to obtain an audit of the year 2007 in 2008?

The law is unclear on this question, so we contacted the drafter and sponsor of the legislation. To date, we have not received an answer to this question.

Our guess is that the law intended the audits to begin in the year 2008 for the year 2007 and so on. The basis for this conclusion is that fire districts might not have ample time to amend their budgets to include the fees for the services of a CPA in the year 2007. Thus, the budgets of the fire districts for the year 2008 should include the costs of an auditor. Aug 29, 2006

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Amount of Revenue to be Included in Determination of Audit Date

A question has been posed as follows. When determining whether the fire district has over \$200,000, \$500,000 or 1 million of revenue, what revenue is included? Is bond revenue included? Are the pass through foreign insurance funds included?

We believe that these items are not included as they are not truly revenue to the fire district. Property tax revenue is the main source of revenue for the fire district and is the main ingredient in performing that calculation.

Training of Commissioners

A question has been posed as to who must be trained as part of the new rules. Does the training requirement apply to returning commissioners serving an additional five year term? Does it apply to every commissioner every year?

The text of the new law requires that "Each fire commissioner shall attend and successfully complete a commissioner-specific state approved training course within 270 days of the taking of such office".

It is unknown whether all present commissioners will be required to take the course in the year 2007. Presumably, any commissioner filling a vacancy and any commissioner being sworn in to office for a new five year term will be required to complete this course. Thus, it appears that persons will only be required to take the course in the first year of their new five year term or in the first year of filling a vacancy.

Of course, we will have to wait and see what the Comptroller creates for rules.

The law firm of Scicchitano & Pinsky is planning to hold training courses throughout the state beginning in January 2007.

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