

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL OPINION By TERRY GODDARD ATTORNEY GENERAL August 4, 2003	No. I03-004 (R03-008) Re: Fire District Services
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TO: The Honorable Linda Aguirre
Arizona State Senate

Question Presented

You have asked whether Arizona fire districts may enter into contracts to provide fire protection services for a fee to customers outside their territorial boundaries.

Summary Answer

Fire districts may enter into contracts to provide fire protection services for a fee to customers outside their territorial boundaries, under the circumstances authorized by Arizona Revised Statutes (“A.R.S.”) §§ 48-805(B)(8) and -814.

Analysis

A fire district is a quasi-municipal corporation. *Cal. Portland Cement Co. v. Picture Rocks Fire Dist.*, 143 Ariz. 170, 174, 692 P.2d 1019, 1023 (App. 1984). As such, it may exercise only those powers that the Legislature has conferred upon it. *City of Glendale v. White*, 67 Ariz. 231, 234, 194 P.2d 435, 437 (1948) (stating that municipal corporations "possess and can exercise only such powers as are granted in express words, or those necessarily or fairly implied in or incident to the powers expressly conferred, or those essential to the accomplishment of the declared objects and purposes of the corporation").

The cardinal rule of statutory construction is to give effect to the intent of the legislature. *See, e.g., Arizona Sec. Ctr., Inc. v. State*, 142 Ariz. 242, 244, 689 P.2d 185, 187 (App. 1984). Generally, the language of the statute is the best indicator of its meaning and where the language is clear, it is determinative of its construction. *Id.* Also relevant are the context, subject matter, effects and consequences, reason and spirit of the law. Statutory provisions should be construed in the context of related provisions and in light of their place in the statutory scheme. *City of Phoenix v. Superior Court*, 144 Ariz. 172, 175-76, 696 P.2d 724, 727-28 (App. 1985).

In the statutory scheme governing fire districts,¹ the Legislature has set forth the circumstances under which a fire district is authorized to enter into contracts to provide fire protection services for a fee to customers outside its territorial boundaries.

First, A.R.S. § 48-805(B)(8) provides that a fire district may "[c]ontract with a city or town for fire protection services for all or part of the city or town area until the city or town

¹ Arizona Revised Statutes §§ 48-802 through -834.

elects to provide regular fire department services to the area.”² *See also* Ariz. Att’y Gen. Op. I89-055 (the Legislature has limited a fire district’s extra-territorial fire protection activities to providing contract services to a city, town or district and to landowners outside the district under certain circumstances). Thus, the Legislature has authorized fire districts to enter into contracts with a city or town to provide fire protection services until the city or town decides to provide regular fire department services to the specified areas.

Second, A.R.S. § 48-814 authorizes a fire district to provide service to landowners outside its territorial boundaries under certain circumstances. Specifically, it provides that

An owner of land in an unincorporated area which is located outside the territory of a fire district shall reimburse a fire district which provides service *to extinguish a fire* on the owner’s property for a reasonable charge by the district for the cost of such service if the fire presented a fire hazard to any adjacent property of value within the limits of the territory of the fire district or if such service is provided on request of either the property owner or a law enforcement authority.

(Emphasis added.)

Thus, a fire district is authorized to provide service to extinguish a fire on land outside its boundaries if the fire threatens any adjacent property of value within the limits of the territory *or* when the landowner or a law enforcement authority has requested this service. In addition,

² *See also* A.R.S. § 48-813(C), which provides as follows:

If a city or town provides regular fire protection to its residents and is unable to provide equal fire protection to annexed or included territory, the city or town may contract with a fire district in proximity to the annexed or included territory for the purpose of supplying fire protection until the city or town is able to provide equal fire protection to the annexed or included territory.

A.R.S. § 48-814 authorizes a fire district to obtain a “reasonable charge” for providing the service described above.

Arizona Revised Statutes § 48-814 must be read in conjunction with A.R.S. § 48-805(B)(12), which authorizes a fire district to “[e]nter into contracts and execute any agreements or instruments and do any other act necessary or appropriate to carry out its purposes.” *See Steer v. Eggleston*, 202 Ariz. 523, 527, 47 P.3d 1161, 1165 (App. 2002) (when reconciling statutes in pari materia, court of appeals construes them in a way that creates harmony and gives effect to all statutes involved). Pursuant to this rule of statutory construction, a fire district may enter into a contract with a landowner to provide service as set forth in A.R.S. § 48-814.

Finally, with respect to fees, both A.R.S. §§ 48-805(B)(8) and -814 must be read in conjunction with § 48-805(B)(14), which allows a fire district to establish a fee schedule for various services. Specifically, § 48-805(B)(14) provides that a fire district may adopt resolutions establishing fee schedules for providing fire protection services and services for the preservation of life including emergency fire and emergency medical services, plan reviews, standby charges, fire cause determination, users’ fees, facilities benefit assessments or any other fee schedule that may be required.

Prior to 2000, this provision expressly authorized a fee schedule that applied only to nonresidents and nontaxpayers of the district. In 2000, the Legislature amended the statute to eliminate the language that limited the fees to nonresidents and nontaxpayers.³ The legislative history of the statute supports the conclusion that in eliminating the specific reference to

³ *See* 2000 Ariz. Sess. Laws ch. 232, § 1.

“nonresidents and nontaxpayers of the district” the legislature did not intend to eliminate a fire district’s ability to obtain fees from those persons; rather, it was to broaden a fire district’s authority to establish fee schedules.⁴ Consequently, fire districts may now generally establish fee schedules for “fire protection services and services for the preservation of life.”

Reading all of the provisions⁵ together supports the conclusion that a fire district may enter into contracts to provide fire protection services for a fee to cities and towns and to provide service to landowners in unincorporated areas located outside its boundaries to extinguish a fire.

Conclusion

Pursuant to its statutory powers set forth in A.R.S. §§ 48-805 and -814, a fire district may enter into contracts to provide services for a fee to customers outside its territorial boundaries. Specifically, it may contract with a landowner in an unincorporated area located outside its territory to extinguish a fire and with a city or town to provide fire protection services for a fee.

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⁴ The House Bill Summary for SB 1310 states that the amendment “expands and clarifies the powers and duties of fire districts.” With respect to the fee issue, the Summary states that SB 1310 “[a]llows a fire district to establish fee schedules for fire protection services and services for the preservation of life,” noting that “[c]urrent law *limits* a district to establishing fees for services provided to non-residents and non-taxpayers.” (Emphasis added.)

⁵ A.R.S. §§ 48-805(B)(8), (12), (14) and -814.