

***REIGNITING*** IOWA CODE 357B  
BENEFITED FIRE DISTRICTS

Drake University  
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**Reigniting Iowa Code 357B: Benefited Fire Districts**

Christopher Clement, Michael Gentosi, John Kraemer, Ping Lu, David Schelling

Drake University

Certified Public Manager Program

Cohort 29

Professor Lance Noe

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### **Abstract**

Since July 1, 1975, Iowa Code Chapter 357B has prohibited the formation of new fire protection districts in the state. While both rural and urban Iowa undergo dramatic economic and demographic changes not seen in more than a century, legacy legislation leaves them suffering from inadequate fire protection coverage, tax rate inequalities, irrational response boundaries and a lack of oversight.

Consolidation has historically been an efficacious tool for providing greater efficiency in governmental operations. To gauge the potential effects of 357B amendment, this effort sought to delve into the governmental and socioeconomic changes that have occurred in recent decades, and their effects on emergency services provisions. To this end, a representative sample of fire departments from across the state was analyzed, as were potential stakeholders. Similar practices from other states were also examined, as were special district allowances already written into current Iowa code.

Research contained herein led to a determination that, while consolidation in general is a useful tool in optimizing emergency services delivery, the addition of permissive new fire protection district formation to Iowa code would most quickly and decisively permit delivery of efficient, focused and competent fire and emergency medical services protection to a rapidly changing Iowa landscape.

*Keywords:* fire protection districts, Iowa Code 357

### **Relevant History**

“I begin to think that it is safer for me to dwell in wild Indian country than in this stockade, where fools accidentally discharge their muskets and others burn down their homes at night.” Such were the lamentations of Captain James Smith in 1608. Seventy years—nearly to the day—and a devastating Boston fire were required for the General Court to finally contract paid fire protection. In 1736, future Declaration of Independence co-author Benjamin Franklin founded the Union Fire Company in Philadelphia, the foundational cornerstone upon which American volunteer firefighting would be built.

From its earliest colonial years, fire protection and prevention have been essential governmental services in what is now known as the United States of America. As the Civil War closed in 1865, civilian ambulance transport was entrained into the equation by Cincinnati, followed by New York in 1869 (Hashagen, 2003). Today, fire departments—many providing emergency medical services (EMS)—are ubiquitous from township to federal levels. Proliferating, too, are the technologies available. Franklin’s “bucket brigades” have been replaced by six- and seven-figure fire apparatus operated, in many cases, by career firefighters. New York’s ambulance drivers—equipped with quarts of brandy—have been superseded by paramedics administering cardiac drugs and respiratory paralytics and performing procedures from intubation to chest tube placement, actions previously unthinkable outside a metropolitan trauma center’s emergency room. Indeed, most contemporary “fire departments” list EMS calls for service as their most voluminous, in many cases comprising seventy or more percent of those departments’ annual responses. Finally, many are also called upon to provide “specialty” services such as extrication, water and technical rescue and hazardous materials-involved emergency mitigation.

Contemporary, efficient and proficient fire and EMS protection require a suitable governmental framework in which to exist, however. Such expensive infrastructure requires a significant funding source, and the legalities and training involved in providing pre-hospital medical care, modern fire suppression and the other aforementioned services are complex, onerous and frequently cost-prohibitive.

To ensure citizen safety, Iowa Code section 364.16 requires cities to provide fire protection, and, to that end, they may equip and staff fire departments, enforce “nationally recognized” fire codes and “provide conditions upon which the fire department will answer calls outside the corporate limits or territorial jurisdiction”, to include out-of-state responses. In order to fulfill this mandate, most cities adopt ordinances establishing fire departments. These are then funded by a variety of sources, most notably property taxes, but also potentially including payments from surrounding communities and townships contracting for services, service fees from entities such as insurance companies and Medicaid, grants and donations. Worthy of notice is the fact that all fire department-generated revenue must be channeled into a city’s general fund, a potential point of contention which will be revisited (Legislative Services Agency [LSA], 2017).

The governmental responsibility for meeting fire protection challenges, however, has been most geographically prominent at the township level. Originally established in 1834—twelve years before statehood—the first U.S. townships west of the Mississippi River were created in square grids six miles per side. Tracing their origins to New York and Pennsylvania, and initially patterned after Michigan and then Wisconsin territory (of which pre-statehood Iowa was originally a part) laws, they were arguably most influenced by Ohio’s statutes. Iowa’s first Territorial Governor, Robert Lucas, was a nineteen-year veteran of that state’s legislative body,

including service as presiding officer of both its Senate and House of Representatives. Township laws in pre-statehood Iowa territory can be plainly seen to replicate Ohio's nearly verbatim; indeed, the Governor's personal copy of Ohio's 1804-1805 statutes was eventually procured by the State Historical Society of Iowa "with the leaves dog-eared at the township law" (Aurner, 1912).

Governed by Boards of Trustees, townships originally shared the same boundaries as counties and proliferated quickly after January 1840 when legislation, at the behest of Governor Lucas, was enacted requiring their organization and defining their duties in the increasingly populous Iowa Territory. Among those responsibilities were school establishment, taxation to finance construction of public halls and railroads, handling drainage and fencing disputes and bridge and public road building. Interestingly—and worthy of remembrance—township governments were also required to serve as "public health districts" as a means to collect taxes for the enforcement of public health laws (LSA, 2017).

Today, Iowa's approximately 1600 townships are subdivisions of the counties in which they reside and are formed, divided and renamed by county boards of supervisors. Townships with less than \$250,000,000 valuation are then administered by three "trustees"; those with greater valuation are administered by five. Unchanged in nearly two centuries is the varied nature of trustee responsibilities. Perhaps a relic of a bygone era, township trustees are nevertheless required to settle "fence disputes", rendering determinations consistent with Iowa Code when complainants allege wrongful fence construction. They also levy taxes for and oversee the execution of acquisition, improvement and maintenance of cemeteries, township halls and parks.

Arguably the most important task required of township trustees in the present day, however, is the provision of fire protection (EMS is optional). Since 1975, a year worthy of remembrance, Iowa Code section 359.42 has provided trustees with not only this mandate but also the latitude to purchase, rent and maintain fire/EMS apparatus and equipment, as well as provide housing for said equipment. Moreover, trustees are permitted to contract with public and private entities for the provision of these services, an agreement delineated under Iowa Code chapter 28E.

Funding for fire protection in townships is based on an annual tax levy, currently limited to \$0.405 per \$1000 assessed township valuation, \$0.54 per \$1000 valuation if the township contracts with a city for fire protection or \$0.605 per \$1000 valuation in counties of 300,000 or more. Should this prove insufficient, a supplemental tax levy of up to \$0.2025 per \$1000 assessed valuation may also be issued. In anticipation of tax revenues, trustees are allowed to direct county supervisors to issue bonds, with the stipulation they be payable only from the aforementioned emergency services levies.

While funding township expenses appears superficially pedestrian, certain nuances have the potential to undermine fire protection rendered under township governance. First is a potential disparity in tax rates. Under Iowa Code section 359.43(3), trustees are permitted to divide townships into separate tax districts. Property owners in these various districts may be taxed at disparate rates, ostensibly to facilitate tax collection. Additionally and potentially compounding this disparity, a major drawback of Iowa's current township system is a generalized lack of financial oversight. With townships being overseen by at most five trustees—and frequently only three—the variety of tasks required of those individuals and the increased likelihood of one such individual swaying spending decisions can threaten adequate

funding of vital services such as fire/EMS protection. Anecdotal and Department of Management budgetary evidence points to trustees spending more township funds on their cemeteries than on their local volunteer fire departments (Iowa Department of Management [Iowa Dept. of Mgmt.], 2019). Exacerbating this is the fact that while trustees are required to submit township budgets to the state, many are under no requirement to submit to an annual or even semi-annual audit of financial records unless petitioned by the citizens. Finally, while supplemental tax levies are permissible under Iowa code, they require voter approval and are thus infrequently utilized (Callahan, 2017).

Although townships and city governments have historically provided the financial resources and infrastructure needed to provide Iowa's fire and EMS protection, most of the actual service has come from volunteer firefighting ranks. While approximately 70% of firefighters nationally are volunteers, in Iowa this number is 90%. Approximately 14,500 members staff Iowa's 784 all-volunteer departments and partially staff its thirty "combination" career/volunteer departments. This contrasts with only 1,600 career firefighters staffing twenty-three career and the aforementioned combination departments. Historically a familial endeavor, volunteers have numerically formed the foundation and framework of Iowa's fire protection. Not historical is the plethora of response types to which the volunteers of today may respond. In addition to the obvious—structure and brush fires—volunteers now most commonly respond to calls for emergency medical services. They also provide rescue and extrication services, hazardous materials-related responses and often serve— as storm spotters during inclement weather.

As the responsibilities and demands of firefighting have changed over the decades, so, too, has the face of America's volunteer firefighting force. A 2017 report by the National Fire

Protection Association (NFPA) included particularly ominous findings on a national level. First was a “graying” of the nation’s volunteer firefighters. Departments protecting fewer than 2,500 people (many, if not most, Iowa fire departments) displayed the highest proportion of members 50 years of age or older. Moreover, while the 30-39 and 40-49 age groups saw slight decreases in their ranks, the 50-59 and 60+ age groups saw modest increases. More than 40% of volunteer firefighters nationally had more than ten years of service, inferring an older population. Most disconcerting, however, was the NFPA’s finding that “...the number of volunteer firefighters decreased to the lowest level since the NFPA began reporting this statistic in 1986...” In less than five years, the report found, the nation lost more than 100,000 of its approximately 800,000 volunteers (Evarts & Stein, 2019). While no sound data exists for Iowa’s volunteer force, anecdotal evidence corroborates the NFPA’s national findings.

Contributory to Iowa’s volunteer woes are a number of concerning factors, nearly all relating to Iowa’s landscape changes—both literal and figurative. As a 2015 Iowa State University report dryly noted, “Rural Iowa in many ways continues to represent the legacy of the 1980’s” (Iowa State University Extension and Outreach, 2015, p. 1). The authors elaborated, citing the increasingly regional nature of Iowan’s lives, including their employment, health care, financial services and retail needs. In particular, their synopsis of Iowa’s rural job market, traditionally highly invested in manufacturing, was worrisome. They remarked that though “...some rural counties saw significant gains in manufacturing employment, during this period [2003-2013], almost twice as many of Iowa’s rural counties lost manufacturing jobs to those that gained them” (Iowa State University Extension and Outreach, 2015, p. 2). Moreover, another report by the same entity—this just published in 2018—warned that “Micropolitans have seen sharp drops both in jobs and labor over the last year, while rural Iowa experienced flat job

growth and falling earnings” (Peters, 2018, p. 16). As if insufficiently alarming, the authors continued unabated, warning that while southern and micropolitan Iowa have a dire paucity of both jobs and labor participation, these “trends pale in comparison when one considers the farm economy is in freefall”, adding that “Iowa farmers have endured their first back-to-back losses since 2013” and that “net farm incomes fell by a stunning 97 percent in micropolitan Iowa, 93 percent in metro areas and by 80 percent in rural Iowa” (Peters, 2018, p. 16).

Paradoxically, they countered, “...jobs and earnings in metro Iowa continue to boom, buoyed by growth and jobs in the state’s principal cities. These trends indicate a growing economic divide between metropolitan and rural Iowa, one that needs to be addressed through state policy and private investment” (Peters, 2018, p. 16). Combined, these factors have conspired to lure former and would-be volunteer firefighters away from rural and micropolitan Iowa and into the state’s metros.

### **Past Iowa Legislation and its Effects**

As previously mentioned, Iowa Code chapter 359.42 has, since 1975, required townships to provide fire protection to their citizens. Prior to this, only cities were so mandated. Likely borne out of an intentional desire to provide all Iowans with emergency services coverage, the code’s requirement nevertheless myopically precipitated a cascade of likely unintentional—but negative—consequences (Oster, 2015).

First, as with township finance oversight, the code neither provides for nor mandates any audit of coverage. Currently, no comprehensive oversight exists insuring that the intent of 359.42 is being met. Lending credence to this fear is the already-mentioned fact that Department

of Management township budgetary data appear to show trustees allocating, in some cases, monies for cemetery maintenance whilst entirely neglecting fire protection.

Another troubling concern regarding this legislation centers around funding. As Oster saliently points out, more than “3,000 separate entities govern and tax for emergency services”. Included are 870 cities, approximately 1,700 townships and several hundred EMS departments, legacy benefited fire districts and fire boards, 28E agencies and non-profit corporations. Exacerbating this dysfunction is the fact that maximum tax levies for the legislation were based on 1975 rural demographics, which, as already discussed, are woefully unrepresentative of present-day Iowa. (Oster, 2015, p. 3)

Perhaps the most concerning oversight associated with Chapter 359, however, was the failure to consider its potential ramifications in light of Chapter 357B. That chapter, “Fire Districts”, permitted existing benefited fire districts to persist, but also stipulated that a “benefited fire district shall not be established nor shall the territorial boundaries of an established benefited fire district be enlarged after June 30, 1975...” When 359.42 was implemented, most townships, acknowledging creation of their own fire departments to be financial impossibilities, contracted for those services with cities that already did. Significantly, and to that end, three basic types of departments existed in the state at that time: career departments in metropolitan areas who displayed little desire to provide protection outside their jurisdictions; reactively-managed volunteer departments whose lack of foresight left them protecting—and deriving tax levies from—small and/or poorly-valued areas; and proactively-managed volunteer departments who insightfully encumbered themselves with as much township area as possible, realizing that increased geographical jurisdictions would concomitantly entrain

increased tax revenues. Oster’s summation of the predictable ensuing events is worthy of replication:

*“This “land grab and gold rush” led to an extremely gerrymandered and irrational response system:*

- *Emergency response is not provided by the best or closest responder.*
- *The system is a zero-sum proposition so that any attempt to modify boundaries results in a monetary winner and a loser.*
- *Large city fire departments often provide, through mutual aid, protection at no cost to housing and industrial developments immediately outside their jurisdictions.*
- *Some departments respond through another jurisdiction to provide protection to an isolated area of their district.*
- *Road construction, highway realignment and other changes divide existing response areas which are very difficult to modify since redistricting produces a reduction in revenue for departments.”* (Oster, 2015, p. 2)

Faced with the multitude of challenges already mentioned—township fire protection requirements, “gerrymandered” response districts, taxation inequalities and insufficiencies, new benefited fire district prohibition, shrinking volunteer pools and drastically changing rural and urban landscapes—Iowa’s fire departments, both volunteer and career, have sought respite in another section of Iowa Code: Chapter 28E. A generalist piece of legislation not solely intended for emergency services, the chapter provides permissive resource sharing between governmental entities. Specifically, it states that, “Any public agency of this state may enter into an agreement with one or more public or private agencies for joint or cooperative action pursuant to the

provisions of this chapter, including the creation of a separate entity to carry out the purpose of the agreement” (Iowa Code Chapter 28E--Joint Exercise of Governmental Powers).

To date, Iowa Secretary of State records show that 28E’s permissions have been exercised more than 2100 times by cities and townships seeking to provide fire protection to their citizens. Three scenarios are most typical in these applications (Oster, 2015, p.

1). Resource sharing is perhaps the simplest and most commonly utilized. Fire service entities would refer to such contracts as “mutual aid” agreements where one entity, be it a city or township fire department, agrees to assist another such entity at predetermined times, such as daytime hours when many volunteers are working and thus unavailable, or on responses of a predetermined nature, most commonly fires. Another implementation of 28E involves the service provisions earlier mentioned. This is often seen in contracts between townships and cities, with the larger providers agreeing to render services to smaller providers on a fee basis.

Perhaps the most comprehensive implementation of 28E, however, is the merger of two governmental entities in the formation of a new “agency”. This agency in fact becomes its own governmental body, whose purpose is to provide a particular service, in this case fire and/or EMS protection. Of importance is the fact that, as its own governmental body, none of the participating entities becomes the agency’s “parent” or governing body. In fact, the agency itself becomes the governing body, and the fire department becomes its property, including its assets. While consolidation is hardly revolutionary, the long history of such practice bears testimony to its advantages. Typically administered in a fashion reminiscent of township government, this “strength in numbers” approach makes fire protection available to thousands of Iowans for whom it would likely not otherwise be, governmental mandate or no.

Lamentably, 28E, even in its most potent form, is too often hamstrung with limitations, thus relegating it to stop-gap status. Frustratingly, many are the same limitations already discussed—and endemic to—township legislation in Iowa Code Chapter 359. Of particular concern, once again, is 28E's lack of provision for taxing, bonding and equitable financing. While the newly-created agency is technically its own governmental body, it is given no authority to collect revenue pursuant to and sufficient for its purpose. In the Burlington area, an automatic aid agreement between Burlington and West Burlington has been strained due to the limited rural and micropolitan growth discussed earlier. Exacerbating Burlington's woes is an agreement with the Quad Townships, who, despite taxing at the maximum legal levy of \$0.6025 per \$1000 valuation, are only able to provide \$130,000 annually for the protection of 5000 people scattered over nearly 100 square miles (Trexel, 2018, p. 12). Moreover, due to the number of taxing bodies and tax rates—even within a single 28E's jurisdiction—disparities in property owner payments for the same service can vary markedly.



The Johnston-Grimes Metropolitan Fire Department, for instance, protects citizens taxed at no less than four different rates, despite providing all with the same level of service from the same 28E agency.

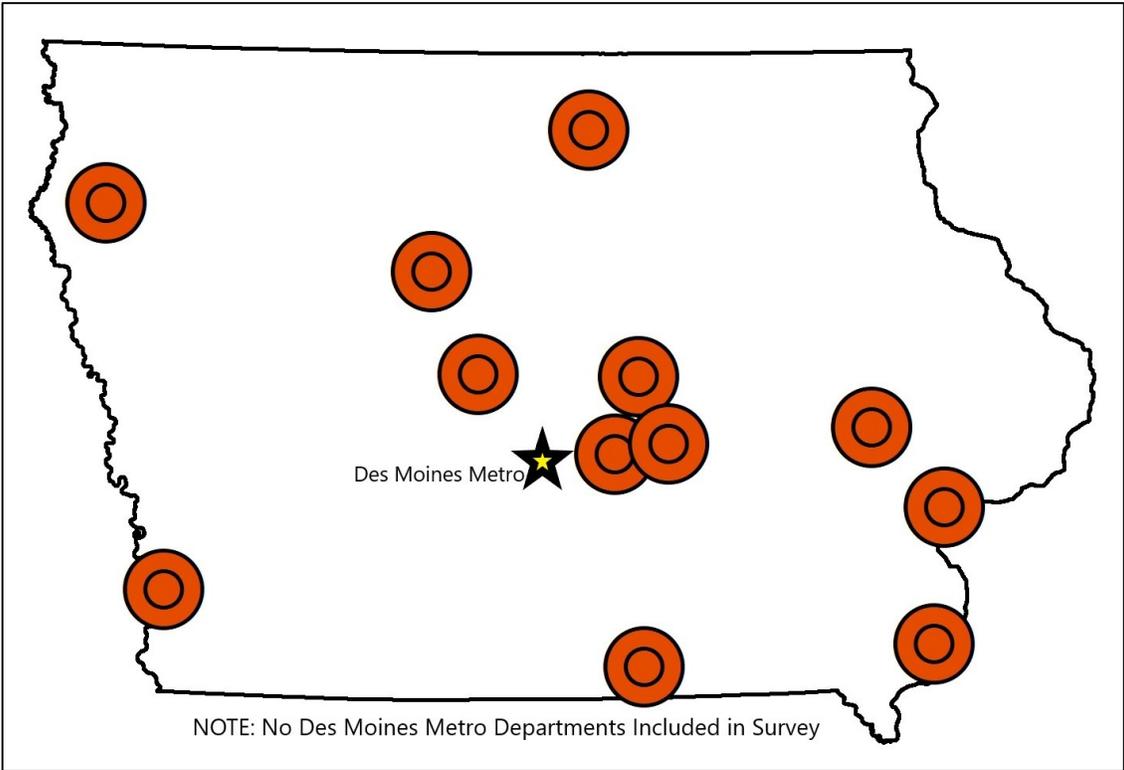
As with township legislation, and perhaps more troubling even than financing woes, 28E possesses an absence of service oversight provisions. One need look no further than the same Burlington example to see failures to meet NFPA standards for maximum permissible response times and staffing fire scenes with, at minimum, 15 firefighters within nine minutes, twenty seconds (Trexel, 2018, p. 11). Indeed, the author notes, by November 2017 the situation was of such severity that the West Burlington Fire Department, on 18 of 45 alarms, had a response time of greater than five minutes—or no response whatsoever.

Perhaps most historically regrettable, however, was the previously-mentioned limitation of benefited fire protection districts in the state which took effect on July 1, 1975, as a result of Iowa Code Chapter 357B. Commonplace virtually nation-wide, fire protection districts are a form of governmental consolidation which earn their popularity by typically delivering greater efficiency in service delivery, thus fomenting taxpayer savings and reduced response times amongst other advantages. Largely “grass-roots” in their origin and execution, fire protection districts are established by votes of local residents and may exist independent of county, city or township boundaries. Like townships, elected boards provide supervision of the districts, with the inherent ability to tax and bond. In contrast to townships, however, the only purpose of fire protection districts is to provide emergency services protection.

While some legacy districts exist throughout the state, 1975’s legislation dealt a supra-forty-year blow to what has nationally been a useful tool in adding quality and cost-effectiveness to emergency services.

**Research**

While seemingly ubiquitous anecdotally evidentiary reports exist mirroring Burlington’s difficulties, twelve fire departments deemed representative of those outside the Des Moines metro were selected in search of more empirical and credible data.



They were first asked to complete demographic surveys; the entities were then provided questionnaires specific to fire districting. Anonymity was guaranteed to each respondent in the knowledge that many operate in politically-charged environments. All twelve provided demographic responses; six provided questionnaire feedback. Additionally, seven potential stakeholders were identified and provided with questionnaires, again with anonymity guarantees. These included the Iowa State Fire Marshal’s Office, Iowa League of Cities, Iowa Firefighters Association, Iowa Association of Professional Firefighters, Iowa Association of

Professional Fire Chiefs, Iowa Fire Chiefs Association and the Iowa Farm Bureau. Responses were garnered from only three, however.

Demographics of the surveyed fire departments were varied. Volunteer, combination and career departments were all represented with staffing ranging from three volunteers to forty-six full-time personnel. Similarly, annual call volumes spanned from 183 to more than 4,500. Monetarily, property valuations in municipal response areas ranged from \$130.9 million to more than \$1.2 billion, while those in rural or unincorporated jurisdictions were between \$53.4 million and \$777.8 million. Verifying the points made earlier, a large span of tax rates was represented, lending credence to the widespread assertion that, in many cases, municipal fire departments are subsidizing emergency responses to rural and unincorporated areas.

In search of insightful open-ended feedback, the fire chief questionnaire sought answers to the following:

1. What services do you provide?
2. What challenges do you face in providing services?
3. What challenges would you face enforcing fire code in unincorporated areas?
4. What collaborative efforts do you currently have in place?
5. Do you feel a code change to Chapter 357B or 357J would be a benefit or disadvantage to your organization or areas immediately surrounding your organization? Explain.
6. What questions would you want answered before you supported an amendment to either code?
7. What stakeholders do you feel we should reach out to for a potential code change?

8. If 357J was amended to allow for a pilot for your area, would you be interested in participating?
9. Is there anything additional you would like to add that could be beneficial to our research?

Though the survey's sample size was small, the responses corroborated the already-discussed problems facing rural and micropolitan Iowa and its fire departments. Of question number two's seven respondents, all directly or indirectly mentioned "staffing" as a major obstacle to their service provision. One chief's response well-represented the others by saying, "Like most places personnel is our biggest obstacle, not only filling a roster but having those POC [paid on-call] members participate in trainings, fund raising and even call response. People's time commitments and priorities are so much different than in years past, and it is sometimes difficult to fill trucks. Additionally, most employers no longer allow volunteers to respond while on the clock. All of this has been a challenge in rural fire response for several years, but no solution has been found." Another added, "...we hire from areas greater than 60 miles. They leave to get closer to home after a couple years. Also the number of good candidates is half of what the numbers were ten years ago."

Nearly as universal was the mention of funding as a departmental woe. Five of the seven chiefs indicated that budgetary issues were creating strains on their departments, particularly from providing services outside their jurisdictions. One commented, "Our budget is impacted by answering calls for other departments and because of wording in formal mutual aid agreements my department cannot recoup the cost for answering someone else's call. I understand that changes could be made to the agreements, but that really opens up a political can of worms. Do the other jurisdictions then quit requesting us to respond to save money?"

Disparity prevailed when support of 357B and 357J changes was gauged, though seemingly more in favor of legislation amendment than against. Three of the question's six respondents indicated that they believed such changes would precipitate positive denouements for their departments, while one stated that "no changes really jump out at me". Two, however, answered indecisively, one stating the need for an "impact statement on pros and cons", the other voicing a need for "a better understanding of which would be better". Those remarks suggested respondents who were unfamiliar, at minimum, with the legislation in particular, and potentially with the workings of fire protection districts in general.

Potential stakeholders were asked three questions:

1. If a code change would occur in Iowa Code to allow for the creation of new and/or the expansion of existing fire districts, how would this be a benefit or disadvantage to your stakeholders? Please explain.
2. What questions would your organization need answers to before supporting or opposing a change to Iowa Code as stated above?
3. Is there anything additional you would like to add that could be beneficial to our research?

While only three entities responded, their replies were thoughtful. Finances—specifically pensions—dominated one's reply. They asked, "What are the cost impacts to a smaller city becoming subject to chapter 400, and potentially more expensive agreements under chapter 20, and do the financial benefits outweigh the burdens?" The other believed that renewed permission of fire protection districts would "benefit the citizens of Iowa in the end". They continued more pointedly, rhetorically asking, "Even in the west metro why does

every department have a million dollar ladder truck? Sharing resources and expanding fire districts only makes sense. Another thought is in the more rural areas of the state the fire departments run very few calls but every small town has a fire department. Why not pool those resources and save tax dollars. Fewer departments mean less equipment which leads to fewer tax dollars spent.”

### **Recommendations**

As Iowa’s countenance undergoes unprecedented demographic changes not seen since the 19th century, the search for the aforementioned suitable governmental framework in which to provide emergency services protection continues. Oster’s assertion of a “gerrymandered” response system with irrational taxing systems, irrational jurisdictional boundaries and metro- and micropolitan subsidization of rural protection seem founded based on fire department surveys and questionnaires, as well as the state’s own public budget records. While Chapter 28E has provided much-needed relief to cities and especially townships, its shortcomings fail to address the most pressing challenges already highlighted, challenges that exhibit no appearance of current or future abatement.

Full consolidation through benefited fire protection districts legalization could likely become the state’s emergency services phoenix. Such organizations fatally strike at the heart of Iowa’s fire service woes. Possessive of their own taxing authority, relegated to a bygone era would be the current system of some volunteer departments deriving one-fourth of their operating expenses from “pancake breakfasts” and donations, as well as the assurance that revenues would be channeled directly to fire and EMS providers, rather than city and township general funds or cemeteries. Thoughtful and contemporary response boundaries would likely

result, as well, in contrast to today's boundaries commonly drawn in accordance with 1950's-era school district boundaries. Mission-driven leaders would become more commonplace, replacing trustees and others with little or no experience—or interest—in emergency services. Finally, fewer taxing bodies taxing at universal rates would precipitate equitable service funding in each district, while duplicative effort reduction could foment reduced costs to the involved taxpayers.

In no way “reinventing the wheel”, fire protection districts (nomenclature varies) are permitted in at least 41 states. Seven of these were reviewed to compare intents and efficacy: Arizona, Colorado, Illinois, Missouri, Ohio, Oregon and Washington. Emergency services districts in all seven states were identical in critical ways. First, all possessed their own governing bodies whose sole responsibility was to manage the district. Second, all possess the authority to tax and bond within their territories, with revenues being used exclusively for protecting the districts' citizens. Finally, all exercised total authority when setting their own territorial boundaries.

Nearly as ubiquitous was the “grass-roots” nature of district formation. Six of the seven states mandated public hearings with public input prior to voter balloting. Ohio was the lone deviant, though still requiring local elected official approval by “adoption of a joint resolution by a majority of the members of each board of township trustees and by a majority of the members of the legislative authority of each municipal corporation”.

Many states possessed fire protection district associations which provided guidance to citizens wishing to form new districts. In its “How-to” article, the Association of Fire Districts of the State of New York lists multiple reasons for such consolidation, including stable, equitable tax levies not subject to city and township tax caps, the removal of “town politics” from emergency services provision, transparency and state oversight of all operations and a self-

governing entity with concomitant maximized morale and singleness of purpose. (*Basic fire department structure*, 2017, p. 4-5)

Perhaps the most compelling argument in favor of fire protection district formation, however, came from the State of Colorado itself. Brazenly going so far as to include the advantages of such entities in their own state code, the authors asserted that fire protection districts would:

- “...serve a public use and will promote the health, safety, prosperity, security, and general welfare of the inhabitants of such districts...”
- “...prevent unnecessary proliferation and fragmentation of local government and to avoid excessive diffusion of local tax sources.”
- “...elimination of the overlapping of services provided by local governments and the double taxation that may occur because of the annexation or otherwise when all or part of the taxable property of an area lies within the boundaries of both a municipality and a special district.”
- “...prevent or reduce duplication, overlapping, and fragmentation of the functions and facilities of special districts; that such consolidation will better serve the people of this state; and that consolidated districts will result in reduced costs and increased efficiency of operation” (Colorado Special District Act, 2016).

Lest one believe special districts to be utilized only outside of Iowa, multitudinous examples bear witness to this inaccuracy. Iowa Code Chapter 357 is, in fact, rife with examples of special service district permissions. Most notably, 357D and 357G permit law enforcement and city EMS districts, respectively. Organized in the same fashion as other states’ fire protection districts, they require petitions from 25% of residents owning 25% or more of the

proposed districts' valuations, public hearings, permission from the involved county board(s) of supervisors and voter approval of the proposed taxes to be levied. Other districts allowed by Iowa code include:

- Street lighting districts (357C)
- Recreational lake and water quality districts (357E)
- Benefited secondary road services districts (357I)
- Emergency response districts (357J—trial)
- Water districts (357)
- Sanitary districts (358)

Indeed, one need only recall the fact that as early as the 1840's pre-statehood townships in Iowa Territory served as "public health districts" who levied taxes and enforced public health regulations.

Obstacles are ever-present in any change, and 357B revision would surely demonstrate no departure from that reality. Questionnaire respondents predicted government and fire service officials being unwilling to "give up the keys to the kingdom". Retirement funding, already an ongoing point of contention in state and local government, was mentioned by not only stakeholder respondents but fire protection organizations nationally. Finally, a perceived loss of local governmental control and town identity were predicted by several entities.

Inevitable—but entirely surmountable—hindrances aside, revision of Iowa Code Chapter 357B would arguably provide a responsible, straightforward and historically efficacious means of resuscitating this state's disjunctive and failing emergency services network. Iowa's lawmakers need look only to this state's proud 19th-century roots to mitigate its 21st-century challenges.

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# **REIGNITING** IOWA CODE 357B

## **BENEFITED FIRE DISTRICTS**

### **Project Team Members**

Christopher Clement, Lieutenant  
Des Moines Fire Department



John Kraemer, Bureau Chief  
State Fire Marshal's Office



Michael Gentosi, Deputy Chief  
Johnston Grimes Metro Fire Department



Ping Lu, Research Structural Engineer  
U.S. Federal Highway Administration



David Schelling, Environmental Specialist  
Iowa Department of Natural Resources



**Drake University**  
College of Business and Public Administration  
Center for Professional Studies

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