

# Rules for Missouri **Ambulance Districts**

Ballard Local  
Government  
Series





### **John Ballard**

John Ballard was a lifelong resident of Missouri. He attended the University of Missouri, earned a master's degree in community development in 1971, and then worked for University of Missouri Extension as a local government specialist for 21 years.

During his tenure with MU Extension, he earned statewide recognition for his vast knowledge of state, city and county politics. After he retired in 1992, he continued to play an active role in Missouri government by operating a private consulting firm, Governmental Services, through which he published a monthly newsletter for more than 300 subscribers in the state.

# **Rules for Missouri Ambulance Districts**

**First Edition, July 2020**

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## **Ballard Local Government Series**

First Edition by Monte Olsen  
Based on similar works by John Ballard

Cover art by Dennis Murphy

University of Missouri Extension and  
Local Government Partnership of East-West Gateway  
Council of Governments, University of Missouri-St. Louis

*extension.missouri.edu/lgs*



# Acknowledgments

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The purpose of this manual is to help ambulance district officials understand and comply with the state's requirements. It is, first and foremost, the work of the late John Ballard. This manual would not be possible without the original manuals that John conceived and wrote.

The effort to continue John's work depends on many people. First, John's family led the effort by making his work available to University of Missouri Extension. Patrick Cronan, attorney, significantly revised the fire protection district manual, updating sections outdated by the passage of time and legislation. Missouri Fire and Rescue Training Institute Adjunct Professor Monte Olsen updated the third edition of the fire protection district manual. While John did not write a manual for ambulance districts, Rules for Missouri Fire Protection Districts was the starting point for this manual.

Many others provided advice and comments that greatly improved the quality of the manual: Jason White, attorney Frank Foster, Shane Lockard, Barb Shupe, Sean Hill and Mark Alexander, among others.

Attorney Douglas B. Harris of Harris, Harris, & Gilbert, LLC, in Warrensburg, Missouri, completely reviewed the manual. We owe him many thanks.

Judith I. Stallmann, emeritus professor of agricultural and applied economics and public affairs, University of Missouri, is the editor of the series. Dennis Murphy provided the original art for the cover, and Sharon Wood-Turley provided the final editing and layout. We express our deepest appreciation to all who contributed to this work.

It is hoped this effort is useful to those who make local government work. Readers should recognize that the topics covered in this manual can rapidly change due to court decisions and new federal and state legislation. The information contained herein may not, therefore, be completely up to date or accurate at all times. We recommend that ambulance districts engage legal counsel as needed in order to ensure that the planned actions are appropriate.

- After the effective date of Missouri legislation each year (Aug. 28), ambulance district officials are urged to check the Missouri Legislature's website to identify new laws affecting ambulance districts: <https://www.house.mo.gov/LegislationSP.aspx>.
- Some, but not all, changes that affect districts would likely be found online: <https://revisor.mo.gov/main/OneChapter.aspx?chapter=190>.
- Missouri Sunshine Law changes would likely be found online: <https://revisor.mo.gov/main/OneChapter.aspx?chapter=610> or <https://ago.mo.gov/missouri-law/sunshine-law>.

A gift, established by Dr. James Ahrenholz in honor of the contributions of Dr. Curtis Bracheler, contributed to this project.

Judith I. Stallmann

July 2020

# Rules for Missouri Ambulance Districts

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*(Parenthetical numbers in the text refer to sections of the current Revised Statutes of Missouri, abbreviated as RSMo. The chapter number precedes the decimal point, and the section number follows it. Most laws relating specifically to ambulance districts, also known as ADs, are in Chapter 190. The Revised Statutes of Missouri can be viewed online and printed copies can be purchased at <https://revisor.mo.gov/main/Home.aspx>.)*

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## **Example Forms for Ambulance Districts**

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# I. Background and Formation

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## Formation of ADs

The purpose of ambulance districts (ADs) in Missouri is to “establish and maintain an ambulance service ... and to acquire for, develop, expand, extend and improve such service.” (190.060.1[1]).

An AD does not have to be entirely joined or contiguous; however, for any territory that is noncontiguous, at least a portion of that territory must lie within five miles of the AD. An AD may include all or part of a county or counties, and it can include incorporated cities within its boundaries. But two ADs cannot overlap territories. Except for ADs whose formation was petitioned for by contiguous St. Louis County fire protection districts (190.015.2), new ADs cannot exist in St. Louis or Jackson counties because those counties’ populations each exceed 400,000. Existing ADs may continue to operate, however, even if the population of the county grows to exceed 400,000 inhabitants (190.010.1). There is a special exception to allow formation of an AD when formed as a pairing with a fire protection district (190.010.2).

The law permitting formation of ADs resulted from citizens wanting a higher level of service than volunteers, the fire service, hospitals, cities, counties, or nonprofit associations could provide. Some ADs in Missouri began as nonprofit associations before becoming political subdivisions of the state. Nonprofit associations and political subdivisions operate under different rules. Changing from a nonprofit ambulance district to formation of an AD requires changes in the mode of governance and can be an organizational challenge.

Nonprofit associations usually make their own rules following the Nonprofit Corporation Law (355). Meetings may be open or closed, purchases follow whatever rules the association has established, and many legal requirements for an AD generally do not apply.

An AD, unlike a nonprofit association, must comply with all the generic state statutes that apply to political subdivisions or municipal corporations. Unlike a nonprofit association, membership in an AD is mandatory, not voluntary. Every person within its boundaries becomes a member. Also, ADs may do only what the Missouri Revised Statutes (RSMo) specifically permit and may not do things the statutes forbid.

## Categories and accountabilities

It is important to understand the uniqueness of ADs and the difference between an AD and other governments, such as a city or county, and between an AD and an ambulance department of another government. The latter is a dependent entity, which is accountable to the political subdivision of which it is a part. The rules for a dependent entity are largely determined by the political subdivision and not statutes. Because of different governing

## Background and Formation

- Formation of ADs
- Categories and accountability
- Sovereignty
- Formation procedures
- Election requirement
- Terms
- Checks and balances
- County classifications

## Independent or Special Purpose Entities

Are political subdivisions

## Dependent Entities

Accountable to a political subdivision

statutes, a meeting of the AD board of directors is sometimes run differently from a Board of Aldermen or Village Trustees.

### **Sovereignty**

Sovereignty means the AD has supreme, independent authority and power to rule and make law over a geographical area. Historically, sovereignty was connected to a government's ability to guarantee the best interests of its own citizens. Therefore, an AD is typically not beholden to a city or county. Questions of intergovernmental regulation are complex, and legal counsel should be consulted when another entity (like a city or county) attempts to impose its regulations on an AD. These situations can often trigger political disputes as well, so discussion between the governing boards is advisable always.

### **Formation procedures**

An AD in Missouri is established by a petition signed by voters living within the proposed AD boundaries. The term "voter" always means a registered voter (1.035 and 116.010.6). Signatures must equal at least 10% of the votes cast in the last election for governor. (190.015.1). Alternatively, a contiguous group of St. Louis county fire protection district boards of directors can initiate the formation of an AD, but only for emergency ambulance services (190.015.2).

A petition for an AD must be filed with the county clerk and must have at least six parts:

1. A description of the territory in the proposed AD;
2. The names of any cities or villages within the proposed AD;
3. The name of the proposed AD, i.e., "to be known as \_\_\_\_\_ Ambulance District";
4. An estimate of the proposed AD's population, so that the petition can state that the population of the proposed AD is not less than 2,000;
5. An assessed valuation of the proposed AD, so that the petition can state that the assessed valuation is not less than \$10 million;
6. A request for the question of establishing and maintaining an ambulance service be submitted to the voters within the proposed AD.

If the proposed AD is in St. Louis County, the petition must include an additional statement on whether the AD will be funded by a property or a sales tax.

If the proposed boundaries cross county lines, the petition must be filed in the county having the largest percentage of area. Because every question put before the AD's voters will have to appear on both the majority and minority county ballots, it is good to establish positive relations with all counties involved at an early stage.

### **Formation**

For a more detailed explanation of the process of forming an AD go to the Missouri Association of Ambulance Districts and click on "information to help you get stated" <https://www.the-adam.org/home>

By law (190.020.3), the petitioners must pay in advance for publication or posting notices of a public hearing, and the public notices must include a description of the territory in the proposed AD. Consult with the county clerk to find out the expected fee to accompany the petition. Fortunately the petitioners have to be reimbursed by the AD if the AD is formed.

After the filing, the county clerk must present the petition for the proposed AD to the county commission, who in turn must set a public hearing on the proposed AD within 30 to 40 days after the filing (190.015.1, 190.020.1). The public notices for the hearing must be published or posted no less than 20 days before the public hearing (190.020.2).

The law says (190.025) if there are competing AD formation petitions for part of the same area, a single public hearing must be held for all competing petitions. At the public hearing, the petitioners who filed first may amend their petition to include any part of the territory in the subsequent petitions; however, the focus for the remainder of the public hearing will be only the first petition. Subsequent petitions are then on hold until termination of proceedings on the first petition or a subsequent petition is dismissed or withdrawn by its petitioners.

At the hearing, the county commission finds whether the facts of the petition meet or do not meet the requirements of becoming an AD. If requirements are met, the county commission submits the question to the voters for their consent (190.030). If requirements are not met, the matter is terminated and the county commission considers any subsequent petitions on hold (190.025).

The law requires a public notice of election and contents of the notice (190.035); however, the law does not specify who is responsible and pays for publishing the election notice. Costs of holding an election for a special district must be deposited with the election authority in advance of the election. (115.077)

### **Election requirement**

Even when the county commission finds that the facts of the petition meet the requirements, the AD is not created until voters in the proposed AD consent to the creation in an election. If voters approve creation of the AD, the directors of the first AD will be decided by a separate, follow up election (190.050.1; 190.050.2).

Once the election authority certifies the results, by law (190.045), the county commission files certified copies of the election results with the county clerks in each county where part of the proposed AD lies. If the proposed AD is approved by a majority of the voters, then the county commission orders the AD organized.

Although not in the law, copies of the county commission order organizing the AD should be filed with the recorder of deeds in each county in which the AD has territory.

### **FYI**

The county commissions may ask the AD petitioners for reimbursement for the public notice of election

### **Ballot of Proposed AD**

- Shall the AD be incorporated?
- Shall the AD have authority to levy a tax of 30 cents per \$100 of assessed value or impose a 0.5% sales tax?

### **Election Authority**

- County clerk in most cases
- Board of election commissioners in a few large counties and cities
- Secretary of State (SoS) for state-wide elections

## **Filing Closing Date**

The county commission may set a candidate filing closing date other than the one in 115.127.5 (190.050.3)

## **First Board Meeting**

The first meeting of the first AD board of directors must be held within 30 days after the election of the initial directors at a time and place designated by the declaring county commission (190.055.1)

## **Ambulance District Checks and Balances of**

### **Judicial Branch**

#### **State court system**

- Circuit
- Appeals
- Supreme

### **Legislative Branch**

#### **AD Board of Directors**

- Chair
- Directors
- Officers
- Advisers

### **Executive Branch**

#### **EMS Chief**

- EMTs
- Paramedics

## **Terms**

After an AD has been declared organized, the law says the declaring county commission must divide the newly organized AD into six election districts as equal in population as possible — numbering each election district from one to six by lots, for example, by drawing numbers from a hat (190.050.1).

After each decennial census, the county commission that declared the AD established must reapportion the districts to maintain the balance of representation on the board. (190.050.1)

The same law also states that within 90 days after an AD has been declared organized, the declaring county commission must hold an election for AD directors. Voters in each AD election district will vote only for the director who will represent their AD election district. There is no voting for at “at-large” directors except in ADs in qualifying class two counties; although, currently no ADs qualify for “at-large” directors.

AD board members serve three-year terms. However, to stagger terms so that all board members will not be up for election simultaneously, special rules apply to the first board (190.050.1). For the first AD board, the members from election districts three and six serve three years, the members from election districts two and five serve two years, and the members from election districts one and four serve one year.

Elections are held every year. After the first set of terms is completed, board members serve three-year terms except in cases of resignation or disqualification. If an AD qualifies for “at-large” directors, other special rules apply to that AD’s first board (190.050.2).

ADs are political subdivisions in which certain persons are prohibited from holding office. For information on these exceptions, see *Chapter III. Officials and Board Operations* and *Chapter XVIII. Elections*.

## **Checks and balances**

By high school, everyone should have learned that the American model of government contains three branches: judicial, legislative and executive. Each branch of government has “checks and balances” over the other branches, which by design, means that a certain amount of healthy friction is a part of the system.

An AD does not have its own judicial branch, but uses the state system of circuit, appeals and supreme courts. An AD’s legislative branch is its board of directors — the congress of the AD, so to speak. The officers of the board are part of the legislative branch.

The AD board of directors elects one of its own to chair the board. The AD board will also hire an Emergency Medical Services (EMS) chief (EC) to head the executive branch on a day-to-day basis. Emergency medical technicians (EMTs) and paramedics are part of the executive branch. For

information on the chair, see *Chapter III. Officials and Board Operations*. For more information on the EMS chief, see *Chapter XII. Personnel*.

### **County classifications**

The four county classifications are determined by law (48.020). Knowing the classification of the county (or, counties) in which an AD is located is important because some AD laws are written specific to a county classification. For instance, a law might say a requirement applies to “any AD located in a first class county.”

### **County Class Map**

A state map with color-coded county classifications is on the Missouri Association of Counties website:  
<https://www.mocounties.com/>;  
click on “County Info”

## AD Powers and Duties

- List of powers
- Joint powers
- Ordinances
- Bylaws

### Short-Term Debt

Board-approved notes payable

### Long-Term Debt

Voter-approved bonds

## II. AD Powers and Duties

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### List of powers

By becoming a political subdivision, an AD receives many specific powers. (The statutes that outline these powers and duties are generally in RSMo. 190.060.) As authorized by the state, these powers are:

1. To establish and maintain perpetually an ambulance service within its corporate limits, and to acquire for, develop, expand, extend and improve such service.
2. To adopt a corporate seal and bylaws by ordinance. (190.055.1).
3. To acquire land in fee simple, rights in land and easements upon, over or across land and leasehold interests in land and tangible and intangible personal property used or useful for the location, establishment, maintenance, development, expansion, extension or improvement of an ambulance service. The acquisition may be by dedication, purchase, gift, agreement, lease, use or adverse possession.
4. To operate, maintain and manage the ambulance service, and to make and enter into contracts for the use, operation or management of and to provide rules and regulations for the operation, management or use of the ambulance service.
5. To fix, charge and collect reasonable fees and compensation for the use of the ambulance service according to the rules and regulations prescribed by the board from time to time.
6. To borrow money and to issue bonds, notes, certificates or other evidences of indebtedness for the purpose of accomplishing any of its corporate purposes, subject to compliance with any condition or limitation set forth in sections 190.001 to 190.090 or otherwise provided by the Constitution of the state of Missouri. This would presumably include the authority to refund and refinance authorized bonded indebtedness.
7. To employ or enter into contracts for the employment of any person, firm or corporation, and for professional services, necessary or desirable for the accomplishment of the objects of the district or the proper administration, management, protection or control of its property.
8. To maintain the ambulance service for the benefit of the inhabitants of the area comprising the district regardless of race, creed or color, and to adopt such reasonable rules and regulations as may be necessary to render the highest quality of emergency medical care; to exclude from the use of the ambulance service all persons who willfully disregard any of the rules and regulations so established;

to extend the privileges and use of the ambulance service to persons residing outside the area of the district upon such terms and conditions as the board of directors prescribes by its rules and regulations. Care should be taken, however, to suspend service only in compliance with applicable federal and state statutes, especially the Americans With Disabilities Act.

9. To provide for health, accident, disability and pension benefits for the salaried members of its organized ambulance district and such other benefits for the members' spouses and minor children, through either, or both, a contributory or noncontributory plan. The type and amount of such benefits shall be determined by the board of directors of the ambulance district within the level of available revenue of the pension program and other available revenue of the district. If an employee contributory plan is adopted, then at least one voting member of the board of trustees shall be a member of the ambulance district elected by the contributing members. The board of trustees shall not be the same as the board of directors.
10. To purchase insurance indemnifying the district and its employees, officers, volunteers and directors against liability in rendering services incidental to the furnishing of ambulance services. Purchase of insurance pursuant to this section is not intended to waive sovereign immunity, official immunity or the Missouri public duty doctrine defenses.
11. To provide for life insurance, accident, sickness, health, disability, annuity, length of service, pension, retirement and other employee-type fringe benefits, subject to the provisions of section 70.615, for the volunteer members of any organized ambulance district and such other benefits for their spouses and eligible unemancipated children, either through a contributory or noncontributory plan, or both.
12. To sue and be sued (190.010.2).
13. To receive gifts of land, rights in land, easements, leasehold improvements, and intangible personal property to the AD (190.080).
14. To pay court costs and election costs (115.63; 115.65; 115.77).
15. To have governmental powers, and all other powers, incidental, necessary, convenient or desirable to carry out and execute the express powers (190.060.1).

ADs also can collect taxes within limitations (190.010.2) and by law can fix, charge and collect reasonable fees according to prescribed rules and regulations (See *Service Fees in Chapter VIII. Property and Sales Taxes and Fees* for more details).

## **EMRA**

Uses paramedics and/or Emergency Medical Technicians (EMTs) but does not transport patients

## **Ordinances**

- Adopted following Sunshine Law procedures
- In writing and identified as an ordinance
- Without words such as “should” or “may”
- Limited to adoption of the AD’s fiscal year, corporate seal and bylaws
- Show in the minutes how each member voted
- Signed by the Chair if passed by a board majority

## **Special Rules of Order**

- Supplement or modify the parliamentary rules contained in the parliamentary authority adopted by an AD
- Approval or amendment of Special Rules of Order requires advance notice and two-thirds vote
- May be suspended by a two-thirds vote except in the case of a rule protecting a minority of less than one-third of those voting

## **Standing Rules**

Relate to the details of the administration of an AD rather than parliamentary procedure. Robert’s Rules of Order states “Standing Rules are adopted by a majority vote at any meeting without notice at a previous meeting.”

## **Joint Powers**

Like all political subdivisions, ADs also have power to cooperate or contract with other governmental units for joint powers such as authorization to buy surplus property of United States government (70.100); payment by the United States in lieu of taxes (70.170); centralized emergency dispatching system (70.225); LAGERS — the Missouri Local Government Employees’ Retirement System (70.605); contracts for mutual aid (MA) services (190.107); and required memorandums of understanding (MOUs) between an emergency response agency (EMRA) and an ambulance service (190.133.1[4]) and between a dispatch agency and an ambulance service (190.134).

## **Ordinances**

Although an AD does not prosecute violations of its ordinances, the county prosecutor, the attorney general or the AD’s legal officer or attorney (as an appointed special assistant prosecutor) has jurisdiction to prosecute anyone in violation of the ambulance statutes (190.001-190.245), including injunctive proceedings against violators, as a class B misdemeanor, which carries a maximum punishment up to a \$500 fine and/or six months in jail (190.180).

## **Bylaws**

Bylaws are adopted only once by an AD (190.055.1). A majority vote is required to adopt the AD’s original bylaws. Once adopted, changes or amendments to AD bylaws are usually subject to a two-thirds vote with notice at a previous meeting. Bylaws can never be suspended, so avoid including specifics such as meeting times, locations, etc., in the bylaws.

While the concepts of bylaws may be familiar to many people, to develop bylaws, an AD should consult with a Professional Registered Parliamentarian or with an attorney with experience in parliamentary or corporate law. Bylaws that are appropriate for a business corporation or social organization may be redundant for an AD due to the state constitution or statutes. Redundancy can be particularly confusing if the constitution and/or a statute, or their interpretation, is changed and the bylaws become in conflict with a constitutional or statutory change or interpretation.

An AD may want to consider using special rules of order or standing rules to minimize the content of its bylaws.

# III. Officials and Board Operation

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## Restrictions on who may serve on board

Section 8 of Article VII of the Missouri Constitution states that no person shall be elected or appointed to any office who is not a citizen of the United States (also 190.050.3). The Section also generally prohibits office holders who have not resided in this state for one year before their election or appointment. Section 9 of Article VII of the Constitution states that no person federally employed shall hold any “office of profit” in this state, except for members of the National Guard or the reserve corps.

A person must be over 24 years old to serve on an AD board of directors (190.050.3). At the time of AD director candidate filing, a person must be a qualified voter of the AD election district and a resident of the AD for the preceding two years.

No one can qualify as a candidate after pleading to, or being convicted of, a Federal felony or misdemeanor, a Missouri felony, or an offense in another state that is considered a felony in Missouri (115.306.1).

A candidate who is a present or past corporate officer of any fee office can be disqualified from participating in an election if delinquent in payment of any State income taxes, personal property taxes, municipal taxes, real property taxes on residence, and/or taxes owed to the State (RSMo 115.306.2). Once notified of delinquent or owed taxes, however, the candidate has 30 days to pay the taxes before being disqualified. Keep in mind that any challenge to a candidate violating this provision must be brought by either the Department of Revenue or another candidate. District officials are not authorized to determine eligibility for election.

Candidates may not take office or file for subsequent elections until all Missouri Ethics Commission disclosure reports have been filed and assessed fees are paid (130.071).

No employee of an AD or a fire protection district may serve as board member of a “voluntary” AD or fire protection district (321.017); however, the statutes do not define “voluntary.”

## Roles and responsibilities

Remembering the Pledge of Allegiance, the United States is a republic, not a democracy. The public does not have the right to participate in meetings of the AD board of directors — it is a public meeting of the board, not a meeting of the public. However, it is the responsibility of the Board to solicit and receive public comments by adopting rules that allow public input, if any.

The board must make many decisions about the mission of the AD, especially understanding why the AD exists and deciding the scope of services and benefits the AD will offer. Sometimes this is done by taking

## Officials and Board Operation

- Restrictions on who may serve on board
- Roles and responsibilities
- Oath of office
- Terms and perpetual existence
- Bonding
- Ways to leave office
- Records to successor
- Vacancies
- Pay for board members
- Meetings
- Quorum
- Majority voting
- Recusal
- Rules of procedure
- Special rules
- Training
- Individual liability
- Officers
- Contributory benefit plan board of trustees

## Public Participation

Many school boards have adopted rules for public input — AD boards could use these school board rules as a starting point for the creation of their public input rules

## **ADs must first define:**

- Mission
- Critical Issues
- Vision
- Strategic Plan

## **Federal Posting Requirements**

- Federal Minimum Wage Act (29 CFR § 516.4)
- Equal Employment Opportunity Act (29 CFR § 1601.30)
- Family and Medical Leave Act (29 USC § 2619[a][b])
- Uniform Services Employment and Reemployment Rights Act (38 USCA § 433[a])
- Employee Polygraph Protection Act (29 CFR § 801.6)
- Occupational Safety and Health Act (29 CFR § 1903.2[a][1])

## **State Posting Requirements**

- Wages, Hours and Dismissal Rights (RSMo § 290.522)
- Notice to Workers Concerning Unemployment Benefits (RSMo § 288.130)
- Workers Compensation (RSMo § 287.127)
- Discrimination in Employment (8 CSR 60- 3.010[1])
- Discrimination in Public Accommodations (8 CSR 60- 3.010[3])
- Missouri Minimum Wage Law (RSMo § 290.522)
- Child Labor (RSMo § 290.060.1)

separate ballot questions to AD voters, such as funding central dispatching services (190.041), issuance of bonded indebtedness (Missouri Constitution, Article VI, Section 26(a)), or annexation of land into the AD (190.070). Other examples of scope of services decisions are whether the AD is going to regulate or operate a van stretcher service (190.528), participate in ambulance service reimbursement allowance programs such as MO HealthNet (190.818-827), or provide professional health information and educational programs (190.200.1).

As an AD's mission is defined and understood, it is the board's responsibility to define the AD's critical issues. For instance, an AD with mostly large tracts of agricultural land and small villages will probably have a different mission than a neighboring AD that includes a large city or an interstate.

Once the mission and critical issues of an AD are defined, the board's responsibility is to develop a vision of where the AD should go or what the AD should be doing — including at what levels or targets. For instance, maybe an AD only provides basic life support (BLS), but in the future, the AD board wants to provide advanced life support (ALS) through the use of paramedics or pediatric life support (PALS).

Finally, once the board has developed a vision for the AD, it is the responsibility of the board to develop a strategic plan on how the AD will fulfill its mission and achieve its vision.

Additional responsibilities of an AD board, many of which are discussed in greater detail in this manual, generally include:

- Ensuring compliance with state and federal laws, statutes, codes, rules, regulations and standards — especially ambulance licensure (190.105), possessing and using controlled substances, and if the AD receives revenue from the Centers for Medicare and Medicaid (CMS)
- Levying property and sales taxes and setting fees
- Allocating and being a steward for resources — managing risk, including required ambulance insurance coverage (190.120)
- Monitoring progress towards fulfilling the mission and achieving the vision of the AD
- Adopting bylaws, ordinances, rules and regulations (190.060.1)
- Ensuring staff are trained, educated and evaluated — investing in them
- Receiving and acting on petitions
- Judging appeals
- Adopting budgets, financial reports and policies — making sure the EMS Chief adopts Standard Operating Procedures (SOPs) or Guidelines (SOGs)

- Making prudent purchases
- Retiring debts and prompt payment of bills
- Executing agreements and contracts
- Calling for and declaring elections
- Making decisions and documenting corporate actions — minutes
- Ensuring records are open and accessible
- Ensuring organizational information is provided
- Choosing officers and filling vacancies (officers or directors)
- Meeting regularly with notice and in the open

### **Oath of office**

According to Section 11 of Article VII of the Constitution, AD officials must be sworn in before taking office. How soon this is done after declaration of an election is the board’s decision. Outgoing officials retain their authority until the incoming officers are sworn in. The county clerk, a notary public, a certified court reporter, a certified shorthand reporter, court judge, court justice or court clerk can administer the oath (51.140; 486.250; 492.010). This oath is important because it serves to remind the board members elect that they are public officials, subject to the associated legal requirements.

Each director and officer sworn in should receive a written copy of the oath. The signed oath of directors and other AD officers is filed with the AD.

### **Terms and perpetual existence**

Although the Missouri Constitution prohibits the term of any officer from being extended (Article VII, Section 13), an AD has perpetual existence. This means, in practice, that officials serve until successors are “duly elected or appointed, or qualified.” Expiration of a term does not relieve the official of AD duties until a replacement is in place (190.050.1; 190.051.3; 190.051.4).

### **Bonding**

By law (190.075), all AD officers and employees authorized to receive or retain the custody of money or to sign vouchers, checks, warrants or evidences of indebtedness binding upon the AD shall furnish a surety bond for the faithful performance of their duties and the faithful accounting for all moneys that may come into their hands.

The AD board approves the form of the bond and fixes the amount of each bond. The required AD officers and employees must have at least minimal bonds of \$1,000. ADs can choose to minimize risk by purchasing an additional dishonesty insurance policy to cover the maximum amount of money that could be stolen.

A bond is not intended as protection for AD officers and employees, but as protection for taxpayers. If the bonded official or employee steals money

### **Example Oath**

I \_\_\_\_\_, do solemnly swear (or affirm) that I will uphold the Constitution of the United States, of this state, and demean myself faithfully in office.

from the AD, the bonding company will reimburse the taxpayers, up to the maximum amount of the bond.

### **Ways to leave office**

Normally a director of an AD is replaced by an elected or appointed successor (190.050.1; 190.055.4); however, there are other ways to leave office. A director of an AD can resign or become unqualified — by moving or changing voter registration out of the AD election district (190.052), for example.

Resigning from being an AD director requires two steps: the board member offers to resign, and if a quorum is present — not counting the resigning director who is recused — a majority of the board present accepts the resignation. The resigning official is not relieved of responsibility until the board has accepted the resignation. This is how perpetual existence of the AD is maintained. Should resignations threaten the quorum, replacements must be appointed before more resignations can be accepted.

A director of an AD could die or be recalled by the voters (see *Chapter IV. Initiative, Referendum and Recall* for more details).

Another way to leave office is through a quo warranto proceeding, which is a civil action challenging an individual's right to hold office. Quo warranto is often the only proper legal remedy when an individual has usurped a public office (a de facto officer) or, through abuse or neglect, has forfeited an office to which he or she was entitled. The county prosecutor or Missouri attorney general initiates quo warranto proceedings. One way to avoid quo warranto proceedings is to be a de jure officer — where all requirements such as oaths and bonds have been followed.

### **Records to successor**

Office holders may not keep records once they leave office (109.010-040). Records pertaining to any public office must be delivered to the AD or the successor — if necessary, by the executor in the event of the office holder's death. Failure to deliver records to the AD or the successor could result in the forfeiture of \$100 to \$1,000. If necessary, a judge may issue a warrant for the sheriff to seize the records and deliver the records to the AD or successor.

### **Vacancies**

By law (190.052), when one or two vacancies on an AD board occur at one time, by death, resignation or disqualifications, the remaining AD board members have up to 60 days to appoint a qualified person(s) to fill the vacancy(ies). If the remaining AD board members are unable to fill a vacancy, or if there are more than two vacancies on an AD board at one time, the law requires appointments be made by the county commission within 10 days of notice from the AD board of its failure to agree in filling

### **Quo Warranto**

A sheriff was removed from office, in part, for failing to file his bond on time through a 1994 quo warranto petition in *State ex inf Robert L. Fuchs, Special Prosecuting Attorney v. Homer L. Foote, Jr., Sheriff*

the vacancy(ies) — the law does not say which county commission makes the appointments if the AD contains more than one county. It would be a logical assumption that, for multi-county districts, the Commission of the county in which the election district vacancy occurs would fill that position. An appointee is notified of his or her appointment in writing by the county commission and serves the remainder of the unexpired term. (190.052)

### **Pay for board members**

By law (190.055.4; 190.055.5[1]), AD board members may receive an attendance fee of \$100 for attending any regular or special board meeting if the board authorizes such payments. Payments are limited to two meetings per month. In first class charter counties (currently Jackson, Jefferson, St. Charles and St. Louis counties), the members may receive up to \$100 per meeting for a maximum of four meetings per month. No board member may receive payment for more than one meeting in a calendar week. The chair receives an additional \$50 dollars for each meeting, but the limit is two per month.

A board member who also serves as secretary, treasurer or combined secretary/treasurer may receive additional pay as set by the board, limited to \$1,000 annually for secretary or treasurer or \$2,000 annually for combined secretary/treasurer (190.055.3).

The attendance fees should be paid after the meeting, not before, and taxes should be withheld and reported on IRS Form W-2; however, an AD does not pay state unemployment taxes on the attendance fees.

Board members who do not receive the state-mandated training are ineligible to receive pay (see the Training section in this chapter).

With appropriate documentation, board members may be reimbursed for actual expenditures on behalf of the AD (190.055.2), for example, business travel mileage, educational program fees, or cost of the surety bonds.

### **Meetings**

In addition to the Missouri Sunshine Law (see Chapter IX. Meetings, Records and Votes for more details), an AD board must follow its bylaws regarding regular and special meetings (190.055.1); however, instead of specific details in bylaws — which cannot be suspended — it is recommended specific details be in rules of procedure. Monthly meetings are recommended at a building designated by the board within the AD if possible. Notice of meeting times and location should be posted continuously at the station(s). When special meetings are necessary, each board member must be formally notified. Minutes of every board meeting must be available to any member of the public.

The chair of the AD board is responsible for ensuring proper décorum is maintained during board meetings. Because the board has important business to discuss and decide at its meetings, disorderly conduct, such as interruptions, cursing, etc., should not be allowed — after all, disorderly

### **Article VII § 13**

Board members are prohibited by the Missouri Constitution from giving themselves raises

### **Internal Revenue Code Subtitle C, Chapter 24, Subchapter A, Section 3401(c):**

For purposes of this [Collection of Income Tax at Source on Wages] chapter, the term “employee” includes an officer, employee, or elected official of the United States, a State, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing.

## Majority Voting

If only four or five members attend, a majority of three is needed to act

## Recusal

Cannot legally vote

## Absentee Voting

Voting without being present except by audio or video conferencing

## Proxy Voting

Power given by one person to another to vote in his/her place

## Abstention

Does not want to vote (dereliction of duty?)

When not in conflict with law, the AD board may adopt parliamentary rules, such as the current edition of *Robert's Rules of Order*. The section for small boards could be very helpful to AD boards, for example, motions do not have to be seconded, the chair can make motions and consensus motions can be used.

## National Association of Parliamentarians

Headquartered in Missouri:  
<https://www.parliamentarians.org/>

## Public Participation

Many school boards have adopted rules for public input — AD boards could use these as a starting point for the creation of their public input rules

conduct is a misdemeanor crime. The chair can have disorderly members of the board or public removed from the meeting by local law enforcement.

## Quorum

A quorum is the minimum number of directors that must be present for most business to be transacted; however, the law is silent on defining a quorum for AD boards. If an AD board adopts Robert's Rules of Order, the quorum for a six-director AD would be four directors.

## Majority voting

It takes a majority vote of those present for the AD board to decide to do something. A tie vote is not a majority vote. The chair is expected to vote. Proxy is not allowed, and absentee voting is limited (610.015).

## Recusal

There are times when a board member must recuse oneself from voting, but these should be kept to a minimum. Each member has made a commitment, under oath, to represent the AD on all questions. Unless voting would create a conflict of interest or constitute nepotism, all members should vote on all issues. If recusing oneself, the member should leave the room and not participate in the discussion before the vote. Recused board members cannot be included to establish or maintain a quorum — it is as if the board member temporarily is not in attendance.

Abstention and recusal are not the same; abstention is when a board member just does not want to vote and is potentially a dereliction of duty.

## Rules of procedure

As a public governmental body, the board must comply with Missouri's Sunshine Law regarding meetings, records and votes (see Chapter IX. Meetings, Records and Votes). Each public body must, however, adopt a written sunshine law procedure and designate a custodian of records (610.023.1 and 610.028.2).

In addition, the board should consider adopting and publishing its own rules of procedure that define the order in which business will be conducted, whether members of the public attending meetings will be permitted to speak and under what limitations, and other housekeeping matters (190.055.1). Establishing such procedures and using them consistently can help the board operate in a fair and orderly way. Having procedures in place before an issue draws a large number of attendees, who might be upset, will smooth operations considerably.

## Special rules

The state has special rules for the public to prompt AD actions. These rules are nearly alone among the multiple types of political subdivisions in Missouri. With few exceptions, such as fire protection districts, and cities that have adopted similar charter provisions, only ADs have the options

for referendums and recall actions included in their generic statutory charter. Although these rules are not always applied, all AD officials should understand them (see *Chapter IV. Initiative, Referendum and Recall*).

## **Training**

All AD board members elected after Jan. 1, 2008, must undergo training that is offered by a statewide association for ADs, such as the Missouri Ambulance Association, or has been approved by the state advisory council for EMS (190.053.1). The Certified Ambulance and Fire District Board Training course offered by the University of Missouri Fire & Rescue Training Institute ([www.mufirti.org](http://www.mufirti.org)) satisfies the training requirement.

An untrained director cannot receive compensation for attending meetings (190.053.2).

In addition, the federal government requires all board members complete training in the National Incident Management System (NIMS): Course #100, Introduction to NIMS. After Hurricane Katrina, the Federal Emergency Management Agency (FEMA) established requirements for this training to improve communication between federal and local government officials. Failure to participate in the required training makes an AD ineligible for reimbursement for emergency response costs and for federal grants.

## **Individual liability**

Individual AD board members are generally not civilly liable for reasonable mistakes made while performing their official duties — as long as their obligations were not clear. This concept is known as “qualified immunity.” However, if a law is clear and an AD board member violates the law, there could be individual liability — even if the AD board member was not aware that what was done, or not done, was wrong.

If an AD board member purposefully violates or ignores a law, most “Errors and Omissions” insurance policies will not compensate or defend the AD, AD board member, or AD board in any resulting lawsuit.

## **Officers**

By law (190.055.1), the bylaws for the AD must determine the times for the annual election of officers; however, it is prudent for the annual election of officers to be at the first meeting of a new AD board following the April elections. At the annual election of officers of the AD board, the AD board elects a director to be the chair of the board and then elects a secretary and a treasurer, appoints a custodian of records (610.23.1) and designates a budget officer (67.20). The latter positions may be combined, and none except the chair has to be a board member, though they may be. Keep in mind, however, that Missouri has a common law restriction on public officers holding inconsistent positions. The duties assigned by the bylaws might make certain combinations of office holding improper. A president that must approve bills for payment and sign checks, for example, could

## **Training**

Certified Ambulance and Fire District Board Training course offered by the University of Missouri Fire and Rescue Training Institute (<https://extension2.missouri.edu/programs/mu-fire-and-rescue-training-institute>) satisfies the training requirement.

## **NIMS Training**

Type “NIMS” in the search box on FEMA website (<https://www.fema.gov>), or U.S. Fire Administration website (<https://www.usfa.fema.gov>).

## **Useful NIMS Info**

State Emergency Management Agency: <https://sema.dps.mo.gov/>

## **Required AD Officers**

- Board Chair
- Secretary
- Treasurer
- Custodian of Records
- Budget Officer

not also hold the position responsible for signing the checks the second time and disbursing the funds. For more information about the annual reorganization of an AD board, see *Chapter XVIII. Elections*.

Separate chapters in this manual cover the duties of the secretary and treasurer. The only stated duty for the chair is to preside over meetings. The chair also has the power to vote as a member of the board and should always do so.

Sometimes the bylaws, rules or policies of an AD will assign other duties to the chair. These duties might entail authorizing expenditures beyond the authority given to the EMS chief or suspending, pending the next board meeting, an employee or volunteer from his or her job. The bylaws or rules of an AD might also have additional officers such as a Vice Chair.

To ensure an AD has de jure officers, the AD board should follow constitutional restrictions on who may serve as officers and ensure that officers (Mo. Const. Art. VII) are sworn in and bonded, as well as follow any other legal requirements of law or district policy.

### **Contributory benefit plan board of trustees**

An AD may provide health, accident, disability and pension benefits for its salaried members, and their spouses and minor children, through either, or both, a contributory or non-contributory plan. The AD board determines the type and amount of benefits subject to revenues available. If an employee contributory plan is adopted, then at least one voting member of the contributory benefit plan board of trustees must be a member of the AD elected by the contributing members. The contributory benefit plan board of trustees cannot be the same as the AD board of directors (190.060.1(8)).

The AD board can submit a question of funding a pension program to the voters. A majority of the voters of the AD have to approve a levy not to exceed 10 cents per \$100 assessed valuation to fund the pension program (190.074). The AD board determines the type and amount of benefits subject to revenues available for the pension plan (190.060.1(8)).

An AD with a pension plan also may need to establish a pension board of trustees. The law (105.666) requires pension board members to attend six hours of education classes within six months of becoming a trustee and establishes the curriculum for those classes. Several professional organizations offer contributory benefit plan board and pension board educational programs; however, membership may be required to access these courses.

## IV. Referendum, Initiative and Recall

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### Referendum and initiative

Voters of an AD may petition for only four specific referendum purposes: AD director recall and removal from office (see *Recall and exemptions* in this chapter), annexation of land into the AD (190.070), consolidating two or more ADs into a single AD (190.090) and expansion of AD boundaries for a whole city for a city in both Franklin and St. Louis counties (190.087). (See Chapter VII. Changing AD Boundaries for more information on petition process for the latter three purposes.)

Unlike fire protection districts, statutes do not allow initiative referendums, where the voters act on behalf of the board or reverse any action taken by the AD board.

### Petitions

Forms for the three specific referendum petitions are provided in the statutes. Generally petitioners are warned that it is a felony to sign someone else's name, sign more than once or sign without being a registered voter. The petitions state that the persons undersigned order the described measure be referred to the people of the AD for approval or rejection. The measure that petitioners want adopted is then described in the petition. Each person signs on a numbered line and gives his or her voting address. Each sheet of signatures must have a sworn oath by the signature gatherer at the bottom, verifying that the persons listed signed the petition in the gatherer's presence and that the gatherer believes they are all registered voters who reside in the AD. The form must be notarized.

If the petition is in compliance with the law, which includes signature verification, the issue goes before the voters. A simple majority vote adopts the proposed measure that was in the referendum petition.

The petition process should be taken seriously. In one known instance, the description of what petitioners proposed was faulty, even though they had paid for legal advice to help prepare the petition, and so the issue never came to the ballot. In addition, when the signatures were being verified, at least eight names were found that did not match those of AD residents or registered voters. The felony warning noted above is a felony election offense. Conviction of such a violation permanently severs a citizen's voting rights. Had the issue on the petition gone to the ballot, eight persons could have permanently lost their right to vote.

### Recall and exemptions

Any or all of the members of an AD board are subject to recall and removal from office by AD voters subject to several restrictions listed below under *Who may not be recalled*. Although recall is rare, it has been used

### Referendum, Initiative and Recall

- Referendum and initiative
- Petitions
- Recall and exemptions
- Who may not be recalled
- Notice of intent
- Change in number of board members

successfully, so a board should be familiar with the rules that govern it (190.056).

### **Who may not be recalled**

Board members are exempt from recall during the first 180 days and the final 180 days of their terms. If a member has been the subject of a recall election during the term and survived, that member is exempt for the rest of that term. This means all board members are subject to being recalled by AD voters if they are not in the first half of their first year or the last half of their final year, or unless they have survived a recall vote that term.

### **Notice of intent**

A notice of the intention to circulate a recall petition must be either handed personally to, or sent by certified mail to, the board member who is the subject of the recall. A copy is filed with the election authority along with a sworn statement that the notice was served on the board member. Each member whose removal is sought must receive a separate notice.

The notice must contain the board member's name, a statement of 200 words or less stating the reasons for the proposed recall, and names and addresses of one to five recall proponents. The board member has seven days to file a response with the election authority, and if a response is filed, the board member must send a copy to at least one proponent by certified mail.

Recall petitions include a request for election, a copy of the intention's complaint, the member's response or a note that no response was made, and lines for each signer's signature, printed name and address. Each petition requires a sworn certification from the signature gatherer and must be completed and turned in within 180 days from the date of filing the notice of intent.

The signatures must equal at least 25% of the people who voted for governor within the AD in the last general election. The election authority has 20 days to verify signatures. If signatures fall short of the required total, petitioners have 10 days to collect more. If numbers are still insufficient, no action is taken and the petition stays on file with the election authority.

If enough signatures are gathered, a certificate is sent to the AD board before its next meeting with the board member's name, the number of signatures required, the total number of signatures on the petition and the number that were valid. Upon proof that the board has received the certificate, the election authority schedules the election for a regular election day (115.123). Up to 42 days before the election, the member can resign and have the question removed from the ballot. The resigned member may not be appointed to the vacancy (190.056.14).

Once the recall election has been scheduled, candidate(s) to replace the board member if he or she is recalled nominate themselves by filing a

statement of candidacy with the election authority. For more information on AD director qualifications, see *Chapter III. Officials and Board Operations*.

Costs of the recall election are billed to the AD. The election must be held no less than 45 days and no more than 120 days after the AD board receives the recall petition. Because the law (115.123) restricts the days on which elections may be held, determine possible dates for the election as soon as a notice of intent has been filed. A simple majority decides the recall question. One more than half of the total votes cast ousts the member. One vote short of half the total, and the board member stays.

### **Change in number of board members**

The law (190.051.1) allows a fifth referendum on the number of AD board members, but this referendum does not require a voter petition because it is a six-member AD board that asks the voters to approve an “at-large” seventh board member. The same law also allows a six-member AD board to ask the voters to approve decreasing the AD board to five or three members.

If a majority of the AD voters agree to add a seventh AD board member, then at the next election of AD board members, the AD voters at-large select the seventh AD board member (190.051.2).

If a majority of the AD voters agree to decrease the number of board members, the county clerk redraws the AD into the resulting number of election subdistricts with equal population bases. Within 90 days, the AD holds elections by election subdistricts similar to the election for the initial AD board that is, election subdistricts are numbered from one to three (or five) and members serve staggered terms (190.050). At all later elections the member elected from each subdistrict serves for three years, etc. (190.051.3).

Members of the AD board of directors in office on the date of an election to decrease the number of board members must still serve the term to which they were elected or appointed until their successors are elected and qualified (190.051.4).

## Secretary Powers and Duties

- Options for selection
- Duties
- Secretary pro tem
- Custodian of records
- Record keeping

### **Other Secretary Duties and Responsibilities**

- Keep an up-to-date roll of directors, AD officials and their terms of office
- Certify director attendance if requested by treasurer for paying attendance fees
- Notify officers, committees, and directors-elect of their election or appointment
- Make a record of all committees; notify members if they were named to a committee while absent
- Handle correspondence, for example, election results contained in the report from the verification board, citizen petitions, etc.
- Preside at the meeting when the chair is absent (until election of a chair pro tem)
- Make reports and file reports in the proper place and at the proper time
- Keep policies, resolutions, and ordinances properly organized
- Call roll when requested by the chair
- Notify directors of special meetings or changes in meeting dates or times

## V. Secretary Powers and Duties

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### **Options for selection**

The AD board elects a secretary and a treasurer, or one person to serve as both, who may or may not be board members (190.055.1). Electing a non-member as secretary has advantages. For example, board members have agreed to represent the residents of the AD when making policy decisions, but the secretary may have difficulty participating fully in such discussions while trying to compile accurate minutes. The tasks required of the secretary, outlined below, are similar to office manager duties and may be more than an AD board should expect of a board member.

A director who is also the secretary maintains all director rights and responsibilities, for example, a director/secretary may introduce motions, discuss them, and vote on all measures.

### **Duties**

The secretary's job is important and detailed; therefore, it is important the secretary become familiar with and carry out each part of the job. A record lost, a list unmade or a report not filed can mean legal, financial or public relations trouble for an AD. Details fall into place much better if the secretary is organized. This means doing jobs when they need to be done, having records when they are needed and knowing where things are.

The secretary's job is actually the chair's assistant; therefore, a secretary should always be prepared to explain what business is pending during a meeting.

The secretary's tasks include posting notices of meetings, certifying adopted property tax levy rates to the county clerk, notifying the election authority of upcoming elections, making agendas publicly available, taking care of all AD notifications and attesting to the accuracy of the AD's records.

The secretary should be the caretaker and applier of the AD seal.

When the board needs to report on matters of AD concern, the secretary will likely be asked to prepare the report. Although the board may wish to prepare its own agendas, the secretary is the one who ensures that they are publicly posted in a timely manner as required by law (see Chapter IX. Meetings, Records and Votes).

The secretary typically also is designated as custodian of AD records (see more detail in *Custodian of records* and in *Chapter IX. Meetings, Records and Votes*).

## **Secretary pro tem**

Because the secretary is required to keep board minutes, attendance at all board sessions is part of the job; so if the secretary is unable to attend, the secretary should make sure the chair has access to the approved or unapproved minutes of the previous meetings. Provision should be made in AD rules of procedure to designate a secretary pro tem, which means a temporary secretary, to temporarily fulfill the secretary's duties when the secretary cannot attend a meeting or perform other required duties.

## **Custodian of records**

State open meetings and records laws require each political subdivision to formally appoint a custodian of records (610.023.1). The name and contact procedures must be publicly posted. In fact, AD law (190.075) requires the AD board provide for proper and safe keeping of its permanent records.

## **Custodian of records duties**

The custodian of records maintains AD records, approves removal of original public records, and acts upon requests for access to public records. AD law (190.075) also says that financial books and records must be available for inspection by any member of the AD board upon request by the AD board member. The deadline to respond to requests for records is no later than the end of the third business day following the request and sooner if possible. Keep in mind that sometimes a lawful response, especially to a large request, may be that the request is being acted upon, and the expected timeframe to compile the requested records. If access is denied, however, the custodian must give a detailed explanation in writing within three days (see *Chapter IX. Meetings, Records and Votes*). Any official who refuses to permit inspection of public records can be removed from office, fined \$100, and/or go to jail for up to 90 days (109.180).

## **Record keeping**

Missouri governments' collective memory is housed in its permanent and historical records. Citizens have an ongoing need to access and obtain copies of these records. The Records Services Department of the Office of the Secretary of State is responsible for managing both current and historical records of the state to ensure those records are accessible to Missouri citizens. It is also responsible for assisting local governments in records preservation and management.

As authorized by Missouri's Business and Public Records Law (109.200-310), the Local Records Board serves as the coordinating board to establish proper record retention schedules for all local governments.

A resolution for designating the custodian of records is provided by the Office of the Attorney General: <https://www.ago.mo.gov/missouri-law/sunshine-law/sample-language-forms/resolution-sample>

## **Records Retention**

Local Government Records Retention Schedule and schedules specifically for ambulance and FPD records can be found on the secretary of state's website: <https://www.sos.mo.gov/archives/localrecs/schedules>

## **Budget Records**

Documents related to the budget must be kept on file for three years — these are public records, open to being viewed on request by anyone during reasonable times (67.060)

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An AD custodian of records should become familiar with these rules and follow them. (The secretary of state calls these rules “guidelines,” which implies they are not binding. However, most lawyers consider these guidelines to be the minimum required retention period. AD boards should consider adopting an ordinance or policy that mirrors this schedule or includes longer retention periods.)

When records are destroyed, a report of the destruction should be recorded in the AD board minutes.

(See *Record keeping for ambulance services* under *Chapter XIX. Ambulance Services* for more information on specific AD records.)

## VI. Treasurer Powers and Duties

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### Options for selection

The treasurer does not have to be a member of the AD board. If the board chooses to have a secretary who is not a board member, it may want to consider combining the secretary and treasurer roles. Statutes do not specifically prohibit this combination (190.055.1; 190.055.3). The arguments for and against this are similar: Combining the administrative and financial operations is more efficient when they are operating well. But having a secretary and a treasurer who cross-check one another also has merit. The board should discuss the pros and cons of these options and assure that no inconsistent duties reside in the same person.

### Duties

As custodian of an AD's money, the treasurer has the care and responsibility for all moneys coming into the AD in any manner and keeping all moneys in the various funds required by law (105.662; 190.041.2; 190.065.4; 190.074) or authorized by the board. Because of this, bonding is required before the treasurer can function. The board establishes the amount of bond necessary, with no minimum set by statute. (For many similar public positions, this bond is set at the largest amount handled during any month of the preceding year plus 10 percent.) The AD pays for the bond, which must be a "surety bond" (190.075). Instead of a bond set at the largest amount handled by the treasurer, the board may choose instead to purchase an employee dishonesty insurance policy; however, the treasurer must still have at least a minimal bond.

The AD through its treasurer must "keep true and accurate accounts of its receipts" (190.075). The treasurer must also keep strict and accurate accounts of all money disbursed for and on behalf of the AD in permanent records.

### Financial statements and penalties

The treasurer should provide written, monthly reports to the board that include a report of revenues (money coming in) and disbursements (money going out), a balance sheet report (showing what is owned and owed), and comparisons of actual versus budget amounts. Unlike the minutes prepared by the secretary, the board should never approve the treasurer's report, otherwise the report becomes the board's report. Instead, the board would vote to "receive" the report, so as to make it a part of the AD's records. The board should approve annual financial statements, but approval of the financial statements is usually based on the recommendation of its auditor, who often has malpractice insurance or may be subject to discipline from a state professional registry board.

### Treasurer Powers and Duties

- Options for selection
- Duties
- Financial statements and penalties
- Bill paying
- Personal liability
- Collateral pledges
- State auditor concerns

### Other Treasurer Duties and Responsibilities

- Keep accounts of AD money received and disbursed in permanent records according to policies, regulations, statutes and generally accepted accounting principles (GAAP). No comingling of funds, for example, pension, debt service, etc.
- Ensure all bank accounts, open merchant accounts and credit card accounts are reconciled timely (by a set day each month)
- If audited, prepare fiscal year financial reports for auditor and authorizes auditor access to bank account statements and other requested information
- Ensure filing of federal, state and local tax forms, for example, W-9, 1096, 1099, etc.
- Fulfill financial reporting covenants with lenders, bond holders, lessors and patrons
- Financial statements and penalties

The state auditor (<https://auditor.mo.gov>) provides an electronic spreadsheet and printer-friendly format (PDF) financial form in the Political Subdivision Financial Reports section of its website: <https://auditor.mo.gov/local/politicalsubfincprpt>

Unless prepayment authority has been granted, the treasurer presents bills for board approval, informing the board if a bill will exceed the budgeted amount.

Statutes require ADs to file a “detailed financial statement” that must be prepared “in such summary form as the state auditor shall prescribe” (105.145).

The code of state regulations (15 CSR 40.3.030) says that an AD’s annual financial statement is due to the state auditor’s office six months after the end of the fiscal year, whether audited professionally or not. If the annual financial statement is overdue, no pay or expense reimbursement for members of the governing body is allowed during the period the statement is overdue (105.145.5).

### **Bill paying**

Because government predates our modern banking system, the procedures that have evolved for government finance are often more complicated than modern banking practices and banks may not understand them initially.

Only the treasurer can write checks on the AD’s account. To do so, however, the treasurer must receive instructions from the board. Traditionally, a “warrant” has been used to instruct the treasurer. The warrant sometimes takes the form of a “list of bills” and a “motion to pay the bills,” which are voted on by the board and then given to the treasurer, who writes the checks. In some traditional local governments, the board members, or maybe the board secretary and board president, sign a warrant that is given to the treasurer, who then writes and signs the checks. The multiple signatures discourage theft or financial mismanagement.

Some ADs use a single document as both warrant and check, which must be signed by the secretary and countersigned by the president. It is a warrant, but it becomes a check when the treasurer signs it. Separate warrants and checks can be used, but using one document for both purposes is easier.

Some banks have balked at accepting checks with multiple signature lines. If an AD’s bank complains, explaining that the two signatures are for AD purposes usually suffices. Only the treasurer’s signature is needed on the bank’s signature card, but the additional signatures warrant that the expenditure was authorized and that the account on which it is drawn has sufficient funds.

### **Personal liability**

The treasurer of any local governmental body, including an AD board, is personally liable for the safety of all public money, with two minor exceptions: (1) acts of God, including earthquakes, forest fires and floods; and (2) acts of a public enemy, such as the other side in a declared war. This means if the bank fails or the money is stolen, the treasurer can be personally sued to make up the loss. (Fortunately for a treasurer who is married, a spouse does not have the same liability and jointly owned assets cannot be seized to pay the debt.)

A corporate fidelity bond does not relieve the treasurer of this personal liability risk. The purpose of the surety bond is to protect the taxpayers, not the treasurer. Some homeowner's insurance may protect a treasurer who has financial responsibility for an AD. Those who are considering this role should research their options. They may need to purchase a special policy or an additional rider on a homeowner's policy to protect themselves from the risks of this type of public service. Similarly, the treasurer should ensure that all recommendations from the AD's audit are scrupulously followed, because doing so will reduce the treasurer's liability risk.

### **Collateral pledges**

Because of this risk of personal liability, the treasurer should ensure that all moneys are promptly deposited in a bank and must ensure that the money is adequately insured by the Federal Deposit Insurance Corporation (FDIC), National Credit Unions Share Insurance Fund (NCUSIF), or by a bank's pledge of collateral for any money above the FDIC or NCUSIF coverage limit (110.010.1). (Regardless of how many different bank accounts an AD has, the FDIC insurance limit applies only once, not to each separate account. In other words, the FDIC rules are different for government bank accounts than for individual accounts.)

The AD should require the bank to up-date the collateral schedule periodically, at least once a quarter.

To ensure AD funds are not at undue risk, the law requires that the AD can only accept collateral pledges that are also used for state funds (110.010.1). The law for securing state funds lists 16 different types of collateral pledges plus FDIC/NCUSIF coverage (30.270).

- Bonds and other obligations of the US government, for example, treasury bills
- Bonds or obligations of the State of Missouri
- Missouri bonds of cities with population over 2,000, counties, school districts, or special road districts
- Bonds of any other state
- Bonds, etc., issued by farm or agricultural credit banks
- Bonds or irrevocable standby letter of credit issued by the federal home loan banks
- Bonds of any political subdivision established by the City and County of St. Louis
- Tax anticipation notes of first class counties
- Surety bonds from highest-rated insurance companies
- Out-of-state municipal bonds with the highest ratings
- Certain mortgage securities
- FDIC/NCUSIF coverage

### **City of Fayette v. Silvey, 290 S.W. 1019, 1021 (K.C.Mo.Appo 1926)**

- Early in the 20th century, the depository bank failed that held the City of Fayette's funds. The City of Fayette sued its treasurer for return of the funds
- The courts found "... The general rule, which is the rule in this state is that one of the duties of a public officer intrusted with public money is to keep such funds safely, and that duty must be performed at the peril of such officer. Thus, in effect, he is an insurer of public funds lawfully in his possession."
- Some of the lost funds were from the City's charges for electricity, but the court found that the treasurer was responsible for all public money, not just tax revenue
- The court ordered the company that provided the treasurer's bond, to pay the city
- After paying the city, the bond company successfully sued the treasurer's estate for repayment
- The bonds protect the taxpayers, not the custodian of public monies

### **Investment Guide**

The state treasurer provides an investment guide: [https://treasurer.mo.gov/pdf/Investment\\_Guide.pdf](https://treasurer.mo.gov/pdf/Investment_Guide.pdf)

### Audit Petition Requirements

Last Election	% of Voters
0-999	25%
1,000-4,999	15%, but not less than 200
5,000-49,999	10%, but not less than 750
50,000+	5%, but not less than 5,000

An example of an inventory record is provided in the Sample Forms section of this manual.

### Embezzlement

Without audits or an independent review of bank reconciliations, the treasurer of a small special district, was able to embezzle \$1,530,159. He was sentenced in 2014 to three years in jail without parole for two counts of mail fraud and ordered to pay full restitution.

### State auditor concerns

The Missouri state auditor performs audits on public entities (29.200), including ADs, randomly, by order of the Missouri governor, or when enough taxpayers have signed a petition for such an audit. The AD must pay for the audit. Several ADs have been audited based on such petitions (29.230). An AD board of directors should review those audit reports, which are available on the Missouri State Auditor website, [www.auditor.mo.gov](http://www.auditor.mo.gov).

The state auditor recommends that an AD establish certain policies and good auditing practices, which cannot be found in any Missouri statute. For example, the state auditor believes public entities should always have a current inventory of all their equipment and other property. That is good practice for any organization. An AD should inventory not just its vehicles, but all the equipment owned by the AD, including computers, chairs and file cabinets. Each item should be labeled and put on an inventory list, either electronic or paper, that is kept current. To establish a value threshold for what is put on an inventory list, the AD board should work with its accountant to follow generally accepted accounting principles (GAAP) for governmental accounting set by the Government Accounting Standards Board (GASB).

In the reports, the state auditor has chastised ADs for not having a travel reimbursement policy, not bidding health insurance every three years (as required by law) and not having a vehicle, credit card or wireless phone use policy. The auditor has also criticized ADs for not keeping close records on maintenance for ambulances and other vehicles.

The board might ask the AD's accountant to download some of these audit reports, which can be used to educate the directors and office employees on sound financial management. Local governments have suffered losses (including by embezzlement) when basic accounting practices were not followed, or when the entity had little or no segregation of duties.

The Missouri Constitution in Article VI, Section 24, says that as prescribed by law, all ADs shall be audited; however, the law (190.075) only says "an annual audit shall be made of its books, records and accounts" — nothing per se about hiring an auditor.

Regardless of legal requirements, there may be practical reasons for a board to hire its own auditor, for example, to ensure integrity of the AD's accounting practices. Bond holders and organizations providing grants may also require audits. The board should make sure to select a competent, insured auditor who specializes in governmental accounting that performs true audits and not just lesser "compilations" or "reviews." Check with the other local officials to find out which auditors are being used by these entities.

## VII. Changing AD Boundaries

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### **Petition to become part of an AD**

Several options for changing AD boundaries are set out in the statutes (190.070). The procedures for expanding the boundaries to include, or annex, an area are as follows:

1. A petition for annexation must:
  - Be filed with the county clerk in the county having the largest percentage of the AD;
  - Be addressed to the county commissioners;
  - Bear signatures of not less than 10% of voters, or fifty voters, whichever is less, in the area asking to be annexed by the AD.
2. As “nearly as possible” the law says, the county commission will then hold a hearing on the annexation petition. Then, if the county commission finds that the annexation petition follows the AD law, the commissioners will order the annexation question be submitted to the voters within the area to be annexed and within the AD.
3. If a majority of voters within the area to be annexed and within the AD are in favor of the annexation, then the county commissioners by order declare the area annexed along with a description of the altered AD boundaries.

The statutes (190.087) have special procedures for an AD servicing a city in both Franklin and St. Louis counties to be expanded so that the whole city is within the AD.

(See *Petitions* in *Chapter IV. Initiative, Referendum and Recall* for information about why the petition process should be taken seriously.)

### **Protest to an annexation**

Any person aggrieved by an AD annexation petition should testify at the hearing by the county commissioners; however, the county commissioners are limited to just ensuring the petition follows the law, not judging the merits of the annexation. The final time to protest an annexation is at the ballot box.

### **Annexation by a city**

For many years, it has not been clear whether the AD or the city is to provide EMS to property within the AD that is annexed voluntarily into the city. The conflict results from the existence of two potentially applicable statutes, Sections 72.418 and 321.320, RSMo, because application of each yields a different result.

Section 72.418 provides that ADs serving an area shall continue to provide EMS to an area annexed by a city with an EMS department, while Section 321.320 does not. It should be noted that both sections permit the

### **Changing AD Boundaries**

- Petition to become part of an AD
- Protest to an annexation
- Annexation by a city
- Detachment
- Consolidation and shared services
- Economic development impacts

AD to levy taxes on the property to pay bonded indebtedness that existed prior to annexation.

The Missouri Supreme Court resolved the question with an opinion handed down on March 17, 2009 (South Metropolitan, Res v. city of Lee's Summit, App, SC89558). The court held that Section 321.320 excludes from an AD any property located in an AD's boundaries and annexed by a city with at least 40,000 inhabitants that is not wholly located within an AD. In order to harmonize the conflicting sections and give both meaning, the conflict was resolved by applying Section 321.320 to counties without a boundary commission and Section 72.418 to counties with a boundary commission. St. Louis County is currently the only county with a boundary commission.

In its opinion, the court also stated that the population language contained in Section 321.322.3 excludes its application in St. Louis County, currently the only county with a boundary commission. Other specific language contained in Section 321.322.4, in effect, authorizes Section 72.418 to apply to Harrisonville, a city in a county with no boundary commission. This application was drawn narrowly, providing further evidence that Section 72.418 is intended primarily to apply in counties with a boundary commission.

### **Detachment**

Except for one scenario, which has been declared unconstitutional, the statutes do not provide a process for part of an AD to be excluded from the AD. Section 190.088 provided a limited process for detachment, but that statute was declared unconstitutional by the Circuit Court of Cole County in 2016.

### **Consolidation and shared services**

Consolidation can be a way for ADs to maintain or increase levels of service as well as more effectively and efficiently use taxpayer resources.

Two or more ADs may consolidate by following this process (190.090):

1. Consolidation petitions are signed by petitioners living in each of the existing ADs, whose number on each petition equals 10% of the votes cast in the last election for governor; or resolutions approved by the boards of all ADs to be consolidated.
2. Within 12 months of each other, the consolidated petitions or joint resolutions are filed with the county clerk in the county having the greater part of the proposed consolidated AD, and the county clerk presents the consolidation petition or joint resolution to the county commissioners who order an election.
3. If a majority of voters voted for consolidation, the county commission having jurisdiction makes and enters its order declaring the consolidation proposal passed.

### **Consolidation Example**

The City of Pleasant Hill had a municipal fire department while the surrounding rural area was in the Northeast Fire Protection District. The Pleasant Hill AD provided ambulance service within both the City of Pleasant Hill and the Northeast Fire Protection District. After consolidation, the Pleasant Hill Fire Protection District provides both fire protection and ambulance services within the City of Pleasant Hill and the surrounding rural areas.

4. Within 30 days after declaring the consolidation proposal passed, the county commission divides the consolidated AD into six election districts and orders an election to be held in the same manner as a new AD (see Terms in Chapter I. Background and Formation).
5. The first meeting of the consolidated AD board of directors must be held within 30 days after the election of the initial directors of the consolidated AD at a time and place designated by the declaring county commission.
6. The newly elected directors must choose a name for the consolidated AD during the first meeting of the consolidated AD board and notify all the county clerks for the counties in which the consolidated AD is located of the name of the consolidated AD.
7. On the 30th day following the election of the directors for the consolidated AD, the ADs that were consolidated cease to exist and, in fact, all the assets and obligations of those ADs become the assets and obligations of the consolidated AD.

(See *Petitions* in *Chapter IV. Initiative, Referendum and Recall* for information about why the petition process should be taken seriously.)

Instead of full consolidation, some ADs consider shared services arrangements — sort of broader mutual aid agreements (190.060.1[3]; 190.060.1[6]; 190.060.5; 190.060.6). Shared services can even be provided by a quasi-government organization set up by the ADs.

(See *Management contracts* under *Chapter XIX. Ambulance Services* for detailed information if shared services would be for total management and operation of the ambulance services).

### **Economic development impacts**

Although borders are not changed, some economic development programs can take property tax revenue away from the AD and give the monies to cities and counties. ADs need to determine if such economic development truly benefits the community or if it will result in undue hardship. For example, if there an increase in activity because of the program, the AD may have an increase in service demands but without any additional tax money to do so. In either case, the ADs would be well-advised to seek legal counsel that specializes in economic development law.

There are three types of economic development projects for which the assessed valuation is frozen for some years, and the AD will not receive all the additional tax revenue even though property values increase.

The first type of economic development project is called Tax Increment Financing (TIF). The incremental tax revenue from property value increases in the TIF district due to the economic development is used for 23 years as part of the economic development of the property (99.800-99.865).

TIF projects are meant to redevelop “blighted” properties, which in theory would not be developed without tax incentives. Decisions about a TIF project are made by a nine-member commission that conducts studies, holds hearings, and then creates an overall redevelopment plan, which is then sent to the city or county that initiated the TIF for its approval. The TIF law is loaded with exceptions and alternatives. What follows is the most generic application of TIF law to school districts and “other taxing districts” such as ADs.

The school districts in the redevelopment area agree on two members to be on the TIF commission. All other taxing districts in the redevelopment area agree on one member to be on the TIF commission. The six remaining members of the TIF commission are appointed by the chief elected officer of the city or county that is declaring the TIF.

Once the redevelopment plan is approved by the TIF commission, the theory is that the school districts and other taxing districts no longer have any concerns about administration of the TIF project, so the six members of the TIF commission appointed by the city or county can terminate the existence of the three members representing the school districts and other taxing districts. However, school districts and other taxing districts need to pay attention as one metropolitan school district found out when it learned there was an attempt by a city to use leftover TIF project monies to build a soccer complex instead of distributing the leftover monies to the school district — monies the school district believed to be theirs, not the city's.

Prior to 2004, taxing districts received none of the incremental tax revenue from property value increases due to the economic development during the 23-year life of a TIF project. Due to a change in legislation, taxing districts such as ADs now receive at least 50% of the incremental tax revenue from property value increases due to the economic development (99.848).

In theory, there are payments to the other taxing districts in lieu of property taxes (99.845.1[2]) as well as surplus incremental tax revenue not used for redevelopment that is supposed to be distributed to the taxing districts (99.820.1[12][b]). A wise AD board will monitor the reports required by Section 99.865 to keep track of the collection of monies, and how those funds are being handled.

The second type of economic development project is called an Enterprise Enhancement Zone (EEZ) in which 50% or more of the taxes on real estate property improvements is abated for anywhere from two to 25 years if those improvements create sustainable jobs in targeted industries in “blighted” areas (135.950-135.973).

Decisions about an EEZ are made by a seven-member board that “conducts the activities necessary to advise” the city or county on the EEZ. The school districts in the EEZ agree on one member to be on the EEZ board and all other taxing districts in the EEZ agree on another member — both board members serve an initial five-year term. The chief elected officer of the city or county appoints the five remaining members of the EEZ board.

The third type of tax diverting development tool is Chapter 100. In this process, a local government “owns” a development project for a specified period, and leases it back to the developer. This causes the property to be removed from the tax rolls altogether for the life of the financing. Amendments adopted in 2018 give emergency service districts such as ADs the right to require reimbursement for up to 100% of lost revenues (100.050). The overall economic impact of the development to the affected community, and associated increases in other tax bases, ought to be considered and discussed early in the process between the AD and the entity considering Chapter 100 incentives.

## Property and Sales Taxes and Fees

- Assessed valuations
- Levy options
- Approval
- Procedures
- Adjustments
- Long-term debt and bond issues
- Sales taxes
- Service fees
- Reimbursements

### ad valorem tax

Latin for “according to value.” An ad valorem tax is a percentage of the value of real or personal property

### Example

A home with a \$100,000 market value has an assessed valuation of \$19,000, which means an AD with a levy of 30¢ per \$100 of assessed value will receive \$57 per year from the homeowner

## VIII. Property and Sales Taxes and Fees

### Assessed valuations

One of the ways some ADs generate revenue is levying ad valorem property tax rates against all real (RP) and personal taxable property (PP) assessed in the AD (190.010.2). Each county in Missouri is responsible to assess, which means to place value on, all real and personal property and update all real property assessments every other year, which is called reassessment. Reassessments must be based on market value, which in theory, is the price a buyer will pay a seller — this is also called fair market value (FMV) or the appraised value.

Once the county sets a market value, the type of property determines the assessed value (AV), which is calculated as a percentage of market value:

Real Property	AV as a % of FMV	Personal Property	AV as a % of FMV
Residential	19%	Vehicle	33.5%
Commercial	32%	Antique vehicle	5%
Agricultural	12%	Crops/livestock	5%
RR and utility	State set	Other	33.5%

When assessed values rise, local governments may be expected to adjust their tax rates downward to avoid an increase in property tax bills (see the *Adjustment* section below). County assessors play no role in the tax rate-setting decision — that responsibility belongs to governing boards of local governments like ADs.

Missouri tax rates, each set by the governing board of the government entity, are expressed in cents or dollars per \$100 of assessed valuation. Some neighboring states such as Arkansas, Iowa and Kansas express their tax levies in “mills,” so a 30¢ levy in Missouri would be 3 mills in another state.

A taxpayer pays the AD the rate multiplied on each \$100 of assessed valuation. A taxpayer’s total property tax bill is the combination of similar calculations from all the taxing jurisdictions where the taxpayer’s property is located.

There is also a surtax that county collectors must calculate and distribute to districts like ADs. The surtax replaces the revenues that were formerly derived from the inventory surtax prior to 1985. This surtax is a county-wide assessment on commercial real property made at a preset tax rate on assessed valuation that replaces the prior tax’s revenues. The distribution of the replacement surtax is based on the percentage of lost revenue and total commercial value in the AD. The percentage is based on total county lost revenue, total county commercial value and collection.

Railroad and utility assessed valuation is sometimes referred to as state-assessed valuation. Railroads and utilities self-report to the state the total value of their property as expressed by miles of track, pipelines and transmission lines in each taxing jurisdiction. Each AD receives a percentage of the railroad or utility company's total tax bill based on the mileage in the AD as a percentage of all the mileage in the state.

### Levy options

Most special purpose districts, such as fire protection, ambulance, drainage and road districts, have only one operating levy; however, ADs have several options as to services they may fund and taxes they may levy to support those services. If ADs have bonded indebtedness, they can use an additional debt-service levy. Each AD operating levy requires voter approval and stands permanently, though it must be recalculated every odd-numbered year. Bonded indebtedness, which requires an additional debt-service levy, is covered later in this chapter under Long-term debt and bond issues. An AD's initial basic levy is 30 cents per \$100 of AV (190.040.1).

Beyond an AD's basic levy options, there are the following levy options:

Additional Levies	Rate per \$100 AV	Authorization
Pension program	10¢	190.074
Emergency dispatch	3¢	190.041

### Approval

All levies require approval by a simple majority of voters. Bond issues (long-term indebtedness) require either two-thirds or four-sevenths voter approval (66.7% or 57.1%), depending upon the election date as explained later in this chapter under Long-term debt and bond issues.

### Procedures

Timing is crucial in order to get the AD's property tax rate(s) extended on tax bills for the current year (67.110). Before a tax can be levied, the AD board must set the rate(s) in a properly announced public session. In theory, the AD board also should have already approved at least a preliminary budget for the next fiscal year — otherwise, how does the board justify the property tax rates? The AD must certify on forms supplied by the state auditor the total approved rate (all the rates added together) to the county clerk (or clerks for ADs that cross county lines) before Sept. 1, or Oct. 1 for ADs located in first class charter counties. The state auditor examines the rate set by the board against the tax rate ceiling to ensure compliance (137.073.6). If the state auditor says the tax rate complies, it is levied against all real and personal taxable property assessed in the counties that lie within the AD.

### RSMo 67.110

- A public hearing is required before setting the tax rate
- Seven days before the hearing, newspaper notice or public postings in three public places of time and place
- Notice shall include assessed valuation by category, new construction in dollar and percentage amounts, amount of revenue required in the annual budget, and proposed tax rates

To make assessed valuation comparisons and property tax calculations easier, the state auditor ([www.auditor.mo.gov](http://www.auditor.mo.gov)) provides electronic spreadsheet versions of its forms in the Property Tax Calculations section <https://auditor.mo.gov/property-tax-calculators>

### **RSMo 137.073.7**

No tax rate shall be extended on the tax rolls by the county clerk unless the political subdivision has complied with the foregoing provisions of this section

For ADs in first class charter counties, it is important that before April 8 of every year, the AD informally projects a nonbinding tax levy — failure to do so will result in a 20% reduction in the AD's tax rate(s) for the year (137.243).

### **Adjustments**

By law (190.043), an AD board can voluntarily decrease its property tax rate(s) in any tax year, and then in a later year, the AD board can increase its property tax rate(s) to the rate previously authorized by the voters without seeking voter approval.

The constitution requires that each year's assessed valuation be compared with that of the prior year. With new construction and improvements excluded, to the extent valuation exceeds last year's plus the federally calculated consumer price index (CPI), or cost of living, the tax rate(s) must be reduced to produce the same revenue as before, plus whatever amount new construction adds. New construction figures are furnished by the county (RSMo 137.073 and Missouri Constitution, Article X, Section 22).

The AD must also make a second calculation if the assessed valuation on existing properties increased. A tax-rate ceiling is established by statute (137.073). This tax rate ceiling is capped at either the most recent voter-approved rate or the rate that was levied in 1984. The intent is to provide no more revenue from the new assessed valuation than was produced by the old, excluding growth in new construction and improvements.

### **Long-term debt and bond issues**

For capital expenditures, the AD may issue bonds (190.074). Examples of capital expenditures include building an additional station, purchasing new equipment that will last multiple years, and making other purchases or improvements of long-term usability rather than normal annual operating expenses.

When certifying annual levies, the AD board needs to take into account a separate levy for the next year's installments and interest payments on bonds. The tax revenues from this separate levy must be deposited into a separate sinking fund for debt retirement that has enough tax revenue for installments and interest payments (190.065.4), usually up to two years' worth. (See *Chapter XVII. Bond Issues* for more detail.)

### **Sales taxes**

Except for AD's in Charter counties with over one million inhabitants, an AD may levy and impose a sales tax in lieu of a property tax to fund the AD (190.015.3); however, the petition to create the AD has to have stated whether the AD was to be funded by a property or a sales tax. The sales tax may not exceed 0.5% of all retail sales in the AD (190.035) — subject to the general provisions of sales tax law such as the Missouri Department

of Revenue (DOR) keeping 1% of revenues collected for its collection and administration expenses (190.040.5).

If an AD is funded by a property tax, it appears that the statutes (190.040.3) allow the AD to also be funded by up to a 0.5% sales tax; however, 50% of the sales tax from the current year must be used to roll back property taxes in the next year. It is important to point out that an AD might be collecting other property taxes besides the general operating tax, for example, for pensions under 190.074 or dispatch under 190.041. These are not subject to the rollback.

Estimating the revenue an AD might realize from a sales tax before it is enacted is difficult. The DOR keeps its sales tax data by the existing units of local government that have a sales tax and also by ZIP code, but ZIP code boundaries seldom coincide with AD boundaries. ADs with a sales tax should also remember that some utilities, including telephone service, vehicles and other personal property, such as boats, are also subject to sales taxes.

A few years ago an AD discovered that some of its merchants were mistakenly listed in a neighboring AD. To ensure that merchants are listed in the correct AD, districts with a sales tax should have an authorized person, perhaps the treasurer, check the detailed sales tax reports every month. Keep in mind that sales tax information of individual businesses is protected from disclosure by law. In fact, revealing that information is a Class E Felony (32.057). If a representative of the AD is verifying payment for businesses within the district, that person should be very careful about passing that along, even to other officials or employees of the district. Any problems should be promptly called to the attention of the DOR.

### **Service fees**

While local governments do not always like the adjustments to tax revenue required by the Hancock Amendment covered earlier in this chapter under Adjustments, local governments do like another part of the Hancock Amendment (Missouri Constitution Article X, §16) that prohibits the state from requiring any new or expanded activity or service by political subdivisions such as ADs without full state financing. The Hancock Amendment also prohibits political subdivisions, including ADs, from levying any tax, license or fee without voter approval (Missouri Constitution Article X, §22).

Passage of the Hancock Amendment by voters raised the question, "What is a tax, license, or fee?" In *Keller v. Marion County AD* (820 S.W.2d301 Mo. en banc) the court found that increases in specific charges for services provided by the AD were not subject to the Hancock Amendment because the charges were user fees, while the constitution refers to fees that are really taxes in everything but name. The following table might be helpful when ADs consider new taxes, licenses, or fees.

<b>Question to Ask</b>	<b>Probably Requires a Taxpayer Vote</b>	<b>Probably Requires Just a Board Vote</b>
When paid?	Periodic basis	Only when goods or service provided
Who pays?	All or almost everyone	Only those using goods or services provided
Is it proportional?	No	Yes, to level of goods and services provided
Goods or services provided by AD?	No	Yes
Activity historically government provided?	Yes	No, especially if the private sector can also provide

Prior to any billed services provided, ADs must make sure the fees, rules and regulations are properly adopted, that is, resolutions and ordinances (see *Chapter XIX. Ambulance Services* for detailed information about ambulance service fees).

### **Reimbursements**

The “Spiller Pays” statute (260.546) states that spillers of hazardous substances are liable to ADs for “reasonable and necessary” costs such as the costs of materials and supplies to secure the emergency and non-routine contracted services. However, the AD must submit an itemized statement of costs within 60 days of completion of the cleanup. If the spiller is unable to pay, then the state is to pay the AD.

Prior to any spills, ADs must make sure to adopt resolutions or ordinances requiring spillers to reimburse ADs when there is a spill.

# IX. Meetings, Records and Votes

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## The Sunshine Law

The state's Sunshine Law, also known as the Open Meetings and Records Law, covers all political subdivisions and quasi-governments in Missouri, including ADs. Its basic intent is clear in the following section: "It is the public policy of this state that meetings, records, votes, actions, and deliberations of public governmental bodies be open to the public unless otherwise provided by law" (610.011). The section goes on to instruct courts to liberally interpret openness requirements and strictly limit exceptions. With fines for violations ranging as high as \$5,000 per individual plus attorney's fees (see *Challenges and penalties* in this chapter), AD officials should make sure to conduct business in public. Actions taken in violation of the law can be invalidated by a reviewing court. One violation by a county prosecutor resulted in more than \$39,000 in fines and attorney fees.

The Missouri Attorney General's Office (AGO) publishes a popular Missouri Sunshine Law booklet containing the law, some sample forms and summaries of court opinions and AG opinions interpreting this law. The AGO may also provide training on the Sunshine Law.

## Special AD rule

One provision unique to ADs modifies a requirement of the state's Sunshine Law. The statute (190.075) requires that the "board shall provide for the proper and safe keeping of its permanent records and for the recording of the corporate action of the district. Such books and records shall be made available for inspection by any member of the board upon request by the board member." (The Sunshine Law requires that records be provided within 72 hours after they are prepared, but allows unspecified delays before they are prepared, whereas the AD law does not say how quickly the records are to be made available.) One interpretation of "upon request" might be that records should be made available to a board member without any delay, which would go beyond the Sunshine Law requirement. Regardless, it would be prudent to make any requested records available to an AD board member as soon as possible.

## Notice of meetings

An AD board should meet at least monthly at a building designated by the board that is preferably within the AD. Notice of when and where regular meetings are to be held should be posted continuously at each station. When special meetings are necessary, each board member must be formally notified, preferably by a non-board member to avoid accusations of Sunshine Law violations.

## Meetings, Records and Votes

- The Sunshine Law
- Special AD rule
- Notice of meetings
- Closed meetings
- Open meetings
- Public participation
- Minutes and votes
- Records
- Policy regarding release of information
- Copies
- Challenges and penalties
- Advice

The Missouri Sunshine Law booklet can be downloaded from the AGO website: <https://www.ago.mo.gov/docs/default-source/publications/missourisunshinelaw.pdf?sfvrsn=20> or call 573-751-3321 to request a free printed copy. It contains examples of some forms, such as open and closed meetings notices.

For more information on a number of laws that protect confidentiality of patient medical information see State privacy laws under *Chapter XIX. Ambulance Service*

## **Closed meetings**

Only two kinds of meetings are possible: open or open with a portion closed. A list of about two dozen authorizations for specific closings contains only a few that might apply to ADs. In these instances, meetings may be, but do not have to be, closed:

- Legal actions, but only if the AD is suing or being sued, or if there is a likelihood of legal action that the AD is trying to avoid (610.021[1]);
- Real estate transactions where public knowledge could affect the price (610.021[2]);
- Hiring, firing, promoting or disciplining of individual employees where personal information about the employee is either discussed or recorded. Closing the meeting is only allowed when a specific person is being discussed (610.021[3]);
- Preparations for contract negotiations may be closed if AD employees are organized to collectively bargain (610.021[9]);
- During a bid call when specifications are being prepared (610.021[11]), and when sealed bids are received until the bid opening. Meetings to open bids may be closed until either a contract is awarded or all bids are rejected (610.021[12]);
- Discussions of a negotiated contract until the contract is signed may be a matter for closed session (610.021[12]);
- Personnel reviews and performance ratings may be discussed in closed session (610.021[13]);
- Pre- and post-audit conferences may be closed (610.021[17])

To hold a closed meeting, the board must vote in an open meeting to close a meeting for one of the specific authorized purposes (610.022.1). Notice must be given 24 hours before the closed meeting is held (610.020.2) with the specific reason or citation of the specific section authorizing the closing indicated by the number from the statute (610.022.1).

Every vote concerning going into closed session must be done by roll call, and all votes within a closed session must be done by roll call, even simple procedural motions such as adjournment. (610.015 and 610.022)

## **Open meetings**

Except in an extreme emergency (such as after a tornado), the board must give the public 24-hours notice (exclusive of weekends and holidays) of all meetings. This notice need not be complicated. A regular, easily accessible location must be established to post notices. The law says notice must be given "in a manner reasonably calculated to advise the public." The notice must contain a tentative agenda for the meeting.

In case a challenge is made, the board secretary, or whoever posts the notice, should write the time and date of posting on a corner, such as “Posted 4:30 p.m. 6/7/20.”

### **Public participation**

The public is allowed to attend meetings. Remember, the public is not restricted to AD citizens. If reporters from The New York Times want to attend an open AD board meeting, they may do so. The public is not allowed to participate unless the board chooses to permit this. Whether to permit public participation should be discussed and agreed upon in form of a written policy or standing rule before the board is facing a roomful of concerned citizens all wanting to make a point. If public attendees are permitted to speak at meetings, it might be a good idea to set time limits on comments in advance.

### **Minutes and votes**

Minutes of open meetings “shall be taken and retained” and must include the date, time, place, members present and a record of votes (610.020[7]). The law states: “When a roll call vote is taken, the minutes shall attribute each ‘yea’ and ‘nay’ vote or abstinence if not voting to the name of the individual member of the public governmental body.” (610.015). The safest practice is to follow this procedure for every vote. When the agenda is prepared, it might be helpful if each item includes board members’ names at the end, such as “Jones \_\_\_\_\_, Smith \_\_\_\_\_, Brown \_\_\_\_\_.” Then, either “yea” or “nay” can be jotted in the blank after the vote.

The minutes are a record of what was decided at the meeting, not a transcript of what was said at the meeting.

Minutes do not become the minutes and assume their essential status as the official record of the board until approved; however, draft or unapproved minutes are considered a public record and are therefore subject to the Missouri Sunshine Law.

Minutes can be corrected any time after having been approved, if the existence of an error or omission becomes reasonably certain. A director may propose a correction to the minutes even though not present at the meeting in question.

Never erase errors! When the board approves corrections to the already-approved minutes, the error should be bracketed and the correction written above, on the facing page or in a wide margin, and dated and initialed by both the secretary and the chair.

The correction should also be included in the minutes of the meeting where the correction was made.

### **Public Participation Policy**

An AD board might want to review the public participation policy of the local school district for an example. Substitute “superintendent” or “principal” with the appropriate terms for the AD, such as EMS chief.

A sample Sunshine Law policy from the Missouri Attorney General's website: <https://ago.mo.gov/missouri-law/sunshine-law>, which also has sample resolution language and forms, including a sample form for requesting records from a governing body

## **Records**

The same law that requires most meetings be open to the public (610.022.5) also requires that records of the AD be open to the public, unless the AD board has adopted a written policy to keep certain records closed (610.028.1). If an AD wants to have any closed records, it must have a written policy.

Every public governmental body must formally designate a custodian of records. For ADs, the custodian of records typically might be the secretary, as stated in Chapter V. The custodian of records' name and contact information must be publicly posted (610.023).

Requests for records have deadlines for responding (see discussion under Special AD rule in this chapter).

Provided the board has voted to approve a written policy to do so, sealed bids may be kept closed until the opening date. Personnel records beyond name, position, salary and length of service may and should be kept closed (including evaluations, reprimands and sick days used). Again, these records can be kept closed only if the AD board has voted to approve a written policy to close them (610.028.1).

## **Policy regarding release of information**

The statutes say that every governing body "shall provide a reasonable written policy ... regarding the release of information on any meeting, record or vote" (610.028.2). This policy should also provide guidance on procedures for making a sunshine request and how to handle issues that may arise, including the cost of making copies and public videotaping of meetings. Due to the uniqueness of many ADs, the AD board may want its attorney to assist in writing such a policy.

## **Copies**

The AD may recover the actual cost of making copies of records and should be prepared to document these charges. Photocopy cost may not exceed 10 cents per page for regular-sized paper copy. Average cost of clerical staff time may also be charged. A reasonable rate should be determined and established in advance if it is to be collected (610.026). The AD can require payment of costs before it produces the records (610.026).

## **Challenges and penalties**

Any person can challenge a public, governmental body with violating the state's open meetings and records laws. Once the challenger demonstrates to a court that the law applies to the body, the governing body must prove it did not violate the requirements.

If an AD board is found to have improperly closed a meeting, each member who voted to close and who participated in the meeting is subject to a fine of up to \$1,000 plus attorney fees for the challenger (610.027.3).

If the violation is found to have been purposeful, the fine increases up to \$5,000 (610.027.4). In addition, the court may nullify any decisions made at an improperly closed meeting (610.027.5), which leaves the board with having to conduct the meeting's business again. If an AD board member objects to closing the meeting, that objection needs to be included in the minutes. If that member also votes against closing the meeting, the member has an "absolute defense" against the penalties noted, even if he or she subsequently attends the closed meeting (610.022.6).

### **Advice**

The underlying presumption of the Sunshine Law is that the public has a right to watch public business being transacted. This presumption is hardly revolutionary in the United States. Because board decisions affect the public and influence public expenditures, citizens have a right to be concerned. Whenever possible, make every effort to stress openness. Skeptical Missourians, when convinced no one is trying to hide anything from them, generally lose interest quickly. Operating in secret makes them think the board is hiding something.

## **Budgets and the Budget Process**

- Rules and enforcement
- Budget officer
- Fiscal year
- Budget contents
- Failure to adopt
- Changes
- Keeping documents
- Long-term purchases

# **X. Budgets and the Budget Process**

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## **Rules and enforcement**

No expenditure of public monies shall be made unless it is authorized as provided by law (67.080). Not a single cent of public money can be spent until a budget has been formally adopted following procedures and including the contents set out in the statute (67.010). The statutes are clear on this point. Unless a formal resolution to adopt a budget has been accepted by a majority board vote before the beginning of the fiscal year, no funds can be spent (67.030; 67.080). There are no budget police nor inspectors general making sure every one of the state's political subdivisions complies, but that does not mean this requirement cannot be enforced. AD funds are public money.

## **Budget officer**

Every political subdivision must designate someone as budget officer (67.020), and that person must prepare a proposed budget for the board. Logically, this should be the secretary or treasurer — maybe the EMS chief. Everyone connected with the AD must furnish to the budget officer any facts or figures requested. The proposed budget is given to the board, which may, as often as necessary, return it for revisions before adopting it (67.030). The budget officer must attest to the fact that preparation and adoption procedures were conducted in the manner prescribed by law (67.060).

## **Fiscal year**

The budget law does not specify the AD's fiscal year. The AD statutes (190.055.1) mandate that the AD's board defines the first and subsequent AD's fiscal year. Many ADs use the calendar year as their fiscal year; however, some ADs follow the July-June fiscal year also used by other local governments, while some ADs follow the October-September federal fiscal year, and a few ADs use a November-October fiscal year to best match local property tax receipts (property taxes are due Nov. 1 and past due Jan. 1). A decision to set or change an AD's fiscal year should be in consultation with the AD's accountant and/or auditor.

## **Budget contents**

At a minimum, the budget must have these five elements (67.010.1):

1. A budget message pointing out changes from the prior budget;
2. Estimates of revenue for the coming year, the year currently in progress and the previous year;
3. Estimates of spending for the coming year, the year in progress and the previous year;

4. A list of note payments due the coming year and report of balances remaining; and
5. A summary.

The budget may use cash on hand at the beginning of the fiscal year, but the budget must balance (67.010.2; 67.030). It is acceptable (and recommended by the state auditor) to leave cash on hand at the end of the fiscal year.

Generally, auditors will advise their clients to have cash on hand to pay at least three to six months of operating expenses. Excessive amounts of cash on hand could bring criticism, because it becomes difficult for the board to justify the taxes levied if the AD is perceived as hoarding cash. There are legitimate reasons for holding more cash, such as a “rainy day fund” or to purchase land or replacement vehicles with cash accumulated over several years. The board should work with its attorney, accountant and/or auditor to establish “funds” to properly set aside monies for these types of purposes.

Much of the budget will be based on previous years’ numbers and the budget officer’s best estimates. How much revenue will come in is unknown, and the current year’s total spending is incomplete. The last solid figures will be from two years ago. Because of this, budgets are subject to revision as the budget year progresses. Neither the budget officer nor the board can anticipate everything that will happen 13 or 14 months in the future.

Budget forms are available from the Office of the State Auditor. However, these forms may be more complex than ADs will want because they are designed for counties. Designing your own simple budget form is quite acceptable.

### **Failure to adopt**

If the board fails to adopt a budget by the start of the AD’s fiscal year (67.030), the last-adopted budget remains in effect until the board approves a new budget (67.070). This means spending for whatever purpose cannot exceed the amount allotted in the last budget, until a new budget is adopted.

As a practical matter, the budget has to be adopted before property tax rates can be set, which is by Sept. 1 or Oct. 1 (67.110; 321.250) — otherwise, how can the board justify the rates?

### **Changes**

Any increase in spending over what has been budgeted during the course of the year must be approved by board resolution (67.040). The resolution must state in written form “the facts and reasons making the increase necessary.” Internal transfers may be made that shift money from one fund to another, as long as they do not put the budget out of balance and money that was collected for one purpose is not used for another. Total

The Office of the State Auditor provides budget forms for county governments: <https://auditor.mo.gov/local/countybudgetforms>.

Clicking on the “Generic Budget” will provide an Excel Worksheet. The website states that this budget is for officials and boards for funds held outside the county budget. The Ambulance District can modify the form or use it as a template to create a budget form.

### **Typical AD Funds**

- General Fund (GF)
- Pension Fund (PF)
- Capital Projects Fund (CPF)
- Debt Service Fund (CSF)

### **Resolution**

A written motion attached to the meeting minutes; signed by the chair; sealed by the secretary

spending can be no more than revenues received plus any balance on hand at the year's beginning.

The board should receive monthly budget updates as part of the treasurer's report. Regularly monitoring the budget can make it possible to find ways to save money, expand existing programs or add new ones. It is best to amend the budget, if necessary, before the end of the year, so that it balances.

(See *Financial statement and penalties* section under *Chapter VI. Treasurer Powers and Duties* for more information about budgets being included on financial statements.)

### **Keeping documents**

While Chapter 67 mandates keeping records for three years (67.060), the local records retention manual adopted under Chapter 109 designates budget documents as a permanent record to be archived indefinitely (GS003, Local Records Manual).

### **Long-term purchases**

Any purchase in an amount greater than the year's anticipated revenue plus balances on hand requires voter approval of a bond issue. To pass a bond issue requires an exceptional majority, usually two-thirds of the voters. Once a bond passes, it becomes a lien against all taxable property in the AD.

To budget for bond debt retirement, a separate Debt Service Fund (DSF) budget must include the year's installments and interest payments on the bonds as well as any miscellaneous expenses for maintaining the separate sinking fund as well as bond banker fees for distribution of installments and interest payments to bond holders.

(See *Chapter XVII. Bond Issues* for more information on bonds.)

(See *Lease purchases* section under *Chapter XI. Purchasing, Bids and the Bidding Process* for information regarding lease purchases in lieu of bonds.)

# XI. Purchasing, Bids and the Bidding Process

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## Purchasing

An AD can purchase what it needs to get the job done (190.060.1[2]); however, it is prudent for AD boards to adopt a formal purchasing policy. Examples of topics potentially included in a purchasing policy include:

- Avoiding conflicts of interest (105.454; 105.458.1; and 105.458.2)
- Avoiding double taxation of sales taxes and fuel excise taxes;
- Purchases cannot cause the budget to be exceeded (67.080);
- Standards for personal protective equipment (PPE);
- Regulatory reporting for certain purchases, e.g., reporting a new ambulance to the Centers for Medicare and Medicaid Services (CMS) within 90 days of acquisition (42 CFR § 424.516[d]);
- Commandeering products or services;
- Use of products from prison industries (217.575);
- Ensuring payment of materials for construction of public works, and for labor performed in such work, by requiring performance bonds for public works over \$25,000 (107.170);
- Requiring contractors provide 10-hour safety training (292.675);
- Ensuring contractors' employees have the right to work in the United States (285- 530);
- Certificates of workers compensation insurance for contractors (avoids the AD from potentially paying for such insurance during the annual workers compensation insurance audit);
- Liability insurance (105.1070-105.1079);
- Health insurance for public employees – competitive bidding required every three years (67.150);
- All other types of insurance – competitive bidding required every six years (376.696)
- Increased preference to service-disabled veteran businesses (34.74.3);
- Increased preference to products from organizations for the blind (34.165.1);
- “Buy America,” “Buy Missouri,” and use of certain Missouri products (34.350-34.359; 34.073.1, and 8.280, respectively);
- Proof that products were produced in the United States, or else the payment is illegal (34.355).

## Purchasing, Bids and the Bidding Process

- Purchasing
- Legal requirements
- Phone and email bids
- Files
- Rejecting bids
- Specifications
- Sole-source suppliers
- Contracts must be in writing
- Prevailing wage
- Lease purchases

It may be useful to review purchasing policies of other local governments.

## **Bid Form**

The Office of Administration provides an example of a bid form. While it contains sheets for multiple bids, a separate sheet can be used for each telephone bid and placed in a sealed envelope.

<https://oa.mo.gov/sites/default/files/300-0162s%20%288-01%29.pdf>

## **Purchasing Associations**

- Missouri Buys (<https://missouribuys.mo.gov/buy-for-missouri>)
- Missouri Association for Public Purchasing (<https://www.mappi.org/index.cfm>)
- National Institute of Governmental Purchasing, (<https://www.nigp.org/>)

## **Legal requirements**

Nothing in the law spells out a threshold for when an AD has to advertise for bids on purchases of most goods or construction work. However, because taxpayer funds are involved, the AD should get the best possible deal — both in price and quality (quality usually being defined in specifications that the AD board approved and published before making the purchase).

## **Phone and email bids**

Seeking bids by telephone or email is acceptable and is often necessary. However, phone and email bids should be treated exactly like written bids. Design a simple form for soliciting phone bids that lists the same information that would be provided in written bids, including the person calling for the AD, the firm called, the date, the person speaking for the vendor, what was offered and for what price.

## **Files**

Make a file folder for every item the AD bids. The folder should contain a copy of the announcement, the specifications, written bids received and telephone bids solicited, the affidavit of publication of the notice and, eventually, the contract. Keep specifications closed until public announcement of bid letting is made (610.021[11]). Sealed bids can be kept closed until bid opening (610.021[12]). It is advisable to seal phone bids in envelopes after the paperwork has been completed until the opening of all bids.

## **Rejecting bids**

Every bid call should include the statement, “The AD reserves the right to reject any and all bids.” This is necessary because often bidders will offer to provide goods or services different from those the AD is seeking. If the bids received do not meet the specifications announced, the bids should be rejected, even though this slows down the process.

Appellate court decisions in recent years have given unsuccessful bidders standing to challenge a bid process, so formality and adherence to all adopted or otherwise required standards is critical.

## **Specifications**

Drawing specifications is not easy or simple. Suppliers will be glad to offer help, but be cautious about accepting it. Suppliers might write specifications so that only their product will qualify, nullifying the statutory “due opportunity for competition” mandate. The law forbids state purchasing from using brand names in bid specifications (34.060). This law might apply to ADs too, particularly for certain grant-funded purchases. As a part of state government, ADs can use state purchasing programs such as fleet fueling, specifications, and bids. Smaller ADs might also consult larger ADs within the state for specifications of similar products.

## **Sole-source suppliers**

Do not assume only one supplier can furnish what the AD wants. Remember some years ago when it was exposed that military purchasers were buying exorbitantly priced toilets and tools through sole-source suppliers. Usually, more than one supplier can furnish an acceptable product. Search the Internet for possible suppliers. It can be surprising how many vendors are out there.

## **Contracts must be in writing**

All contracts to which an AD is a party must be in writing and must be signed by authorized representatives of the parties involved. ADs are not required to pay for any product, good or service unless there is first a written contract. Missouri has a special rule on contracts that protects all local governments (432.070). Although private individuals and businesses can be held liable for oral agreements — such as a telephone order or a quasi-contract, where goods are delivered, unpacked and displayed for sale. Missouri governmental entities cannot be held liable for such agreements.

Thus, if an AD receives a bill for goods or services for which it does not have a written contract, it can refuse to pay the bill. The vendor must be able to produce a properly signed contract to collect the bill.

## **Prevailing wage**

Prevailing wage must be paid on construction, reconstruction, improvement, enlargement, alteration, painting and decorating, or major repair of public works (290.210-340). Prevailing wage is defined as the “hourly rate of wages for work of a similar character in the locality in which the work is performed” (290.220). Missouri’s Prevailing Wage Law also applies to all public works projects on behalf of ADs, so having a company or organization construct the public works may not absolve an AD from paying prevailing wages.

Revisions to the prevailing wage law adopted in 2018 exempt projects under \$75,000 and projects with engineering estimates not exceeding \$75,000. Complicated rules and exceptions apply, so when work exceeds \$75,000, including when a change order causes the project to go above \$75,000, the AD’s legal counsel should be consulted on compliance

ADs thinking about a public works project should be familiar with a slew of other laws that may be applicable:

- Construction or renovation practices (8.677; 8.675-8.681; 34.057; 34.059.1; 34.076; 34.209; 290.550-290.550; 290.210-290.340; 292.675.2; 292.675.4);
- Engineering, surveying, and architectural services — interview and negotiate, not bid (8.285-8.291); and

Download the Public Works Guidebook from the Missouri Department of Labor and Industrial Relations (DOLIR) website: <https://labor.mo.gov/DLS/PrevailingWage/pwBodies>

- Ensuring payment of materials for construction of public works, and for labor performed for such work, by requiring performance bonds for public works over \$25,000 (107.170).

### **Lease purchases**

Some public entities dodge bond issue requirements with lease-purchase arrangements. Such an agreement must be cancelable by a new board when elected, even if the members do not change. This puts the vendor at additional risk, which usually is factored into the price quoted. A board should enter into such agreements with caution (see *Chapter XVII. Bond Issues* for more information about bond issue requirements).

## **XII. Personnel**

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### **Coverage**

ADs might not think of themselves as employers needing detailed personnel policies. An AD might have just one employee and work arrangements may be informal. However, even with a single employee, an AD is an employer. An AD must have federal and state employer identification numbers (EINs), withhold income and Social Security and Medicare taxes from wages, and pay state unemployment insurance. Moreover, an AD is considered a public employer. As such, an AD must keep certain records under the federal Fair Labor Standards Act, known as FLSA, and compensate employees in accordance with FLSA rules (see Chapter XIII. Federal Fair Labor Standards Act).

An AD could have employees who are covered by Social Security and others who are not. Today, most public employees are covered by Social Security, but this was not always the case. Some long-term public employees who were not covered by Social Security may have been “grandfathered” when laws changed.

### **Risks**

In recent years, there have been many changes in laws that relate to employees. Most of the changes are the result of federal laws designed to eliminate discrimination. Only gradually have similar laws also been adopted at the state level. These overlapping laws can be confusing. In some cases, they apply broadly to all workers, including volunteers; in other cases, they apply only to employees, or they may apply only to workplaces with a minimum number of employees, which might be four, 15, 25 or 75, depending on the section of the law. Many federal laws always apply to a political subdivision such as an AD regardless of the number of employees or even if the AD has no employees.

An AD is not exempt from labor laws simply because it performs a public service. Rather, it should assume that all discrimination and employment laws apply, even if it has fewer than the “minimum number” of employees. Under modern civil rights legislation, including statutes sometimes referred to as “Civil Rights” or “1983,” (named for the legal citation, Title 42 of the United States Code, section 1983), an AD might be sued over AD conduct that is not otherwise covered by the specific statute. Damage claims can include attorney fees, which can be substantial, and often much higher than actual monetary damages awarded.

AD board members protect themselves by staying well informed and scrupulously following employment laws. A board may also want to consider insurance that covers its decisions as an employer. Most insurance products, including workers’ compensation, general liability and even board errors and omissions coverage, do not cover personnel

### **Personnel**

- Coverage
- Risks
- Special Rule
- Employees and volunteers
- ADs have special circumstances
- Special EMT and paramedic benefits
- Hiring and firing the EMS chief
- Expectations and evaluation of EMS chief
- Workers’ compensation insurance
- Personnel policies
- Alcohol use
- Minimum wage
- Child labor laws

or wage disputes. Insurance protection in this area requires separate, and perhaps expensive, employment liability coverage.

### **Special rule**

AD board members act as a group, not as individuals. The AD board is the decision-making body. However, the board can assign duties to the EMS chief, other officials and employees that may involve what lawyers call “ministerial duties” to carry out the AD board’s policies. Moving from decision-making by the EMS chief or an entire group of EMTs and paramedics to a smaller group of directors on an AD board, some of whom may know little about EMS, often can be difficult, but that is the way our form of government works.

### **Employees and volunteers**

Lawyers, legislators and courts use the terms “employee” and “volunteer” in different ways and telling them apart for legal purposes can be difficult. Volunteers, called unpaid employees by some, might receive a payment, such as a small honorarium called “show-up pay” when they attend a training session, or they might receive mileage or tuition reimbursement, especially when taking training far from home. Sometimes employees want to volunteer to go on medical calls—which they cannot do unless paid at their regular rate of pay or at time-and-a-half, depending on the situation (FSLA §3[e][4] [A]). Both employees and volunteers can be fired. Both employees and volunteers can be required to follow AD policies, and both can be required to wear a prescribed uniform. Also, an AD can be sued for the conduct of either type of worker.

When distinguishing between an employee and a volunteer, most will say that an employee is paid a “regular wage,” while a volunteer receives only “nominal compensation.” In 2007, the International Association of Fire Chiefs (IAFC) asked the U.S. Department of Labor for more explicit guidelines clarifying who is an employee and who is a volunteer. In response, the Labor Department’s Wage and Hour Division provided a letter stating that a person would be considered a volunteer if he or she is paid less than 20% of what a full-time firefighter receives in the same locality. This 20% benchmark might also be useful to ADs in contexts beyond the authority of the Wage and Hour Division, such as minimum wage, overtime and compensatory time.

### **ADs have special circumstances**

EMTs and paramedics, whether they are employees or volunteers, are given certain legal dispensation when responding to a call (300.100). This includes allowance to drive as fast as they think prudent, provided both lights and siren are working. However, EMTs and paramedics are not allowed to disobey stop signs or lights until after slowing down. Every year, EMTs, paramedics and other emergency personnel suffer serious injuries or line of duty deaths (LODDs) at stop signs or traffic lights. Occasionally

an ambulance driver (or police officer or firefighter) is charged with manslaughter when a death results from running a stop sign. Also, an AD can be sued if one of its EMTs or paramedics causes a traffic injury or death by inattention to stop signs.

As a result of speed, and because an ambulance does not steer like a sports car, failure of EMTs and paramedics to wear seat belts and shoulder harnesses is particularly dangerous. Rollovers of top-heavy ambulances cause an appalling number of EMT and paramedic deaths and injuries.

Thus, it is important that ADs have rules requiring EMTs and paramedics to slow down or stop at every stop sign or red traffic signal and to wear seat belts and shoulder harnesses. The AD should discipline any EMT or paramedic, whether an employee or a volunteer, who fails to obey these rules, even when driving a private vehicle to the station or a scene.

(See *Physical Fitness* section under *Chapter XIV. Training, Physical Fitness and Equipment* for more information about preventing LODDs.)

### **Special EMT and paramedic benefits**

It is hoped that you will never need this information in your tenure as an AD director, but you should be aware of special benefits that may be available to the families of EMTs and paramedics who suffer an LODD. The Missouri EMS Funeral Response Team helps emergency service organizations when an EMT or paramedic dies, even if the death did not occur during duty. If an EMT or paramedic dies, the employing AD should immediately contact this organization for guidance and assistance, including funeral protocols, a flag for the family, badge shrouds, station and vehicle bunting, honor guard uniforms, etc. There are also funeral protocols for the death of an AD director.

The federal government provides a death benefit (over \$359,000 in 2019) to the family of an EMT or paramedic who dies in the line of duty or from a heart attack within 24 hours of a nonroutine stressful situation. The application for the benefit can require extensive medical records and is difficult to complete. The Missouri EMS Funeral Response Team can provide guidance to families in this situation. This application requires certain autopsy results to show the death was not caused by alcohol or drug abuse; so for this reason, the family should not release the body to a funeral home until after an autopsy.

Missouri provides two modest death benefits to the surviving spouse of an EMT or paramedic killed in the line of duty. (These benefits are also available to surviving spouses of firefighters, first responder or law enforcement personnel). The first benefit is property tax relief on the family home as long as the surviving spouse does not remarry. The relief is provided through a special income tax credit that must be claimed annually on the state income tax return (135.090, as currently written, will expire in

- For more LODD information, see the Missouri EMS Funeral Response Team's website: <http://www.moemsfuneralteam.org/>
- For more information on the Public Safety Officers' Benefits Programs see the Department of Justice: <https://psob.bja.ojp.gov>
- There is also a Congressional Research Service Report: <https://crsreports.congress.gov/product/pdf/R/R45327>
- For more information on Missouri's Line of Duty Compensation Act, see the Missouri Department of Labor and Industrial Relations website: [https://labor.mo.gov/DWC/Injured\\_Workers/benefits\\_available](https://labor.mo.gov/DWC/Injured_Workers/benefits_available)

2027). The second benefit is a \$25,000 death benefit from the Line of Duty Compensation Act (287.243, as currently written, will expire in 2025).

Other miscellaneous benefits may also be available. One of the nation's large funeral home chains has been providing a free funeral service when an LODD occurs. Upon request, a uniform-manufacturing company has been providing a free dress uniform for the body of an EMT or paramedic. More information about these benefits is available from the Missouri EMS Funeral Response Team.

### **Hiring and firing the EMS chief**

In addition to the powers listed in Chapter II. AD Powers and Duties, the board of an AD is authorized to carry out the work of the AD, including employing such help and contracting for such work as is necessary to provide service to the AD, and may pay reasonable compensation (190.060.1[6]). Hiring and firing the AD's EMS chief is one of the most important duties of an AD board.

All persons employed by the board on behalf of the AD are, by law, at-will employees. This means they are employed for an indefinite term, which either employer or employee may terminate at any time, for or without cause

### **Expectations and evaluation of EMS chief**

One of the most important duties of the AD is to appoint an EMS chief. EMS tends to be organized with a military-type command structure, and they are strongly influenced by the personality and level of competence of the EMS chief. The board should take seriously its role in selecting and working with the EMS chief, who will lead the AD's day-to-day operations. When appointing an EMS chief, the AD board needs to communicate clearly and honestly with the candidates about its expectations. Once an EMS chief is appointed, the board should evaluate the EMS chief's performance at least annually.

Generally, the EMS chief is expected to be prepared for and informed on all aspects of the job. During interactions with the AD board, the EMS chief should provide multiple options for the board to consider along with proposing recommendations to the board for the best options. One of the strengths a chief should have is the ability to communicate with all levels of the organization and, also, with the community, either in person or through the public media. And finally the EMS chief needs to understand and embrace the basic roles and responsibilities of the job, which can include:

- Providing organizational leadership;
- Overseeing daily management of the operations;
- Overseeing the staff, although perhaps only the AD board may hire, fire and discipline;

A sample EMS Chief's Report to the AD board can be found in the Sample Forms section of this manual

- Developing and recommending policies and standards to the AD board;
- Implementing standard operating procedures or guidelines;
- Overseeing implementation of strategic plan decisions;
- Educating, informing and communicating important information to the AD board — both positive and negative news;
- Keeping abreast of political, legal, financial and technological changes to EMS;
- Ensuring compliance with AD, Missouri and federal laws, rules and regulations;
- Analyzing AD needs and helping develop the AD budget;
- Serving as an official AD ambassador of sorts and liaison to the public and media;
- Cultivating relationships with other agencies, governments and organizations, such as, hospitals, cities, counties, fire protection districts, etc.; and
- Overseeing, controlling and preserving AD resources and assets.

### **Workers' compensation insurance**

Laws require any organization with five or more employees to have workers' compensation insurance to cover its employees (287.030). Volunteers have sometimes been construed as employees by the courts, so consult with legal counsel before assuming they are not employees for purposes of coverage. (See *Oliphant v. St. Louis State Hosp.*, 441 S.W.2d 335 (Mo. 1969)). This insurance provides medical insurance coverage for an EMT or paramedic injured on the job, disability insurance coverage for an EMT or paramedic injured on the job, and a modest survivor benefit for the family of an EMT or paramedic killed on the job.

The workers' compensation benefits that volunteer EMTs and paramedics might have at their regular jobs will not cover injuries from volunteering, so a separate policy by the AD is needed. Also, because private health insurance often excludes injuries that could be protected by workers' compensation, many times the volunteer's private health insurance will not pay. In addition, the disability and death benefits listed above for volunteer EMTs and paramedics are particularly modest because they are based upon a benefit of \$40 per week. If a volunteer EMT or paramedic is injured on the scene, for example, an AD workers' compensation insurance policy would pay all medical bills but would provide only \$40 per week disability pay for the time the EMT or paramedic is unable to work during recovery. If the EMT or paramedic supports a family, they may have difficulty getting through the recovery period on so little money. (Many generous employers will permit an EMT or paramedic who suffers an injury to draw vacation and/or sick leave pay, but employers are not required to do this.) For

### **AD&D Insurance**

For accidental death and dismemberment

### **A&S Insurance**

For accidents and sickness

these reasons, many ADs provide additional disability and death benefit protection for their EMTs and paramedics (190.060.1[10]).

Currently, several insurance companies that operate in Missouri provide specialized insurance coverage for EMS organizations. These companies are familiar with the workers' compensation problems, and other insurance companies can be educated about the problems and urged to provide reasonable assistance.

### **Personnel policies**

Workplace-related lawsuits do not happen often, but when they arise, they are unpleasant and can be extremely expensive, even for the winners. That is why employment liability insurance coverage is sold separately and why it is expensive. Employers have found that one of the best defenses available is to have a published handbook of employment policies that is scrupulously followed in all situations.

With this in mind, AD boards are encouraged, with advice and counsel from their attorney, to examine their existing written personnel policies, compare them with policies being used in neighboring ADs and review sample policies available from insurance companies or from reliable sources on the Internet. The board should put together a set of policies the AD can live with and realistically follow. Keep in mind, because a policy that is ignored is evidence that can be used against an employer, the board must follow the policies it adopts.

*(See License and certifications for EMS personnel under Chapter XIX. Ambulance Services for more information regarding the impact of medical licensing and certifications on personnel policies.)*

### **Alcohol use**

Historically, first responders were members of voluntary social groups. Being a first responder not only provided some community benefit, but also was a form of group camaraderie. Like many social activities, it was frequently accompanied by the use of alcoholic beverages. As EMS has become more complex, it has become more a professional, and less a social, activity. The risks of combining alcohol and EMS are obvious. AD board members and officers should be aware of the risks and ensure that alcohol is removed from the station if its use there is still allowed or condoned in the AD.

### **Minimum wage**

Both Missouri and the federal government have enacted rules that govern minimum wages paid to non-volunteer workers. Laws also regulate the maximum number of hours a paid worker can work before the employer must pay an overtime premium (time-and-a-half).

Information on the federal laws that govern wages is available on the Fair Labor Standards Act website:  
<https://www.dol.gov/agencies/whd/flsa>

Exemptions in state law for governmental entities to pay minimum wage should be carefully considered before being used. Positions with lower pay may be challenging to fill (290.502).

### **Child labor laws**

Many ADs have “junior first responder” or Explorer scouting programs for younger members of the community. AD boards should be aware that laws enacted both by Missouri (294.005-150) and the federal government (Fair Labor Standards Act of 1938) regulate employment of children. Children may not work in hazardous conditions such as using power-driven machinery, maintenance or cleaning/washing of machinery, operation of any motor vehicle, and anything dangerous to life, limb or health — that is, many first responder activities.

Additionally, work certificates from the school district superintendent are required for children working during the school year, and there are limitations during the school year on how many hours children can work in a day and in a week.

## Federal Fair Labor Standards Act

- Rules
- Hourly equivalent wage
- Overtime and compensatory time
- On-call time
- Penalties
- Other common benefits
- Exemptions

Information on the federal laws that govern wages is available on the Fair Labor Standards Act website:  
<https://www.dol.gov/agencies/whd/flsa>

# XIII. Federal Fair Labor Standards Act

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## Rules

The federal Fair Labor Standards Act (FLSA) was enacted in 1934, during the Great Depression. Its original purpose was to spread available work among more individuals. In 1978, the law was applied to local governments because of a U.S. Supreme Court decision. Congress then modified the law to accommodate some different employment practices in the public sector. As the law now reads, it applies to organizations that have five or more employees who work either full time or part time. (For example, if an AD employs a halftime paid EMS chief, a halftime paid secretary and a quarter-time paid bookkeeper, it is considered to have three employees.) In other words, each person counts as an employee, regardless of the number of hours he or she works.

The law has rules that can apply to public entities, including ADs. AD boards with paid EMTs and paramedics should retain a competent attorney who has a thorough understanding of employment law. Doing so might prevent a lot of troubles, penalties and/or back wages.

Volunteers are not directly covered by the FLSA. Thus, an AD's rules covering these workers can generally be anything that is reasonable. As discussed in *Chapter XII. Personnel*, volunteers can receive some compensation for their labors, provided it doesn't exceed 20% of the rate for paid EMTs and paramedics in the locality.

Generally, an employee cannot volunteer for the same work for which he or she is paid. An AD employee could volunteer to do work for a city or a county, but time spent volunteering for the AD would be hours worked and would have to be paid. This would probably hold true even in a case such as an AD office secretary who volunteers to go on a medical call.

## Hourly equivalent wage

Regardless of how they are paid, every employee must have, on record, an hourly equivalent wage, which is the figure used for calculating overtime rates. If an employee is paid on an other-than-hourly basis, the equivalent figure is calculated by dividing hours worked per year into annual earnings.

## Overtime and compensatory time

Government workers, including AD employees, are not treated the same as private sector workers because the government does not always have to pay employees one-and-a-half times their normal pay (time-and-a-half) for overtime hours. In this way, Congress recognizes that government agencies are required to live within a legislative budget and may not be able to pay for overtime. A public entity, including an AD, is allowed to give employees extra time off in the future instead of paying overtime, provided that workers

receive one-and-a-half hours of future time off for each hour of overtime worked and provided that there is an agreement in advance of the work to receive comp time in lieu of overtime. The maximum accrual for most public employees is 240 hours. There are additional exemptions for employees that qualify for certain fire fighter and emergency response exceptions. These exemptions are complex, and require measurement of the amount of response time spent on certain calls. Before allowing accrual beyond 240 hours, legal counsel should be consulted.

Once compensatory time is earned, it is the property of the employee. Within the bounds of reasonableness, it may be taken when the employee desires. Under a May 2000 ruling by the U.S. Supreme Court, however, public employers may require that employees take compensatory time they have accrued.

An employee does not have the right to decline to be paid overtime. Remember, the original passage of FLSA in 1937 was not intended to benefit workers but to employ more workers when over a fourth of the workforce was unemployed. The purpose of replacing the 60-hour week with the 40-hour week was to provide more jobs.

When an employee dies, quits, retires, is fired or is laid off, all the employee's unused compensatory time must be paid at either the employee's final rate of pay or the employee's highest rate of pay in the final three years, whichever is higher. Thus, accrued compensatory time is not only limited but is also an AD liability on the AD's financial report, therefore, the AD needs to track it and not just rely on employees to track it. Timesheets need to report compensatory time earned in each period.

### **On-call time**

AD personnel are often on call. Generally, rulings under FLSA on whether on-call time must be paid have hinged on the required show-up time. If an on-call worker's movement is unreasonably restricted, they are considered to be on-the-job and must be paid accordingly. Consult with the AD's legal counsel and determine if the District's on-call policy may trigger pay and overtime issues. Liability across the staff of the AD can pile up quickly in the event of a violation.

### **Penalties**

If an employee files a complaint about labor practices, the U.S. Department of Labor (DOL) investigates. The DOL investigators do not look solely at the hourly records of the employee or former employee who complained, but review all work records of all employees — even those the AD counts as exempt from coverage. They often find violations of some sort, nearly always in record keeping. The DOL can assess penalties that go back two years from the date the complaint was filed, or three years if the employer was purposely trying to dodge the law. Penalties can be

doubled for certain violations, or tripled, in some cases. Don't risk an investigation. Keep careful overtime records and compensate overtime.

### **Other common benefits**

The FLSA concerns only three sets of numbers: 40 hours in seven days or for "207(k) employees," 212 hours in 28 days, or 53 hours in seven days. In order to qualify for an other-than 40-hour work period, law enforcement or firefighting exceptions must be met. Legal counsel should be consulted in advance of any decision to use other than a 40-hour work period for FLSA compliance. The FLSA does not concern holidays, vacations, Sundays, sick leave or other common employee benefits. Nor does it concern special pay rates, such as night differential and holiday pay. Whether to offer any of these benefits is an AD board decision.

### **Exemptions**

Several groups of employees, including executive, administrative and professional workers who are paid a salary, are exempt from certain overtime and minimum wage coverage rules. Each class is tightly defined. Executives must have hire and fire authority, make management decisions, supervise at least two workers (not counting themselves) and make at least \$455 per week, based on current rules. Administrative workers must spend at least 80% of their work time deskbound and doing administrative tasks, be able to exercise independent judgment and make the minimum compensation per week required by the Department of Labor rules. Professionals must have completed a recognized training program, usually at the master's degree level, meet the pay criteria and be able to exercise independent judgment. Those who provide training and instruction may also be exempt. The above information is as of this writing. Consult with the AD's legal counsel to verify current rules before categorizing an employee as exempt.

Exempt employees must be paid on a salary basis, which means they are not subject to having their pay docked for any reason other than dangerous safety violations, regardless of hours worked. An AD puts itself at risk if it pays overtime to an exempt employee, because that makes it seem as if the employee is an hourly, rather than salaried, worker.

In most ADs, only the EMS chief is likely to be classified as exempt, and then only if the EMS chief supervises at least two employees. An AD should be cautious about classifying workers as exempt. Boards are encouraged to become well-informed about the implications of such decisions.

# XIV. Training, Physical Fitness and Equipment

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## Today's EMS

Nearly 20 million patients are treated every year by EMS in the United States. Many of these patients have complicated medical or traumatic conditions that require considerable knowledge, skill and judgment to be treated effectively in pre-hospital settings that were not possible just a generation or two ago. Proper care of the critically ill or injured can literally make a life or death difference that was previously not possible. Even if a crisis is not a matter of life or death, it is no less significant to patients and their families. High quality EMS has become an important part of the United States health care system.

## Minimum training in Missouri

Nationally and in Missouri, minimum levels of training for EMS personnel have been set. However, it is up to the AD board to ensure minimum levels of competence through hiring qualifications and medical direction, which by state code of regulations (19 CSR 30-40.303[3][C][D][E]), is required to ensure EMTs and paramedics meet education and skill competencies.

EMT and paramedic training is available from EMS training centers licensed by the Bureau of EMS in the Missouri Department of Health and Senior Services (DHSS). EMS and organizational leadership classes are available from the University of Missouri Fire and Rescue Training Institute, sometimes for a fee, though grants may be available to cover the costs. (See *License and certifications* under *Chapter XIX. Ambulance Services* for more information regarding training for medical licenses and certifications.)

Advanced training is available from both these sources, as well as from the U.S. Fire Administration National Fire Academy, which is part of the Department of Homeland Security. EMTs and paramedics who attend the fire academy receive reimbursement of travel expenses, meals and dormitory space during training.

## Physical fitness

Physical fitness may be nearly as important as EMS training. EMTs and paramedics need to eat right, exercise and get regular medical checkups. Everyone in an AD benefits when an AD board encourages better physical fitness for its EMTs and paramedics.

The leading cause of death among EMTs and paramedics is sudden cardiac arrest. This is true for both career and volunteer EMTs and paramedics. EMS involves long periods of intense boredom waiting for a medical call followed by short periods of extreme stress, physical activity and sometimes danger. Nationally, about 20 EMS personnel die each year; sudden cardiac arrest causes about 20% of these deaths. No statistics are

## Training, Physical Fitness and Equipment

- Today's EMS
- Minimum training in Missouri
- Physical fitness
- Equipment and grants

## Training sources:

- Missouri Bureau of EMS  
website: <https://health.mo.gov/safety/ems/>
- Missouri Fire and Rescue Training Institute, see the University of Missouri's  
website: <https://extension2.missouri.edu/programs/mu-fire-and-rescue-training-institute>
- National Fire Academy, see the Department of Homeland Security website: <https://www.usfa.fema.gov/training/nfa/index.html>
- Office of Emergency Medical Services (EMS), see the National Highway Traffic Safety Administration (NHTSA)  
website: <https://www.ems.gov/>

For more information on EMS personnel fatalities, see the National EMS Memorial Service website: <http://www.national-ems-memorial.org/>

EMS Voluntary Event Notification tool: <http://event.clirems.org/Near-Miss-Event>

An AD Health and Safety Checklist can be found in the Sample Forms section of this manual

For more information on the Everyone Goes Home® Firefighter Life Safety Initiatives see the website: <https://www.everyonegoeshome.com/>

published about nonfatal EMS personnel injuries; however, ADs could learn from reviewing online summaries of near misses.

Physical fitness also includes being protected against infectious diseases and bioterrorism. ADs must provide vaccination programs for all employees and volunteers who may be exposed to infectious diseases; however, participation in such vaccination programs should be voluntary.

AD boards should create a safe and healthy culture and work environment by adopting health and safety policies for all aspects of the AD. The board should also consider appointment of a certified safety officer with adequate budget and real authority to keep everyone safe. When creating a safe and healthy culture and work environment at the AD, members of the AD board should lead by example in their personal lives.

Many national emergency service organizations support the Everyone Goes Home® program to prevent line-of-duty deaths and injuries — and AD boards should consider supporting the campaign, especially because the second of 16 life safety initiatives is aimed at elected EMS officials:

Enhance ... organization accountability for health and safety throughout.

### **Equipment and grants**

To properly provide staff uniforms and equip an ambulance is expensive for these four main elements:

1. EMT and paramedic uniform, including footwear and U.S. Department of Transportation required reflectorized vests, jackets or coats for all types of weather and to help make EMTs and paramedics visible on the scene;
2. Equipment, instruments, medical devices, kits, pharmaceuticals and supplies for infection control, diagnostics and treatment; patient handling equipment; and for some ADs, specialized tactical and rescue equipment and supplies;
3. Personal protection equipment, or PPE, which includes items such as masks, gloves, gowns, glasses, reflectorized vests; inoculations; etc.; and
4. A portable radio for communication within the incident management system.

Proper working EMS equipment is critical for effective EMS and safety (see *Federal and state rules and regulations for ambulance services* under *XIX. Ambulance Services* for more information about medical licensing of and equipping ambulances.)

Many ADs use automated external defibrillators (AEDs). The law (190.092) and FDA regulations for a class II medical device require an AD to make sure expected AED users receive nationally recognized training in cardiopulmonary resuscitation (CPR) and AEDs, the AED is maintained

and tested according to the AED manufacturer's operational guidelines, and that clinical protocols, or "doctor's orders," are approved by the AD's medical direction. Medical direction also must review all situations when the AED was used (190.092.2[4]). ADs are required to equip each basic life support (BLS) ambulance and stretcher van with an AED and staff each with at least one individual trained in the use of an AED (190.060.7; 190.092.5).

Many ADs also use epinephrine auto-injectors, commonly known by their trade name EpiPen®; however, similar to AEDs, without completing a state-approved epinephrine auto-injector training course, no one without a medical license or certificate can use one (190.246.2[1]). ADs with epinephrine auto-injectors must use, maintain and dispose of the devices in accordance with the Missouri Department of Health and Senior Services (DHSS) rules (190.246.2[2]).

The federal government has several grant programs administered by the U.S. Fire Administration to help communities pay for equipment and facilities. These include Assistance to Firefighter grants and the Staffing for Adequate Fire and Emergency Response, or SAFER, grant program. Applications for both programs must be submitted electronically. The programs are highly competitive but helping to provide protective equipment is currently a high priority for the government.

Information about federal grants to firefighters and nonaffiliated emergency medical services: <https://www.fema.gov/assistance-firefighters-grant>

For more information about federal and state surplus property programs, see the Office of Administration's website: <https://oa.mo.gov/general-services/surplus-property>

## **Nepotism: Do Not Appoint Relatives**

- The constitution
- Degrees of relationship
- Consanguinity and affinity

A plain English ethics guide, including nepotism: <https://www.mec.mo.gov/WebDocs/PDF/Misc/2020%20Ethics%20Guide.pdf>

For more information on consanguinity, see the relationships chart on the website of the Missouri Ethics Commission: <https://www.mec.mo.gov/WebDocs/PDF/Misc/RelationshipChart.pdf>

# **XV. Nepotism: Do Not Appoint Relatives**

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## **The constitution**

The Missouri Constitution, in Article VII, Section 6, is direct and to the point on the matter of nepotism: “Any public officer or employee in this state who by virtue of his office or employment names or appoints to public office or employment any relative within the fourth degree, by consanguinity or affinity, shall thereby forfeit his office or employment.” In other words, an official or public employee who appoints a relative loses his or her own office or job. This happens at the time the appointment is made, even if the appointment is to an unpaid position.

The section forbids appointment of close relatives. An official who recuses from voting when a relative is under consideration violates nothing. A person would not be in violation if elected to a position that a relative held previously by election or appointment. Siblings can be on the board, so long as the voters do the appointing. However, if a director votes to hire his or her child, or any relative within the fourth degree, to work at the office, the director’s job is forfeited, though the improperly appointed relative would keep the position. If the rest of the board were to hire the director’s relative for the same job, there would be no violation. It is the use of an official position to appoint a relative that is prohibited.

## **Degrees of relationship**

All relatives have a common ancestor. Degrees of relationship are calculated by counting from one relative (say the official) back to the common ancestor, then forward to the other relative (say the potential appointee). First cousins, for example, the children of siblings, would be related in the fourth degree: from A to A’s parent to A’s and B’s grandparent to B’s parent to B. Sisters would be related in the second degree: from one sister to the parent to the other sister.

## **Consanguinity and affinity**

Consanguinity and affinity are fancy ways of saying, “by blood or by marriage.” A daughter and daughter-in-law count exactly the same. Spouses count as a unit, so that relatives of either are equivalent relatives of both. Whether ex-relatives are considered still related is unclear.

# XVI. Conflict of Interest and Other Offenses

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## The law

In ordinary language, the conflict-of-interest law prohibits officials from doing business with themselves (105.450–466). It says officials may not be paid or receive anything of value for official actions, beyond the statutory salary. Nor may they use information gained in an official capacity to benefit them or another, or official acts to benefit spouse or children (105.452; 576.050). These rules cover elected officials and all public employees.

The prohibitions in the conflict-of-interest law not only cover the time a person serves in office or works for a public entity but also extend for a year afterward. This “follow-on ban” covers actions that could influence decisions of the AD, or dealing in a business with any matter that came before the AD while the person was in office or working there.

## Working for or renting to the AD

The law limits any paid work for the AD by an appointed official to \$500 per transaction and \$5,000 per year beyond the official’s regular salary. Rent, sale or lease of property is limited to the same amounts (105.454). Keep in mind that the dollar limit is firm, regardless of circumstances. Above \$5,000, any official’s work is unpaid, period.

An exception is provided when a competitive bid is taken and the official’s bid is lowest (105.454[2]). Board members are prohibited from working for the AD for pay, but may sell, rent or lease within dollar limits upon lowest bid. It is important to note that in this exception, the language is not the “lowest and best” but the absolute low-dollar bid. (Lowest bid means that there were at least three bids because if only two bids were required the word “lower” would have been used in the statute instead of “lowest.”) Also keep in mind that if a bid is considered, the official submitting that bid must not vote on the award, or the contract, if awarded to the official.

## Officials’ business interest

The law likewise limits businesses with which an official or an official’s family members are affiliated to the \$500 per transaction, \$5,000 per year maximum. Having substantial interest in a business is defined as the official or family member owning 10% or more, having an interest worth \$10,000 or more, or drawing \$5,000 or more annual salary (105.450[10]). For example, if the board president’s spouse works at a local restaurant and is paid over \$5,000 per year, the president has a substantial interest in that restaurant, and the AD annual training dinner should be held somewhere else.

## Conflict of Interest and Other Offenses

- The law
- Working for or renting to the AD
- Officials’ business interests
- Penalties
- Other offenses
- Disclosure

## RSMo 105.450(10)

“Substantial interest,” ownership by the individual, the individual’s spouse, or the individual’s dependent children, whether singularly or collectively, directly or indirectly, of ten percent or more of any business entity, or of an interest having a value of \$10,000 or more, or the receipt by an individual, the individual’s spouse or the individual’s dependent children, whether singularly or collectively, of a salary, gratuity, or other compensation or remuneration of \$5,000, or more, per year from any individual, partnership, organization, or association within any calendar year

A plain English ethics guide covering many topics: <https://www.mec.mo.gov/WebDocs/PDF/Misc/2020%20Ethics%20Guide.pdf>

The Financial Disclosure form is available on the Missouri Ethics Commission website: <https://www.mec.mo.gov/MEC/PFD/Home.aspx>

## **Penalties**

The first conviction for violating the conflict-of-interest law is a Class B misdemeanor, with a maximum punishment of six months in jail and/or a \$1,000 fine (105.478[1]). Every additional offense is a Class D felony, with a maximum punishment of seven years in prison and/or a \$10,000 fine (105.478[2]).

## **Other offenses**

Other serious offenses with which AD officials can be charged include bribery (576.010), acceding to corruption (576.020), obstructing government operations (576.030), and official misconduct (576.040).

There are other actions that, although not illegal, may get an AD official convicted in the court of public opinion. Flying in fresh lobster and caviar for that annual training dinner might get you in the same hot water as the lobster! And do not forget the unwritten law of being frugal with public money — how much chrome is needed on that new ambulance?

## **Disclosure**

Officials and director candidates of an AD that has a budget of \$1 million or more are required to fill out a Financial Disclosure Statement for Political Subdivisions form and file it with the Missouri Ethics Commission unless the AD biennially adopts an ordinance, order or resolution by Sept. 15 of the preceding year to establish its own public method of disclosure that fulfills the law (105.483[11]). A certified copy of the ordinance, order or resolution must be sent to the Missouri Ethics Commission within ten days of its adoption.

For ADs that have a budget of \$1 million or more and do not have their own public method of disclosure, the law prescribes filing deadlines (105.487):

- Candidates no later than 14 days of filing for election;
- Officials within 30 days of initial election, appointment, or employment; and
- Officials annually by 5 p.m. on May 1; however, only one statement per year.

The penalties for failing to disclose, or untimely disclosure, can be expensive and can lead to removal from the ballot or removal or suspension from office (105.492; 105.963.3).

## XVII. Bond Issues

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### Explanation

When an AD needs long-term financing for capital expenditures, the method of raising funds that the Missouri Constitution and statutes provide is to issue bonds (190.065). Examples of capital expenditures include building an additional station, purchasing new equipment that will last multiple years, and making other purchases or improvements of long-term usability rather than normal annual operating expenses.

These bonds come in two types: general obligation and revenue. General obligation bonds use all taxable real estate and personal property in the AD as security to borrow against. Revenue bonds use as security only the revenue to be produced from the project or activity that the borrowing is for. ADs frequently use general obligation bonds because their revenue can come from taxation. There are few situations for which revenue bonds could be used.

*Also see Long-term debt and lease purchases section in Chapter X. Budgets and the Budget Process.*

### General obligation bonds

General obligation (GO) bonds represent a lien against every taxable property in the AD — even after annexation into a city with its own EMS department; thus, they are more tightly controlled than revenue bonds. GO bonds can be issued only after voters approve a bond issue by an “exceptional” majority. At high-turnout elections (April, August or November) four-sevenths, or 57.1%, is required for approval. At low-turnout elections (February) two-thirds, or 66.7%, is required for approval.

After passage of a GO bond issue, an annual property tax levy raises the revenues needed to redeem these bonds. Should an AD default on GO bonds, every taxable property in the AD would have a proportional lien for its share placed against it. Property could be sold at auction for nonpayment.

### Revenue bonds

As previously stated, revenue bonds do not obligate taxable property in the AD but only the revenue that is expected to be received from the purpose for which the funds were borrowed. An example of when a revenue bond might be used is if an AD contracted with a city adjoining the AD boundaries to provide service for an annual contract fee (190.060.1[7]). Revenue bonds could be used to finance construction of a station inside that city, payable from the contract payments.

Law firms that specialize in bond issues generally assess whether the proposed projects will produce necessary revenues to retire revenue

### Bond Issues

- Explanation
- General obligation bonds
- Revenue bonds
- Interest
- Loan term
- Maximum borrowing
- Debt retirement fund

### Long-Term Debt

Voter-approved bonds

### Short-Term Debt

Board-approved notes payable

### Warning!

If an AD is not operating an ambulance service and three separate bond elections have failed, the AD board must submit to the AD voters a question to dissolve the AD, and if a majority of the AD voters approve dissolving the AD, then the AD is dissolved and any tax money in the AD treasury is rebated on a pro rata basis back to the original taxpayers (190.085)

bonds. If a law firm considered the bond issue unlikely to cover its obligations, it would not draw up the bond issue.

### **Interest**

As political subdivisions, ADs can issue bonds that are exempt from both state and federal income taxes. This tax exemption makes GO and revenue bonds attractive to investors, which allows borrowing at lower interest rates.

General obligation bonds usually have a slightly lower interest rate than revenue bonds.

The interest rate of AD bonds must be agreed upon in a contract (190.065.4).

### **Loan term**

AD laws permit borrowing for any term up to 20 years (190.065.4). Whatever the term, the reserves set aside to repay bonds can be no more than amounts necessary to make the current year's and the coming year's payments. With GO bonds, each year's assessed property valuation is calculated against payment amounts needed, the dollar value of bonds maturing, to establish the needed levy amount.

### **Maximum borrowing**

Although AD law (190.065.4) says that bonded indebtedness cannot exceed 10% of the value of taxable tangible property in the AD as shown by the last state or county assessment, the Missouri Constitution (Article VI, Section 26b) says bonded indebtedness cannot exceed 5% of the value of taxable tangible property in the AD as shown by the last state or county assessment. For example, an AD with a \$20 million assessed valuation, could only have \$1 million dollars in bonded indebtedness.

### **Debt retirement**

When certifying annual levies the AD board needs to take into account a separate levy for the next year's installments and interest payments on bonds. The tax revenues from this separate levy must be deposited into a separate sinking fund for debt retirement that has enough tax revenue for installments and interest payments (190.065.4), usually up to two years' worth. (Also see the *Long-term debt and bond issues* section in *Chapter VIII. Levying Property and Sales Taxes.*)

# XVIII. Elections

## Timing

AD elections for directors are held on municipal election day, which is the first Tuesday after the first Monday in April (115.121.3). This minimizes costs because election costs are divided proportionally among all entities holding elections on that particular day (115.063; 115.065; 115.077). The April election has the greatest number of potential ballot issues, with the schools, cities and all districts participating.

Besides April, other available election days for ADs are in the following months:

- February (only for bond issues and limited other purposes);
- August; and
- November.

With two exceptions, AD boards are responsible to call for all elections. If the county clerk or board of election commissioners reminds an AD board of its responsibility for a director election, it is only as a courtesy. If an AD board forgets to call for a director election, the AD's attorney will have to petition the court for a resolution, which could include reprinting ballots if the court allows for a special, abbreviated filing period, or more likely, holding an August or special election (which could be more expensive if there is no other local government to share the election costs). Either way, the resolution will usually come with a court admonishment for the AD board to never forget to call for a director election again.

A recall election, along with the election of a replacement director if the recall is successful, is the responsibility of the county clerk or board of election commissioners, not the AD (see Chapter IV. Initiative, Referendum and Recall).

Elections are conducted by the county clerk or the board of election commissioners. In fact, the law says that county clerks and boards of election commissioners are the election authority (115.015), which gives them broad jurisdiction over AD elections.

Other AD elections include:(Table)

Election	Authorization
Bond issue	190.065
Property and sales taxes, including pensions	190.040.1; 190.041; 190.074
Increase or decrease of directors	190.051
Consolidation	190.090
Dissolution	190.085
Annexation into an AD	190.070

## Elections

- Timing
- Mail-in elections
- Posts to be filled
- Nonelections
- Order of events

## RSMo 115.646

No contribution or expenditure of public funds shall be made directly by any officer, employee or agent of any political subdivision to advocate, support, or oppose any ballot measure or candidate for public office.

Payments for estimated election costs are due to the county clerk or board of election commissioners the third Tuesday before the election. After the election, overpayments are to be promptly refunded or any remainder due must be paid by the fifth Tuesday after the election (115.077.2).

### **Mail-in elections**

ADs are eligible to have mail-in elections in certain circumstances. This provision allows the county clerk or board of election commissioners to conduct an election by mail if requested in writing by the AD; however, mail-in elections are only allowed when the election does not involve an elected official being recalled or a candidate, and when only the AD voters are voting. That is, there are no other jurisdiction's questions on the ballot.

### **Posts to be filed**

The only publicly elected officials of an AD are the board members. Everyone else is elected, appointed, designated or hired by the board, including the office staff, EMS chief, volunteers, the secretary, the treasurer and custodian of records (if not board members). After the original board completes staggered terms, so that all members will not come up for election at the same time, terms are for three years.

Unless an AD qualifies for "at-large" directors (190.050.2), every 10 years, the declaring county commission must reapportion AD election districts within 60 days after the population of the county is reported to the governor from the United States Census (190.050.1).

### **Nonelections**

ADs are eligible to have a nonelection. This provision allows local governments having nonpartisan elections to skip holding an election if the number of candidates who file is no greater than the number of open seats (115.124; 190.050.1). When these conditions are met, no election is needed, and the candidate is declared elected without ever appearing on a ballot or any votes being cast. The candidate assumes the responsibilities of office at the same time and in the same manner as if he or she had been elected.

This provision can cause problems. In one fire protection district, a woman thought no one was filing for a board seat that was coming open. Rather than see it blank on the ballot, she filed. Later, when someone who was more serious about the position filed, she offered to drop out. The board, eager to save the costs of an election, offered to reimburse her costs for getting a court order to remove her name. She became suspicious of the board's motives and changed her mind about withdrawing.

### **Order of events**

The sequence in which a new AD director is elected (or an incumbent AD director re-elected) and takes office is laid out by law.

For a calendar with the various election-related dates already figured out, see the Missouri Secretary of State's website: <https://www.sos.mo.gov/elections/calendar/2020cal>

1. The current AD board calls for the director election and the candidate filing period, which works out to be mid-December to mid-January, because the law says the filing period opens the 16th Tuesday before the election and closes the 11th Tuesday before the election (115.127.5).
2. The AD publishes a newspaper notice of the director election, candidate filing period, and the proper place for filing, which is either at the AD headquarters for the secretary to the AD board, if the AD is in more than one county, or at the county courthouse for the county clerk if the AD is in just one county (115.127.5; 190.050.3).
3. During mid-December to mid-January, candidates file declarations of their candidacy with either the secretary to the AD board if the AD is in more than one county or with the county clerk if the AD is in just one county (190.050.3). The declaration of candidacy is an oath that the candidate possess all the qualifications for office (130.071; 190.050.3; 321.017). There is no filing fee for AD board candidates.
4. In late January, no later than 5 p.m. on the 10th Tuesday before the election (a week after the candidate filing period ends), the AD must notify the county clerk or board of election commissioners of the election and candidates, which is in the form of a certified copy of the legal notice to be published by the county clerk or board of election commissioners (115.125). The motion or resolution calling for the director election and candidate filing should also authorize the AD board secretary to notify the county clerk or board of election commissioners. Otherwise, in order to meet the deadline, the AD board will have to meet for such authorization within a week after candidate filing ends.
5. The county clerk or the board of election commissioners conducts the election.
6. The verification board or the board of election commissioners certifies the election results to the AD within 14 days of the election (115.507).
7. The current, now outgoing, AD board declares election results, typically based on the certified election results; however, sometimes circumstances may dictate that the candidate with the most number of votes might not be declared the winner (due to death of the candidate, withdrawal by the candidate, refusal to serve by the candidate, the candidate no longer being qualified, etc.).
8. The outgoing AD board, having no further orders of the day (new business would be out of order for an outgoing board), adjourn sine die, which in Latin means to never meet again (board members not returning to the board may want to say a few departing remarks before adjournment). Before adjourning sine die, because the

## **FYI**

When calling for the election of members of the first AD board, the county commission may set a candidate filing closing date other than the one in 115.127.5 (190.050.3)

Sample agendas for the outgoing and incoming board meetings, can be found in the Sample Forms section of this manual

A New AD Director Checklist can be found in the Sample Forms section of this manual. It is useful for any AD director.

outgoing board is not going to meet again to approve the minutes of its last meeting, the out-going board should appoint a committee to approve the minutes of its last meeting — typically the committee is the new, incoming board or at least the incumbents of the new, incoming board.

9. The director-elect takes his or her oath or affirmation (see the *Oath of office* section of *Chapter III. Officials and Board Operations*);
10. The secretary, as the highest ranking officer of the AD (the chair and vice chair no longer exist because the outgoing board no longer exists), calls to order the incoming AD board;
11. The secretary's power is short-lived as the first order of business is the election of the board chair to a new one-year term — even if the person that was chair of the outgoing board is elected (190.055.1);
12. The oath of office is administered to the new chair — even if it is the same person that was the chair of the outgoing board;
13. The chair's first order of business is the election, appointment and delegation of other officers to their new one-year term of office (see the *Officers* section of *Chapter III. Officials and Board Operations*), for example, vice chair, if the AD has such a role, the secretary, the custodian of records, the treasurer, and the budget officer (190.055.1; 610.023.1; 67.020);
14. Oaths of office are administered to the new officers — even if the same individuals are the same officers as before;
15. The first meeting of the new, incoming AD board continues to adjournment. There is no unfinished business to consider because all unfinished business “died” with the outgoing board.

# XIX. Ambulance Services

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## AD rules and regulations for ambulance services

There are many laws (190.0601[3]; 190.060.1[4]; 190.060.1[7]; 190.250; 190.827) regarding an AD's power to fix, charge and collect reasonable fees and compensation for operation, management or the use of ambulance services. And this all must be done according to AD rules and regulations properly adopted by the AD board, that is, through resolutions and ordinances and prior to any billed services provided. What the AD board adopts must be consistent with federal and state laws, rules and regulations. An AD also needs to ensure its rules and regulations for ambulance services render the highest quality of emergency medical care and without discrimination (190.060.1[7]; 190.105.12; 191.665; Chapter 213), although those who willfully disregard any established AD rules and regulations may be excluded by the AD (190.060.1[7]).

Many of the AD rules and regulations regarding ambulance services may involve medical direction (see *Medical direction* under this chapter for more information about medical direction).

Health insurance carriers and managed care plans must pay benefits directly to ambulance services and emergency medical response agencies (190.205.1) and cannot prohibit or discourage the use of the 9-1-1 emergency telephone system to avoid using ambulance services when there is an emergency (190.205.2).

When collecting for claims, by law (190.250), ambulance services also have the same rights granted to hospitals regarding liens for the cost of services upon any and all claims, counterclaims, demands, suits or rights of action of anyone receiving treatment, excluding workers compensation claims, but "including any personal injury as the result of the negligence or wrongful act of another, which such injured person may have, assert or maintain against the person or persons causing such injury for damages on account of such injury".

Public ambulance services by law (190.827) may also receive additional revenue in the form of reimbursement payments from the Missouri Department of Health and Senior Services (DHSS) if the ambulance service has a Missouri HealthNet participation agreement. This "MO HealthNet" revenue is the result of a special tax that private ambulance organizations pay for the privilege of being able to provide ambulance services in Missouri. Public ambulance services, such as an AD, are required to keep certain records to determine the amount of its reimbursement payment and report such information to the DHSS (190.806).

## Ambulance Services

- AD rules and regulations for ambulance and emergency medical services
- Federal and state rules and regulations for ambulance services
- Licensing ambulance services
- Licenses and certifications for EMS personnel
- Record keeping for ambulance services
- Medical direction
- Medicare participation
- Federal privacy laws
- State privacy laws
- Patient safety organizations
- Management contracts

## **Federal and state rules and regulations for ambulance services**

ADs must follow all the state laws, rules and regulations regarding medical licensing of ambulances (19 CSR 30-40.309), which includes the license (190.105), insurance (190.120), equipment and staffing. For instance, ambulances staffed with volunteer staff must also have an EMT and at least one other crew member who has first responder certification, at a minimum (190.094).

(See *Chapter XIV. Training, Physical Fitness and Equipment* for more information on EMT and paramedic training, physical fitness and providing staff uniforms and equipping ambulances, including automated external defibrillators and epinephrine auto-injectors).

(See *Licenses and certifications* under this chapter for information on medical licenses and certifications that could be important to rules and regulations for ambulance services).

ADs must also follow all federal and state healthcare laws, rules and regulations regarding such areas as operating emergency vehicles, ambulance licensing, licenses and certifications for emergency medical service (EMS) personnel, Medicare participation, privacy laws, joint public safety organizations and management contracts.

(See *ADs have special circumstances* under *Chapter XII. Personnel* for more information on authorized emergency vehicle drivers and operations.)

## **Licensing ambulance services**

For a new AD the task of establishing ambulance services can be daunting even if the ambulance services are being transitioned from an existing organization.

Ground ambulances are licensed by the Missouri Bureau of EMS in the DHSS. The Bureau of EMS will require the AD to submit a Missouri Ground Ambulance Service License Application and will use the Ground Ambulance Service License Inspection Form during a site visit. During the site visit, all required documentation and records must be available, including records required by other regulatory agencies, namely a laboratory license from the Centers for Disease Control and Prevention (CDC) for testing patient blood sugar samples.

During the site visit by the Bureau of EMS, whether for a new or renewing ambulance service, the following documentation will be reviewed:

- Safety program including infection control program, including a comprehensive safety component;
- Vehicle operations and driving procedures;
- Communications procedures;

For more information on the Clinical Laboratory Improvement Amendments of 1988 (CLIA) regulations that cover federal clinical laboratory standards applicable to all U.S. facilities or sites that test human specimens for health assessment or to diagnose, prevent, or treat disease, see the CDC website:  
<https://www.cdc.gov/clia/>

Information about narcotics and dangerous drug licensing can be found at: <https://health.mo.gov/safety/bnidd/>

A useful summary: <https://health.mo.gov/safety/bnidd/>

- Standards for clinical care (medical protocols and standing order authorizations from medical direction);
- Vehicle and equipment maintenance procedures;
- Disaster/multiple casualty protocols; and
- Quality Improvement program (including problem identification and resolution).

### **Licenses and certifications for EMS personnel**

Employees and volunteers providing EMS are required to have certifications or licenses. In fact, no AD is allowed to employ or permit any employee to perform any services for which a medical license or certificate is required unless and until that person possesses all required licenses and certificates (190.196.1). Therefore, ADs absolutely must ensure licensed medical staff actually have their medical license and that medical licenses are not lapsed, suspended or revoked.

An AD is required to report to the DHSS within 72 hours of having knowledge of one of their medical licensees being charged with child abuse, sexual abuse of a child, crimes of violence, or rape or sexual abuse (190.196.3). Medical licensees are also required to report to DHSS within 72 hours of being charged with the same offenses (190.196.4).

After first responder certification, the law (190.142) provides for the next levels of EMS licensure, which are known by their titles: EMT, EMT-Intermediate (EMT-I), and EMT-paramedic (EMT-P or, generally, just paramedic or medic). Achieving this licensure with volunteers can be difficult. Requiring licensure with paid EMTs and paramedics is easier. Temporary medical licenses may be issued by DHSS to certain qualified health care professionals in good standing in another state, for example, military personnel, including the National Guard, in a hospital training program, or during a governor's declaration of an emergency (190.500).

ADs should ensure its EMTs and paramedics receive continuing education to maintain their medical licenses and ADs should provide an adequate budget for this.

### **Record keeping for ambulance services**

According to law (190.175.1; 190.175.2) and the code of state regulations (19 CSR 30-40.375), every ambulance service must maintain accurate patient care records, including, if applicable, the transportation of each patient. Patient care records must be retained for five years and readily available at any reasonable time during business hours for inspection by the Bureau of EMS of the DHSS (190.175.2; 190.175.5). Specific ambulance service records that must be kept and will be reviewed during site inspections by the Bureau of EMS for new or renewing ambulance services, include the following:

### **Advanced Life Support**

Uses paramedics and EMT

### **Basic Life Support**

Uses only EMTs

### **Emergency Medical Response Agency (EMRA)**

Utilizes paramedics or EMTs but does not transport patients

### **Pediatric Life Support (PALS)**

Care focused on infants and children

- Ambulance run report (must meet required EMS data elements in 190.175.3);
- Medical direction agreement (190.103.4) and the code of state regulations (19 CSR 30-40.303[2][A], and [B]);
- Medical Director protocol and policy authorization;
- Vehicle maintenance records;
- Records of driver competency in emergency vehicle operations;
- Equipment maintenance records;
- Controlled substance security and record keeping;
- Documentation of ambulance response times;
- Licenses and certifications for EMS personnel;
- Memorandum of understanding (MOU) with each Emergency Medical Response Agency (190.133.1[4]); and
- MOU with the AD's dispatch agency (190.134).

(See *Record keeping* under *Chapter V. Secretary Powers and Duties* for additional information on AD record keeping.)

### **Medical direction**

As required by law (190.103) and the code of state regulations (19 CSR 30- 40.303[3][A], and [B]), a qualified medical director is required for all ambulance services and emergency medical response agencies that provide:

- Advanced life support services;
- Basic life support services using medications or providing assistance with patients' medications; or
- Basic life support services performing invasive procedures including invasive airway procedures.

A medical director, in cooperation with the EMS chief, has the responsibility and authority (19 CSR 30-40.303[3][C], [D], and [E]) to ensure that personnel working under his or her supervision are able to provide care that meets established standards of care for state and national standards as well as local area needs and resources. A medical director, in cooperation with the EMS chief, establishes and develops triage, treatment and transport protocols, which may include authorization for standing doctor's orders.

There are many things to be considered when an AD appoints a medical director. Finding a medical director can be problematic for an AD — consider a doctor at your local hospital or the medical director of any medical response agency serving your AD, such as a fire protection district.

By law (190.103.4), there must be an agreement between the AD and its medical director that describes the medical director roles, responsibilities

and authority. Other things in the agreement to consider include whether the medical director will be paid and whether medical malpractice insurance will be provided. The agreement, by law, also must include grievance procedures.

## **Medicare participation**

Almost every AD will want to bill patients who are beneficiaries of the Centers for Medicare & Medicaid Services (CMS), which is the federal agency responsible for administering the Medicare, Medicaid, State Children's Health Insurance Program (SCHIP), Health Insurance Portability and Accountability Act of 1996 (HIPAA), Clinical Laboratory Improvement Amendments (CLIA), and several other health-related programs. Therefore, a new AD will need to submit a Medicare Enrollment Application to the fee-for-service contractor for the area served by the AD.

The Medicare Enrollment Application must also include an Electronic Funds Transfer (EFT) Authorization Agreement, a Medicare Participating Physician or Supplier Agreement, and, on AD letterhead, a signed attestation that the AD will be legally and financially responsible in the event there is any outstanding debt owed to CMS (see Contracts must be in writing under Chapter XI. Purchasing, Bids and the Bidding Process for information on proper procedures for the AD board to authorize in writing the "Authorized Official" of the AD who will have the authority to legally and financially bind the AD to the laws, regulations and program instructions of the Medicare program). The Medicare Enrollment Application may also allow the AD to specify optional "Delegated Officials," who should also be authorized in writing by the AD board so that the Delegated Official(s) can sign the Medicare Enrollment Application.

Before completion of the Medicare Enrollment Application and Medicare Participating Physician or Supplier Agreement, the AD will need to complete a National Provider Identifier (NPI) Application Update Form to be assigned a unique NPI to the AD. The AD's ambulance service will also need to be licensed by Missouri.

Deliberately falsifying information in the Medicare Enrollment Application to gain or maintain enrollment in the Medicare program will bring severe penalties, and any changes to the Medicare Enrollment Application must be reported in accordance with established timeframes in the code of federal regulations (42 CFR § 424.516[d]).

CMS may require the AD to submit or update its enrollment information. The fee-for-service contractor will notify the AD when it is time for the AD to revalidate its Medicare Enrollment Application information.

Following insurance laws, rules and regulations is especially critical when charging patients who are Medicare beneficiaries. Medicare fraud and abuse costs taxpayers billions of dollars, so the federal government aggressively goes after providers, including ADs, for errors (incorrect

For more information about CMS and its programs, visit <https://www.cms.gov/>

## **New Ambulance**

Putting a new ambulance into service must be reported to CMS within 90 days of the ambulance being placed into service — the same for retired ambulances or ambulances that change their level of service, for example, basic life support to advanced life support

## **Medicare Abuse**

Knowingly billing for services not furnished, supplies not provided, or both, including falsifying records to show delivery of such items; knowingly billing for services at a level of complexity higher than the service actually provided or documented in the file

billing), waste (medically unnecessary services), abuse (improper billing practices such as, up-charging), and fraud (billing for services or supplies that were not provided). In fact, the CMS Office of Inspector General (IOG) has joined up with a Department of Justice (read FBI) Medicare Fraud Strike Force to fight Medicare fraud and abuse. Violations can and have resulted in nonpayment of claims, criminal and civil liability (fines and/or jail), exclusion (meaning the AD can no longer receive payment from Medicare and state healthcare programs), and individuals disbarred from ever again being involved with Medicare —effectively ending anyone's career as a healthcare provider or administrator.

There are several federal laws governing Medicare fraud and abuse, including the False Claims Act (FCA), Anti-Kickback Statute, the Physician Self-Referral Law (Stark Law), the Social Security Act, and other parts of the United States Criminal Code. These laws specify the criminal and/or civil remedies that can be imposed upon individuals or entities such as ADs that commit fraud and abuse in the Medicare Program, and it is important to note that liability can exist without proof of actual knowledge or a specific intent to violate the law (meaning that ignorance of the law is not an excuse).

For example, an AD submits a claim to Medicare for paramedic services provided, even though the patient care record indicates that the emergency medical services provided were for a lower, EMT level of medical services. If this claim is found to be false and a violation of the FCA, then the fine for this single false claim could be \$5,500–\$11,000 plus up to three times the amount of damages to Medicare as a result of the false claim. Individuals or entities, such as an AD, involved with such a false claim can also face criminal prosecution.

In the example above, falsifying the patient care record so that it looks like the patient required the higher paramedic care, is a violation in and of itself under the Civil Monetary Penalties Law, which allows fines up to \$50,000 per violation plus assessments of up to triple the claim amount for each item or service, or up to triple the amount of money offered, paid, solicited or received.

### **Federal privacy laws**

Many people may recognize one of the primary federal laws regarding privacy of health information: Health Insurance Portability and Accountability Act (HIPAA) of 1996. However, the purpose of HIPAA is much broader: “to improve the Medicare program . . . , and the efficiency and effectiveness of the health care system, by encouraging the development of a health information system through the establishment of standards and requirements for the electronic transmission of certain health information.”

The second part of HIPAA, called Title II, created several programs to control fraud and abuse. It also defined policies, procedures and

For more information on HIPAA, see the CMS website, <https://www.cms.gov/Regulations-and-Guidance/Administrative-Simplification/HIPAA-ACA/index>

guidelines for maintaining the privacy and security of personal health information (PHI), as well as outlining numerous offenses relating to health care, and set civil and criminal penalties for violations. PHI is any information held by a covered entity that concerns health status, provision of health care or payment for health care that can be linked to an individual. PHI is interpreted broadly and includes any part of an individual's medical record or payment history.

In January 2013, updates were made to HIPAA as well as the Security Rule and Breach Notification portions of the Health Information Technology for Economic and Clinical Health (HITECH) Act. By regulation, the U.S. Department of Health and Human Services (HSS) extended the HIPAA privacy rule regarding PHI to covered entities and business associates such as ADs. The HIPAA and HITECH laws and associated HSS and Federal Trade Commission (FTC) regulations include requirements about releasing PHI, to whom PHI must be released and how quickly, correcting PHI inaccuracies, ensuring protection and confidentiality of PHI until 50 years after death, communications containing PHI, notifications when PHI is used, tracking disclosures of PHI, reporting breaches of PHI (including proof that harm has not occurred due to a breach), written privacy policies and procedures, appointment of a privacy official, appointment of a contact person for receiving privacy complaints, and training everyone in the workforce on procedures regarding PHI.

### **State privacy laws**

Although the Missouri Sunshine Law does not specifically restrict disclosure of patient medical information, the catch-all phrase in the law (610.021), "except to the extent disclosure is otherwise required by law," protects confidentiality of patient medical information found in other parts of the Missouri statutes (see *Chapter IX. Meetings, Records and Votes* for more information about Missouri's Sunshine Law).

Specifically, the law protects medical test results from disclosure without the patient's consent (191.317). Also prohibited by law is disclosure of Medicaid beneficiary information (208.120; 208.155) except the state code of regulations allows release of such information for treatment, payment or health care purposes (13 CSR 70-1.020). There are laws regarding confidentiality of mental health records (630.140), nursing home residents' medical, personal, or financial records (198.032), information pertaining to enrollees or applicants of health maintenance organizations (354.515), and certain information disclosed to medical peer review committees (537.035).

There are also Missouri laws regarding confidentiality of specific types of information, such as genetic information (375.1309), newborn hearing screening results (191.928), certain abortion reports (188.055) and an individual's human immunodeficiency virus (HIV) status (191.656).

### **FYI**

Civil and criminal penalties for violations of PHI privacy can be severe — anywhere from minimums of \$100 to \$250,000 per violation, up to \$1.5 million annually and/or imprisonment for up to 10 years

For more information on PSO, see the CPS website: <https://www.centerforpatientsafety.org/psol/>

Disease-specific registry medical reports and records are also subject to confidentiality requirements (192.739). Certain cancer reports from administrators or designated representatives of certain organizations must be kept confidential (192.655). Patient brain injury information and records maintained by rehabilitation or treatment facilities must be kept confidential (199.033). Disclosure or misuse of a criminal background investigation is prohibited (43.540).

### **Patient safety organizations (PSO)**

In an effort to work collaboratively to reduce the frequency of serious EMS events and to improve the quality of EMS patient care, the Center for Patient Safety (CPS) is partnering with Missouri's emergency medical service community, which includes ADs, fire-based EMS, hospitals and first-response providers to bring federal confidentiality and privilege protection to quality and patient safety data through the federally-listed CPS Patient Safety Organization (PSO). The purpose of CPS is to strive to learn what adverse EMS events occur, why they occur, and how to prevent them and, by sharing, promote safety improvement across the industry.

CPS provides the EMS community with a safe haven of federal confidentiality and privilege protection for the data sent to the PSO through an internet-based Patient Safety Evaluation System (PSES). The PSES is used to collect and develop patient safety work products such as individual AD performance benchmarking against state comparatives, and collaboration and knowledge sharing opportunities among EMS agencies within Missouri and across the nation. Discussions take place under the legally protected, patient safety review program of the PSO.

Working with the CPS makes it possible for an EMS agency such as an AD to collect data on adverse events without fear of discovery or subpoena, perform analyses of those events (looking for patterns, similarities, etc.), compare de-identified data from one EMS agency to others across the state, and collect data on EMS quality indicators in a central repository leading to improvements in response times, greater efficiency and improvements in patient outcomes.

### **Management contracts**

The law (190.060.5) allows an AD board of directors to propose to contract for the total management and operation of its ambulance services when the AD has not previously contracted out such a service. Within 30 days of proposing such a service, the AD board must hold a public hearing. If, after the public hearing, the AD board still proposes such a service, the AD board must make a satisfactory finding in its minutes that the proposed service will:

- Provide benefits to the public health that outweigh the associated costs;

- Maintain or enhance public access to ambulance services; and
- Maintain or improve the public health and promote the continued development of the regional EMS system.

Sixty days after a satisfactory finding for the proposed contract for the total management and operation of the ambulance services, the AD may enter into the proposed contract, but the proposed contract cannot be implemented for at least another 30 days (190.060.6[1]).

For contracts in place prior to Aug. 28, 1998, for the total management and operation of the ambulance services, the renewal or modification of these contracts or the signing of a new contract for these services does not required the public hearing, satisfactory finding or wait times (190.060.6[2]).

(See *Consolidation and shared services* under *Chapter VII. Changing AD Boundaries* for more information regarding a potential type of management contract called shared services).

## **XX. Additional Resources**

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There are many other possible sources of good information; however, it is always important to decide on the value and usability of information from other sources. Of course, one of the most important sources of information should be an AD's attorney because an attorney, competent in AD law, has understanding of the law gained through years of practice and is able to balance different sections of law, sometimes conflicting law, case law and opinions from the attorney general to give informed opinions.

AD attorneys will give clients answers that sometimes are frustrating. Answers to "Is it legal?" truly may be unknown because there has been no judicial interpretation — often the safest answer might be, "you probably shouldn't do that." Answers to "Can we do it?" may be more of a political situation than a legal question — the AD board may need to use their collective wisdom to decide between "we can do it" versus "we should do it."

In some cases the Missouri attorney general may have already offered an opinion on a particular matter. State elected officials are allowed to request opinions from the attorney general. However, until there is a judge's ruling on the matter, an attorney general's opinion is just the opinion of another attorney, albeit the state's attorney.

There is also the ice skating analogy; yes, a person can skate on thin ice, but why chance it? AD boards should always try to "skate on the thickest ice possible" when considering a course of action.

If an AD board and its attorneys absolutely cannot determine a course of action, the courts might have jurisdiction with a priority as a matter of public interest and concern.

ADs should also make sure they build relationships with county officials such as the county clerk (handles elections in most counties and handles tax levy forms), the collector (forwards property tax revenue), etc.

A list of additional resources follows, including organizations that may be worthy of membership.

**Ambulance District Association of Missouri**

4169 Old Mill Parkway  
St. Peters, MO 63376  
Phone: 816-858-4450  
Fax: 816-858-4725  
<https://www.the-adam.org/home>

**Federal Emergency Management Agency (FEMA)**

Grant information and tutorial  
Phone: 866-274-0960  
Email: [firegrants@dhs.gov](mailto:firegrants@dhs.gov)  
<https://www.usfa.fema.gov/grants/>

**Fire and Rescue Training Institute**

University of Missouri Extension  
110 S. College Ave., Rm. 232  
Columbia, MO 65211-3410  
Phone: 800-869-3476  
or 573-882-4735  
Fax: 573-882-0678  
<https://extension2.missouri.edu/programs/mu-fire-and-rescue-training-institute>

**International Association of Fire Chiefs Emergency Medical Services Section**

4025 Fair Ridge Dr.  
Fairfax, VA 22033-2868  
Phone: 703-273-0911  
Fax: 703-273-9363  
<https://www.iafc.org/>

**Local Records Preservation Program**

P.O. Box 1747  
Jefferson City, MO 65101-1747  
Phone: 573-751-9047  
Fax: 573-526-3867  
<https://www.sos.mo.gov/archives/localrecs/schedules/>

**Mid-America Regional Council Government Training Institute**

600 Broadway Ste. 200  
Kansas City, MO 64105  
Phone: 816-474-4240  
<https://www.marc.org/Training-Institute>

**Missouri Ambulance Association**

P.O. Box 522  
Jefferson City, MO 65012  
Fax: 660-783-2804  
<https://moambulance.org/>

**Missouri Association of Counties**

516 E. Capitol Ave.  
Jefferson City, MO 65101  
Phone: 573-634-2120  
<https://www.mocounties.com/>

**Missouri Association of Public Purchasing**

<https://www.mappi.org/index.cfm>

**Missouri Attorney General Sunshine Law information and Attorney General Opinions**

207 W. High St.  
Jefferson City, MO 65102  
Phone: 573-751-3321  
Fax: 573-751-0774  
<https://www.ago.mo.gov/>

**Missouri Bureau of Emergency Medical Services, Missouri Department of Health and Senior Services**

P.O. Box 570  
Jefferson City, MO 65102-0570  
Phone: 573-751-6356  
Fax: 573-751-6348  
<https://health.mo.gov/safety/ems/>

**Missouri Emergency Medical Services Association**

425 E. High St.  
Jefferson City MO 65101  
Phone: 573-761-9911  
<https://memsa.org/>

**Missouri EMS Funeral Response Team**

425 E. High St.  
Jefferson City, MO 65101  
Phone: 660-415-7990  
or 800-274-6914  
<http://www.moemsfuneralteam.org/>

**Missouri Municipal League**

1727 Southridge Dr.  
Jefferson City, MO 65109  
Phone: 573-635-9134  
Fax: 573-635-9009  
<https://mocities.site-ym.com/default.aspx>

**Missouri Office of Administration Purchasing and Materials Management**

301 W. High St., Rm. 630  
Jefferson City, MO 65101  
Phone: 573-751-2387  
Fax: 573-526-9815  
<https://oa.mo.gov/purchasing>

**Missouri School Board Association**

2100 I-70 Dr. S.W.  
Columbia, MO 65203  
Phone: 573-445-9920  
<https://www.mosba.org/>

**Missouri Secretary of State**

James C. Kirkpatrick State Information Center  
P.O. Box 1767  
Jefferson City, MO 65102-1767  
Phone: 573-751-2301  
or 800-669-8683 (NOW-VOTE)  
Fax: 573-526-3242  
<https://www.sos.mo.gov/>  
Information on elections, records retention, etc.

**Missouri State Auditor**

301 W. High St., Office 880  
P.O. Box 869  
Jefferson City, MO 65102  
Phone: 573-751-4213  
Fax: 573-751-7984  
<https://auditor.mo.gov/>  
Taxation and finance information

**National Association of Parliamentarians**

213 S. Main St.  
Independence, MO 64050  
Phone: 816-833-3892  
<https://www.parliamentarians.org/>

**National Highway Traffic Safety Administration**

Office of Emergency Medical Services (NTI-140)  
1200 New Jersey Ave. S.E.  
Washington, DC 20590  
Phone: 202-366-5440  
Fax: 202-366-7149  
<https://www.ems.gov/>

**National Institute of Governmental Purchasing**

151 Spring St.  
Herndon, VA 20170-5223  
Phone: 703-736-8900  
or 800-367-6447  
Fax: 703-635-2326  
<https://www.nigp.org/>

**State Emergency Management Agency**

Missouri Department of Public Safety  
<https://sema.dps.mo.gov/>  
Offers a range of emergency training

**United States Fire Administration**

For most information,  
<https://www.usfa.fema.gov/>  
For grant information and tutorial  
<https://www.usfa.fema.gov/grants/>  
Grants and training publications  
and information

# XXI. Glossary, Abbreviations and Acronyms

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AD: Ambulance District	DOT: Department of Transportation (federal)	FLSA: Fair Labor Standards Act
ADA: Americans with Disability Act	ED: Emergency Director, Emergency Department	FMLA: Family Medical Leave Act
AD&D: Accidental Death and Dismemberment (see A&S)	ED: Eastern District (Court of Appeals)	FMV: Fair Market Value aka MV (see AV)
AED: Automated External Defibrillator aka Automatic External Defibrillator	EEO: Equal Employment Opportunity	FRTI: Fire and Rescue Training Institute (University of Missouri) aka MoFRTI
AGO: Attorney General's Office	EEOC: Equal Employment Opportunity Commission	GAAP: Generally accepted accounting principles
AIDS: Acquired Immune Deficiency Syndrome (see HIV)	EFT: Electronics Fund Transfer	GASB: Government Accounting Standards Board (see FASB)
aka: also known as	EIN: Employer Identification Number (see FEIN)	GF: General Fund
ALS: Advanced Life Support	EMS: Emergency Medical Services	GINA: Genetic Information Nondiscrimination Act
A&S: Accident and Sickness (see D&D)	EMT: Emergency Medical Technician	GIS: Geographic Information Services
ASAP: As Soon As Possible	EMT B: EMT-Basic	GL: General Liability insurance (see E&O)
AV: Assessed Valuation (see FMV and MV)	EMT I: EMT-Intermediate	HIPAA: Health Insurance Portability and Accountability Act
BEMS: Bureau of EMS (Missouri)	EMT P: Paramedic	HITECH: Health Information Technology for Economic and Clinical Health
BLS: Basic Life Support	E&O: Errors and Omissions insurance (see GL)	HIV: Human Immunodeficiency Virus (see AIDS)
BNDD: Bureau of Narcotics and Dangerous Drugs (DEA predecessor)	EpiPen®: Epinephrine auto-injector brand name	HSS: Health and Human Services (federal)
BOD: Board of Directors	EPA: Environmental Protection Agency (federal)	IOG: Office of Inspector General (of CMS)
CDC: Centers for Disease Control and Prevention	ERMA: Emergency Medical Response Agency	IP: Individual personal Property aka PP (see RE and RP)
CLIA: Clinical Laboratory Improvement Amendments	EEZ: Economic Enhancement Zones (see TIF)	IRC: Internal Revenue Code
CMS: Centers for Medicare and Medicaid Services	FASB: Financial Accounting Standards Board (see GASB)	IRS: Internal Revenue Service
CPA: Certified Public Accountant	FBI: Federal Bureau of Investigation	LAGERS: Local Government Employees Retirement System (Missouri)
CPI: Consumer Price Index	FC: Fire Chief or Fire Captain	LODD: Line Of Duty Death
CSR: Code of State Regulation	FCA: False Claims Act	MA: Mutual Aid (see AA)
DEA: Drug Enforcement Agency (federal; see BNDD)	FDIC: Federal Deposit Insurance Corporation (see NCUSIF)	MAA: Missouri Ambulance Association
DHSS: Department of Health and Senior Services (Missouri)	FEIN: Federal Employer Identification Number (see EIN)	
DOJ: Department of Justice (federal)	FEMA: Federal Emergency Management Association	
DOLIR: Department of Labor and Industrial Relations (Missouri)		

MAC: Missouri Association of Counties	NHTSA: National Highway Traffic Safety Administration	RE: Real Estate property (see IP and PP); aka RP
MAPPI: Missouri Association for Public Purchasing (see NIGP)	NIGP: National Institute of Governmental Purchasing (see MAPPI)	RP: Real property (see IP and PP); a/k/a RE
MARC: Mid-America Regional Council	NIMS: National Incident Management System	RSMo: Revised Statutes of Missouri §: section §§: sections
MEC: Missouri Ethics Commission	NPI: National Provider Identifier	SCHIP: State Children's Health Insurance Program
MEMSA: Missouri EMS Association	OSHA: Occupational Safety and Health Administration	SD: Sheriff's Department (see PD and SO) or Southern District (of Appeals)
MML: Missouri Municipal League	PALS: Pediatric Advanced Life Support	SFMO: State Fire Marshal Office
MOCPS: Missouri Center for Patient Safety	PCR: Patient Care Report	SOG: Standard Operating Guideline (see SOP)
MoDOT: Missouri Department of Transportation	PF: Pension Fund	SOP: Standard Operating Procedure (see SOG)
MoFRTI: Missouri Fire and Rescue Training Institute (University of a/k/a FRTI)	PP: Personal Property aka IP (see RE and RP)	SoS: Secretary of State
MOU: Memorandum of Understanding	PPE: Personal Protective Equipment	TIF: Tax Increment Financing (see EEZ)
MSBA: Missouri School Board Association	PSES: Patient Safety Evaluation System	USC: United States Code
MV: Market Value a/k/a FMV (see AV)	PSO: Patient Safety Organization	WD: Western District (Court of Appeals)
NAP: National Association of Parliamentarians	PSOB: Public Safety Officer Benefits	

# Sources of Example Forms for Ambulance Districts

## **Custodian of Records (page 21 in text)**

A resolution for designating the custodian of records is provided by the Office of the Attorney General: <https://www.ago.mo.gov/missouri-law/sunshine-law/sample-language-forms/resolution-sample>

## **Financial Statement (page 24 in text)**

The state auditor (<https://auditor.mo.gov/>) provides an electronic spreadsheet and printer-friendly format (PDF) financial form in the Local Government Forms and Reports section of its website: <https://auditor.mo.gov/local/politicalsubinfrpt>

## **Property Tax Calculators (page 34 in text)**

To make assessed valuation comparisons and property tax calculations the state auditor (<https://auditor.mo.gov/>) provides electronic spreadsheet versions of its forms in the Property Tax Calculations section of its website: <https://auditor.mo.gov/property-tax-calculators>

## **Meeting notice (page 37 in text)**

A Meeting Notice form is provided by the Office of the Attorney General at: <https://www.ago.mo.gov/missouri-law/sunshine-law/sample-language-forms/resolution-sample>

## **Closed meeting notice (page 38 in text)**

A Notice of a Closed Meeting form is provided by the Office of the Attorney General at: <https://www.ago.mo.gov/missouri-law/sunshine-law/sample-language-forms/resolution-sample>

## **Sunshine Law Policy Resolution (page 39 in text)**

A sample sunshine law policy resolution can be found at: <https://www.ago.mo.gov/missouri-law/sunshine-law/sample-language-forms>

## **Budget (page 42 in text)**

The Office of the State Auditor provides budget forms for county governments: <https://auditor.mo.gov/local/countybudgetforms>. A generic budget template is provided. Clicking on the “Generic Budget” will provide an Excel Worksheet. The website states that this budget is for officials and boards for funds held outside the county budget. The Fire District can modify the form or use it as a template to create a budget form.

### **Bid Form (page 46 in text)**

The Office of Administration provides an example of a bid form. While it contains pages for multiple bids, a separate sheet can be used for each telephone bid and placed in a sealed envelope.

<https://oa.mo.gov/sites/default/files/300-0162s%20%288-01%29.pdf>

### **Financial disclosure form (page 64 in text)**

Officials and director candidates for some FPDs may be required to file a Financial Disclosure Statement for Political Subdivisions. The form is available on the Missouri Ethics Commission website: <https://www.mec.mo.gov/MEC/PFD/Home.aspx>

### **Example Forms for Ambulance Districts**

The following forms are in approximate order that they are referenced in the text. They are suggestions and may be modified, unless required by law.

**Example of Accounts Payable and Payroll Check Register** (1 page; see page 23 of manual)

Greatly simplifies creation of the financial statement.

**Example of Equipment Inventory** (1 page; see page 26 of manual)

Required as part of the financial statement

**Example of Land and Building Inventory** (1 page; see page 26 of manual)

**Example of an EMS Chief's Report** (1 page; see page 52 of manual)

Suggestions of what to include

**Ambulance District Health and Safety Checklist** (1 page; see page 59 of manual)

Use for the directors to maintain training and other items up to date

**Ambulance District Board of Director Annual Agenda Items** (1 page; see page 69 of manual)

Items that must be acted on in a timely manner

**Meeting Agendas for Outgoing and Incoming Boards of Directors** (1 page; see page 69 of manual)

Basically this is two meetings and this helps to not get confused.

**Ambulance District New Director Checklist** (2 pages; see page 69 of manual)

Useful information to have readily at hand, not just for the new directors.





**Example of Land and Building Inventory**

*(An electronic document or spreadsheet is acceptable)*

**Tract #** \_\_\_\_\_ **Location** \_\_\_\_\_

Legal description, Including: \_\_\_\_\_ Section \_\_\_\_\_ Township \_\_\_\_\_ Range

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Land value \$ \_\_\_\_\_

Structure value \$ \_\_\_\_\_

Total value - Tract # \_\_\_\_\_ \$ \_\_\_\_\_

**Tract #** \_\_\_\_\_ **Location** \_\_\_\_\_

Legal description, Including: \_\_\_\_\_ Section \_\_\_\_\_ Township \_\_\_\_\_ Range

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Land value \$ \_\_\_\_\_

Structure value \$ \_\_\_\_\_

Total value - Tract # \_\_\_\_\_ \$ \_\_\_\_\_

**Page total real estate and building value : \$** \_\_\_\_\_

**Page #** \_\_\_\_\_ **of** \_\_\_\_\_ **pages**

**Signature of District Official** \_\_\_\_\_ **Date** \_\_\_\_\_

## **Example of an EMS Chief's Report**

(date or time period)

### A. Operations

- a. Incidents
  - i. Incidents by type (since last report)
  - ii. Incidents year-to-date, by type
  - iii. Incidents year-to-date compared to last year-to-date, by type
- b. Training
  - i. Individual (professional development, conferences, workshops, etc.)
  - ii. Group (first responder training, CPR, etc.)
- c. Changes
  - i. Standard Operating Procedures/Guidelines
  - ii. Vehicle/Major equipment assignments
  - iii. Shift/Station/Vehicle assignments
- d. Vehicle/Equipment Maintenance (including radios)
  - i. Routine checks, maintenance, servicing, etc.
  - ii. Major/Minor projects or repairs
- e. Accidents/Work Compensation Insurance Claims/Near Misses

### B. Major Activities

- a. Community/Public Relations (Chamber events, social media updates, etc.)
- b. Media Relations (Media stories, etc.)
- c. Special Projects (Inventory, storage room cleaning, etc.)
- d. Inter-governmental (9-1-1 Board, regional chiefs' meeting, meeting with Sheriff, etc.)
- e. Strategic Planning (Status of key projects, initiatives, or compliance efforts)

### C. Administration

- a. Building and Grounds (including radio towers)
  - i. Routine checks, cleaning, maintenance, servicing, etc.
  - ii. Major/Minor projects, remodeling, repairs, etc.
  - iii. Utility or neighborhood issues
- b. Computer and Telephone Systems
  - i. Software/virus protection updates, etc.
  - ii. Major/Minor upgrades or repairs

### D. For Consideration by the Board

- a. Proposed policy changes
- b. Purchases/Contracts
- c. Personnel recommendations
  - i. Employment
  - ii. Promotion/Demotion/Other Changes requiring Board approval
  - iii. Discipline
  - iv. Resignations/Terminations

## **Ambulance District Health and Safety Checklist**

### **Does your Ambulance District have:**

- Everyone trained on the National Incident Management System (NIMS)— including Directors?
- Use a Personnel Accountability System during incidents?
- An Infection Control Policy, including voluntary inoculation program?
- A policy for apparatus to stop at all stop signs and red lights?
- A policy for apparatus drivers to adjust their speed and response mode for road and weather conditions?
- A policy on seat belt use, texting while driving, or spotting while backing up?
- A policy on personnel responding to incidents using their personally owned vehicles (POVs)?
- An apparatus maintenance policy?
- A policy requiring full Personal Protective Equipment (PPE)?
- A requirement for initial and annual medical exams?
- A wellness program?
- Cardiovascular exercise equipment?
- Facility inspections?
- A public education program?
- Support for commercial and residential sprinkler programs?
- Healthy, nutritional meals?
- Programs to promote healthy life choices?
- Discussions about near misses, including input and review of <http://event.clirems.org/Near-Miss-Event?>

## **Ambulance District Board of Director Annual Agenda Items**

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January	Certify candidates for election/non-election
February	
March	Approve Financial Report and Audit Report by April 1st if not prepared by a CPA (assumes fiscal year is the calendar year)
April	Declare election results and reorganize the board
May	Approve Financial Report and Audit Report by June 1st if not prepared by a CPA (assumes fiscal year is the calendar year)
June	Depository bids (every 4 years after 1997)
July	
August	Adopt budget, conduct hearing, and set tax levies by September or October 1st (depending on county classification)
September	Ethics Report "Opt Out" Resolution by 15th, if board chooses to opt out
October	
November	Declare election and candidate filing
December	Appoint auditor for current fiscal year ending

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### **Other Items to Be Added**

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Assess EMS Chief's performance (formally quarterly or annual);

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Bid all liability and property insurance every 6 years;

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Bid hospitalization, medical, and life insurance policies every 3 years

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## **Meeting Agendas for Outgoing and Incoming Boards of Directors**

\_\_\_\_\_ Ambulance District

### **Last Regular Meeting of the Outgoing Board of Directors**

\_\_\_\_\_, 20\_\_\_\_

1. Call to order of the outgoing board
2. Approval of the minutes:
  - a. From the last meeting
  - b. Committee appointment to approve this meeting's minutes
  - c. Treasurer's report
3. Unfinished business
4. Special orders of the day:
  - a. Declaration of election results
  - b. Any departing remarks
5. Adjournment of the outgoing board

### **Oath of office for directors-elect**

\_\_\_\_\_ Ambulance District

### **First Regular Meeting of the Incoming Board of Directors**

\_\_\_\_\_, 20\_\_\_\_

1. Call to order of the incoming board
2. Special orders of the day:
  - a. Election of chair; election of secretary
  - b. Appointment of custodian of records
  - c. Election of treasurer; designation of budget officer
3. New business
  - a. Depository and withdrawal authorizations
4. Closed session (if posted pursuant to RSMo 610)
5. Personal appearances
6. Announcements and adjournment of the incoming board

## **Ambulance District New Director Checklist**

- Take Oath of Office and file Oath of Office with Ambulance District (AD)
- If necessary, file surety bond with AD\*
- Attend AD board member training within 12 months of being elected
- As appropriate, notify the following of a new Director:
  - Insurance agent
  - Media contacts
  - Financial institutions
  - Other agency and government officials including any organizations of which the AD is a member
  - AD attorney and auditor and other AD retained professionals
  - Vendors/merchants (change who is authorized to charge)
  - Utility companies (change who is authorized to make changes)
  - Labor organizations
  - Security monitoring company and locksmith
- As appropriate, receive\*\*:
  - Pager, wireless telephone, scanner, and/or radio
  - Credit, purchase, fuel, and/or telephone calling cards
  - Badge/ID and/or keys
- Receive files and manuals\*\*:
  - Standing Rules, Special Rules, Bylaws, and/or parliamentary law
  - Resolutions and Ordinances
  - Policies
  - Rules and Regulations
  - Operating Procedures/Practices/Guidelines
  - Labor contracts
  - Current reports from Treasurer, EMS Chief, committees, etc.
  - Most recent financial statement and audit reports
  - State statutes or subsets thereof, e.g., Sunshine Law
  - Photocopy of the Sales/Use Tax Exemption Letter\*\*
  - Pending files of candidates, lawsuits, and other closed records\*\*
- If paying attendance fees, provide Treasurer with IRS W-4 and MO W-4
- Be provided with appropriate, key AD-related information (see list)

\* If authorized to receive or retain the custody of money or to sign vouchers, checks, warrants or evidences of indebtedness binding upon the district

\*\* Be sure to get these items from the former Director!

## **Ambulance District New Director Checklist, cont.**

- Key District-related information (as appropriate):
  - Radio frequency(ies)
  - Roster(s) with contact information for key personnel, e.g. EMS Chief
  - AD mailing address; telephone number; fire station address(es) and telephone number(s); dispatch address and telephone number; and website
  - History of the AD, including the court case number assigned to creation of the AD
  - AD boundaries and master street address guides (MSAGs)
  - Census-type statistics, e.g., population; registered voters; average education, salary, housing values; square miles; zoning; etc.
  - Dimension-type statistics, e.g., number and types of calls for service; number of positions; budget; tax rate levy(ies) and ceilings; aggregate assessed valuations; etc.
  - Educational information, e.g., acronyms, definitions, dispatch protocols, etc.
  - List of mutual aid and interfacing agency(ies) and contacts for their corresponding official(s), e.g., emergency medical response agencies; hospitals; etc.
  - List of other city, county, special purpose, state, and federal elected officials and contacts thereof
  - Contact information for:
    - Insurance agent
    - Media contacts
    - Financial institutions
    - Other agency and government officials including any organizations of which the AD is a member
    - Other directors, Secretary, and Treasurer
    - AD attorney and auditor and other AD retained professionals
    - Vendors/merchants
    - Utility companies
    - Labor organizations
    - Security monitoring company and locksmith

