



IGFOA Technical Accounting Review Committee (TARC) Whitepaper on Foreign Fire Program Amendment

Background

In May 2022, the Illinois General Assembly passed Public Act 102-0740 (full text accessible at <https://www.ilga.gov/legislation/publicActs/fulltext.asp?Name=102-0740&GA=102>) which amended the Foreign Fire program, including municipal involvement in the program. The act took effect on January 1, 2023. The act further limits municipal involvement and oversight of the program for both home-rule and non-home-rule communities. Notable changes include:

- Municipalities no longer set the rate of the license fee; the state has set a rate of 2%. The Foreign Fire Insurance Board (the board) also has the exclusive authority to collect the license fees or may select an agent to collect the fees.
- The act makes regulation of the board exclusive powers of the state and specifically states that a municipality may not regulate the foreign fire insurance board and its fees.
- Allows the foreign fire board to sue in Circuit Court to cure a violation of the statutes.
- Clarifies that members of the board must be sworn.
- No longer requires boards to post bonds with municipalities.
- Gives the authority to boards to contract for services such as audit and legal services in addition to those that support the administration, use and functions of the fire department.
- Allows the boards to maintain bank accounts for foreign fire funds.

Recommended Application of Change in Statute

Given the reduction in municipal authority outlined above, some municipalities may be concerned that the foreign fire funds should be excluded from the municipality's or the fire protection district's audited financial statements. TARC has reviewed the changes in the statutes and is not recommending that the foreign fire boards be removed from the audited financial statements of either unit of government.

The Government Accounting Standards Board (GASB) codification, section 2100.112 defines a primary government as an entity meeting all three criteria:

1. A separately elected governing body.
2. Legally separate.
3. Fiscally independent of other state and local governments.

To be excluded from a government's audited financial statements, the foreign fire boards must meet all three criteria. The foreign fire boards are comprised of a board of 7 trustees including the fire chief and 6 other members elected by sworn members of the department. However, these trustees are not elected by the citizens in a general, popular election and therefore the foreign fire board does not meet this criteria of having a separately elected governing body. Therefore, the foreign fire board is not its own primary government and cannot exist as the center of the financial reporting entity.

Since the foreign fire board cannot exist as its own primary government, it is important to determine how it should be reported in the municipality's financial statements.

At this time, it is unclear if the changes in statute have created a separate legal entity for the foreign fire boards. If it is a separate legal entity, GASB Section 2600.113b highlights that a component unit should be blended with the funds of the primary government (the municipality or fire protection district) if, "the component unit provides services entirely, or almost entirely, to the primary government or otherwise exclusively, or almost exclusively, benefits the primary government even though it does not provide services directly to it." In the case of foreign fire boards, they exist solely to provide resources to support the fire department or district and would be a blended component unit (or fund) in the government's financial statements. If blended, additional note disclosures would be required.

If the foreign fire board is not a separate legal entity, it should continue to be reported in the same manner as it was prior to the change in statutes (just a fund of the primary government).

TARC recommends that each municipality review this issue with their audit firm and determine how to best present it in the financial statements.

Other Considerations

The statute does require that the foreign fire boards be audited. This would require them to be included in the scope of the primary government's audit or audited on their own. If audited on a stand-alone basis, the audit would be subject to group audit standards and would need to be completed in time to be reported in the primary government's audit report. Failure of a government to include the audit of the foreign fire board in its audited financial statement would result in a modified audit opinion for the primary government, subject to materiality considerations.