

Models of Fire Service Delivery in South Dakota: An infinite variety?

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South Dakota allows for the delivery of government fire protection services through various jurisdictional types of delivery models. South Dakota state law explicitly allows municipalities, counties and townships the authority to plan for and implement within their jurisdictions varying level of fire protection services. The funding of these services can be paid for by a combination of tax revenues and other funds and the service delivery can be guided by the enactment of ordinances enforced by the local government jurisdiction.

In addition, over the years since statehood, the South Dakota Legislature has enacted laws that grant authority to many types of Special Purpose Districts such as Water Development Districts, Irrigation Districts, Road Improvement Districts, Sanitary Districts, etc. One such Special Purpose District is a Rural Fire Protection District. Rural Fire Protection Districts were granted authority to operate in South Dakota in 1971 by the State Legislature and since that year it has been estimated that at least 74 rural fire protection districts have been created throughout the state. The chapter of laws that pertain to Rural Fire Protection Districts is Chapter 34-31A in Public Health and Safety Title of the SDCL. The name "Rural Fire Protection District" is somewhat of a misnomer, because SDCL 34-31A-3 allows the inclusion of any size class municipality in a fire district, whether the municipality has a fire department or not. The use of a special purpose district such as a rural fire protection district allows for governmental fire protection services to cross jurisdictional lines and serve an area in multiple counties, townships, and municipalities, or any combination thereof, allowing for more efficient use of taxpayer dollars in providing closest forces fire protection. In some cases, South Dakota fire districts contract with municipal fire departments in Iowa and Minnesota to provide closest fire suppression response to their South Dakota residents and taxpayers.

By doing research on the database of fire departments that are signatories to the "*South Dakota In-State Forest Fire Suppression Agreement*" with the SD Department of Agriculture, it is apparent that a majority of the fire departments that sign this joint powers agreement with state are non-profit corporations called for example "XYZ Volunteer Fire Department" and their corporate status as a non-profit is on file with the South Dakota Secretary of State's Office. The Chief of the Volunteer Fire Department will be authorized to sign the agreement. In turn, this type of non-profit corporation known as a volunteer fire department will in turn sign a contract, or a joint powers agreement with a township, county, municipality or fire protection district to provide fire protection services to that unit of government. However, most of these volunteer fire departments that sign agreements with our agency for fire suppression services concurrently hold fire protection agreements with their local rural fire protection district. Local examples are North Haines VFD, Rockerville VFD, Johnson Siding VFD, Doty VFD, Rapid Valley VFD, and Rochford VFD and there are many more examples outside of the Black Hills area that have this delivery model. Some of the departments have fire protection agreements with fire districts in heavily populated areas with substantial tax revenues, while other districts do not even tax

their residents in their fire district and those fire departments serving those districts do not have very much to work with budget revenues, except for donations and grants. South Dakota has a very unique set of laws dealing with non-profit organizations that deliver fire protection services in that current statute only allows a county, municipality, or rural fire district to contract with non-profit corporations, as opposed to a for-profit private corporation or business entity.

Another delivery model that we see in our wildland fire agency agreements is that of a city fire department that is a unit of municipal government where the mayor, city council president, city manager, fire commissioner or city finance officer signs the agreement on behalf of the municipal corporation. These types of fire departments usually do not hold a protection agreement with a rural fire protection district or any other governmental unit outside of the district except for mutual aid, EMS and wildfire suppression service agreements. Examples of those fire departments are Rapid City Fire Department and Sioux Falls Fire Rescue and some fire departments in midsize towns. However, more often than not, a municipal fire department will serve the outlying area around the city limits by direct agreement with adjacent fire protection districts, townships, the county or other municipalities. Some municipal fire departments such as Brookings FD will serve outlying townships in two different counties on a fee basis agreement. Other municipal fire departments such as Yankton and Pierre have rural counterparts of the same name (Yankton Rural and Pierre Rural) that serve adjacent rural fire districts or the county area by the use of resource sharing of mutual equipment and personnel. Many other municipal or “town” fire departments across central and southeastern SD operate along those same lines where a municipal fire department will share members and equipment and building space with a rural fire district of the adjacent area to combine forces for more efficient use of resources.

Non-profit organizations structured as volunteer fire departments also play an important role in serving both incorporated cities/towns and adjacent rural areas. Locally, Lead VFD serves both the City of Lead and the adjacent Lead Fire District by the fact that the city is now part of the fire district. The City of Summerset is a municipality that has no fire department nor does it have any agreement with any fire department to provide fire suppression services to the city by virtue of the fact it is situated over two existing fire districts and the non-profit fire departments contracting with those districts provide fire suppression services to the city’s residents and occupancies as taxpayers within the respective fire district. Black Hawk VFD, Whitewood VFD, Keystone VFD, Hermosa VFD and Hill City VFD are other local non-profits that serve both an incorporated city and an outlying rural area by contracting with a fire district that covers both jurisdictions. Piedmont VFD serves both the incorporated towns of Piedmont and Summerset as per their contract with the Piedmont Fire District. And Black Hawk VFD covers the other half of Summerset through agreement with the Black Hawk Fire District.

In addition to the fire service delivery models described above, other units of federal, state, and local government can provide for and maintain fire department services under state law. South Dakota has federal agencies that deliver both wildland and structural fire protection on federal jurisdictional areas across the state. In addition, the State of South Dakota delivers wildland fire suppression services under the executive branch of state government. Townships can provide for direct fire services by maintaining a fire department but at this time, no organized townships are currently supporting a township fire department in the state. As mentioned earlier, townships have contracted their direct fire

protection responsibilities to adjoining municipalities, fire districts or non-profit volunteer fire departments. Another unit of government is that can provide direct fire service delivery is a rural fire district. A rural fire district can maintain a fire department and provide for direct fire services within their district through their internal district fire department. Such examples in the state of these “fire district/fire departments” are Whispering Pines VFD, Fairburn Fire Protection District, Aberdeen Rural Fire District, Lesterville Fire Department, and Wagner Fire Protection District. In addition, South Dakota state law allows for a rural fire district to merge with an ambulance district and create an “Emergency Services District” and that entity could provide direct fire service delivery, but we are currently unaware of any such district in the state providing direct services. The last sub unit of government in South Dakota that can provide direct fire services is a county, but currently no county in the state is providing direct fire service protection by maintaining a county fire department with county employees; some counties have full-time or part-time fire coordinators that assist in the delivery of fire suppression services in their respective county.

In summary, local units of government in the state such as counties, municipalities, townships and rural fire districts can all maintain, deliver or contract for fire protection services within their respective jurisdictions. Although there is not an infinite set of delivery models as the subtitle would indicate, the application of a special purpose district such as a fire district that can cross jurisdictional lines, allows all levels of local government in an area to build a fire protection service model best suited to protect and enhance the community outcomes of security, safety and prosperity.

Note: Author is not an attorney and legal advice should be obtained with regards to interpretation and application of the laws referenced in this article.

Sources:

“Special Use Districts in South Dakota”. (2012) South Dakota Legislative Research Council.
<http://legis.sd.gov/interim/2012/documents/WTF09-25-12SpecialPurposeDistSD.pdf>

Current State Fire In-State Fire Suppression Contract database and files, South Dakota Division of Wildland Fire, Headquarters Office, Rapid City SD.

South Dakota Codified Law: The following titles contain chapters and laws that specifically deal with local government authority to provide fire protection services. The specific chapters in Title 34 that deal with firefighting agreements and rural fire districts are listed as well.

Title 7 Counties

Title 8 Townships

Title 9 Municipal Government

Title 34 Public Health and Safety

Chapter 34-31 “Fire-Fighting Equipment and Agreements”

Chapter 34-31A “Rural Fire Protection Districts”