

BILL ANALYSIS

S.B. 905
By: Madla
County Affairs
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Current Texas law requires a municipality to reimburse an emergency services district (ESD) in a county with a population of 125,000 or more if the municipality annexes territory away from the district. The city is to compensate the district an amount equal to the disannexed territory's pro rata share of the district's indebtedness. Engrossed Senate Bill 905 provides the same compensation of debt to ESDs in small counties as provided ESDs in large counties. Additionally, the bill includes loans and lease-purchase agreements to the types of debt included in the indebtedness total, requires the district to follow a specific formula to determine the indebtedness, and allows for binding arbitration of disputes between the city and district.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1. Amends Section 775.022, Health and Safety Code, by amending Subsections (b) and ©) and adding Subsections (e) and (f), as follows:

(b) Provides that the disannexation of territory under this section does not diminish or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or other obligations of the district including loans and lease-purchase agreements.

©) Makes a conforming change. Deletes language in text relating to a municipality annexing a portion of a district.

(e) Requires the amount of compensation under Subsection ©) to be determined by multiplying the district's total indebtedness at the time of the annexation by a fraction the numerator of which is the assessed value of the property to be annexed based on the most recent certified county property tax rolls at the time of annexation and the denominator of which is the total assessed value of the property of the district based on the most recent certified county property tax rolls at the time of annexation.

(f) Provides that for purposes of this section, total indebtedness includes loans and lease-purchase agreements but does not include:

- (1) a loan or lease-purchase agreement the district enters into after the district receives notice of the municipality's intent to annex district territory; or
- (2) any indebtedness attributed to any real or personal property that the district requires a municipality to purchase under Subsection (d).

SECTION 2. Amends Subchapter B, Chapter 775, Health and Safety Code, by adding Section 775.0221, as follows:

Sec. 775.0221. ARBITRATION REGARDING REMOVED TERRITORY.

(a) Requires the municipality and the district to negotiate an agreement on the amount of compensation required under Section 775.022. Requires the municipality and the district, if the municipality and the district cannot reach an agreement, to resolve the dispute using binding arbitration.

(b) Requires a request for binding arbitration to be in writing and prohibits it from being made before the 60th day after the date the municipality receives notice from the district regarding the amount of compensation required under Section 775.022.

©) Requires the municipality and the district to agree on the arbitrator. Requires the mayor of the municipality, if the parties cannot agree on the appointment of an arbitrator before the 11th business day after the date arbitration is requested, to immediately request a list of seven neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service or their successors in function. Requires an arbitrator included in the list to be a resident of this state and prohibits the arbitrator from being a resident of a county in which any part of the municipality or any part of the district is located. Requires the municipality and the district to agree on the appointment of an arbitrator included in the list. Authorizes each party or the party's designee, if the municipality and the district cannot agree on the arbitrator before the 11th business day after the date the list is provided to the parties, to alternately strike a name from the list. Requires the remaining person on the list to be appointed as the arbitrator. Provides that in this subsection, "business day" means a day other than a Saturday, Sunday, or state or national holiday.

(d) Requires the arbitrator to perform certain tasks.

(e) Authorizes the arbitrator to perform certain tasks.

(f) Requires the arbitrator, unless the parties to the dispute agree otherwise, to complete the hearing within two consecutive days. Requires the arbitrator to permit each party one day to present evidence and other information. Authorizes the arbitrator, for good cause shown, to schedule an additional hearing to be held not later than the seventh day after the date of the first hearing. Requires the arbitrator, unless otherwise agreed to by the parties, to issue a decision in writing and deliver a copy of the decision to the parties not later than the 14th day after the date of the final hearing.

(g) Requires the municipality and the district to share the cost of arbitration.

SECTION 3. Amends Section 776.052, Health and Safety Code, by amending Subsection ©) and adding Subsections (d)-(g), as follows:

©) Makes a nonsubstantive change.

(d) Requires the municipality, if a municipality removes territory from a district under Subsection (a) or ©), to compensate the district in an amount equal to the removed territory's pro rata share of the district's bonded and other indebtedness as computed according to the formula in Subsection (e). Requires the district to apply compensation received from a municipality under this subsection exclusively to the payment of the removed territory's pro rata share of the district's bonded and other indebtedness.

(e) Requires the amount of compensation under Subsection (d) to be determined by multiplying the district's total indebtedness at the time the territory is removed by a fraction the numerator of which is the assessed value of the property to be removed based on the most recent certified county property tax rolls at the time of removal and the denominator of which is the total assessed value of the property of the district based on the most recent certified county property tax rolls at

the time of removal.

(f) Requires a municipality, on the district's request, to purchase from the district at fair market value any real or personal property used to provide emergency services in territory disannexed under this section. Provides that if any part of the indebtedness for which the district receives compensation under Subsection (d) was for the purchase of the real or personal property that the municipality purchases under this subsection, the fair market value of that property for the purpose of this subsection is reduced by a percentage equal to the disannexed territory's pro rata share under Subsection (d).

(g) Provides that for purposes of this section, total indebtedness includes loans and lease-purchase agreements but does not include;

(1) a loan or lease-purchase agreement the district enters into after the district receives notice of the municipality's intent to annex district territory; or

(2) any indebtedness attributed to any real or personal property that the district requires a municipality to purchase under Subsection (f).

SECTION 4. Amends Subchapter D, Chapter 776, Health and Safety Code, by adding Section 776.0521, as follows:

Sec. 776.0521. ARBITRATION REGARDING REMOVED TERRITORY.

(a) Requires the municipality and the district to negotiate an agreement on the amount of compensation required under Section 776.052. Requires the municipality and the district, if the municipality and the district cannot reach an agreement, to resolve the dispute using binding arbitration.

(b) Requires a request for binding arbitration to be in writing and prohibits it from being made before the 60th day after the date the municipality receives notice from the district regarding the amount of compensation required under Section 776.052.

(c) Requires the municipality and the district to agree on the arbitrator. Requires the mayor of the municipality, if the parties cannot agree on the appointment of an arbitrator before the 11th business day after the date arbitration is requested, to immediately request a list of seven neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service or their successors in function. Requires an arbitrator included in the list to be a resident of this state and prohibits the arbitrator from being a resident of a county in which any part of the municipality or any part of the district is located. Requires the municipality and the district to agree on the appointment of an arbitrator included in the list. Authorizes each party or the party's designee, if the municipality and the district cannot agree on the arbitrator before the 11th business day after the date the list is provided to the parties, to alternately strike a name from the list. Requires the remaining person on the list to be appointed as the arbitrator. Provides that in this subsection, "business day" means a day other than a Saturday, Sunday, or state or national holiday.

(d) Requires the arbitrator to perform certain tasks.

(e) Authorizes the arbitrator to perform certain tasks.

(f) Requires the arbitrator, unless the parties to the dispute agree otherwise, to complete the hearing within two consecutive days. Requires the arbitrator to permit each party one day to present evidence and other information. Authorizes the arbitrator, for good cause shown, to schedule an additional hearing to be held not later than the seventh day after the date of the first hearing. Requires the arbitrator, unless otherwise agreed to by the parties, to issue a decision in writing and deliver a copy of the decision to the parties not later than the 14th day after the date

of the final hearing.

(g) Requires the municipality and the district to share the cost of arbitration.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2003.