

By: Madla

S.B. No. 905

A BILL TO BE ENTITLED

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AN ACT

relating to reimbursement for land removed from emergency service districts and dispute resolution relating to the amount of reimbursement.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 775.022, Health and Safety Code, is amended by amending Subsections (b) and (c) and adding Subsections (e) and (f) to read as follows:

(b) 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.

(c) If a municipality annexes a portion of a district, the municipality shall compensate the district in an amount equal to the annexed territory's pro rata share of the district's bonded and other indebtedness as computed according to the formula in Subsection (e) [~~based on the unpaid principal balances and the actual property values at the time the territory is annexed~~]. The district shall apply compensation received from a municipality under this subsection exclusively to the payment of the annexed territory's pro rata share of the district's bonded and other indebtedness.

(e) The amount of compensation under Subsection (c) shall be determined by multiplying the district's total indebtedness at the

1 time of the annexation by a fraction the numerator of which is the
2 assessed value of the property to be annexed based on the most
3 recent certified county property tax rolls at the time of
4 annexation and the denominator of which is the total assessed value
5 of the property of the district based on the most recent certified
6 county property tax rolls at the time of annexation.

7 (f) For purposes of this section, total indebtedness
8 includes loans and lease-purchase agreements but does not include:

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

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

15 SECTION 2. Subchapter B, Chapter 775, Health and Safety
16 Code, is amended by adding Section 775.0221 to read as follows:

17 Sec. 775.0221. ARBITRATION REGARDING REMOVED TERRITORY.

18 (a) The municipality and the district shall negotiate an agreement
19 on the amount of compensation required under Section 775.022. If
20 the municipality and the district cannot reach an agreement, the
21 municipality and the district shall resolve the dispute using
22 binding arbitration.

23 (b) A request for binding arbitration must be in writing and
24 may not be made before the 60th day after the date the municipality
25 receives notice from the district regarding the amount of
26 compensation required under Section 775.022.

27 (c) The municipality and the district must agree on the

1 arbitrator. If the parties cannot agree on the appointment of an
2 arbitrator before the 11th business day after the date arbitration
3 is requested, the mayor of the municipality shall immediately
4 request a list of seven neutral arbitrators from the American
5 Arbitration Association or the Federal Mediation and Conciliation
6 Service or their successors in function. An arbitrator included in
7 the list must be a resident of this state and may not be a resident
8 of a county in which any part of the municipality or any part of the
9 district is located. The municipality and the district must agree
10 on the appointment of an arbitrator included in the list. If the
11 municipality and the district cannot agree on the arbitrator before
12 the 11th business day after the date the list is provided to the
13 parties, each party or the party's designee may alternately strike
14 a name from the list. The remaining person on the list shall be
15 appointed as the arbitrator. In this subsection, "business day"
16 means a day other than a Saturday, Sunday, or state or national
17 holiday.

18 (d) The arbitrator shall:

19 (1) set a hearing to be held not later than the 10th
20 day after the date the arbitrator is appointed; and

21 (2) notify the parties to the arbitration in writing
22 of the time and place of the hearing not later than the eighth day
23 before the date of the hearing.

24 (e) The arbitrator may:

25 (1) receive in evidence any documentary evidence or
26 other information the arbitrator considers relevant;

27 (2) administer oaths; and

1 (3) issue subpoenas to require:

2 (A) the attendance and testimony of witnesses;

3 and

4 (B) the production of books, records, and other
5 evidence relevant to an issue presented to the arbitrator for
6 determination.

7 (f) Unless the parties to the dispute agree otherwise, the
8 arbitrator shall complete the hearing within two consecutive days.
9 The arbitrator shall permit each party one day to present evidence
10 and other information. The arbitrator, for good cause shown, may
11 schedule an additional hearing to be held not later than the seventh
12 day after the date of the first hearing. Unless otherwise agreed to
13 by the parties, the arbitrator must issue a decision in writing and
14 deliver a copy of the decision to the parties not later than the
15 14th day after the date of the final hearing.

16 (g) The municipality and the district shall share the cost
17 of arbitration.

18 SECTION 3. Section 776.052, Health and Safety Code, is
19 amended by amending Subsection (c) and adding Subsections (d)
20 through (g) to read as follows:

21 (c) If a municipality that is not in the district annexes
22 territory that is included in a district, the governing body of the
23 municipality shall notify the secretary of the board in writing
24 that the annexed territory is removed [~~excluded~~] from the
25 district's territory.

26 (d) If a municipality removes territory from a district
27 under Subsection (a) or (c), the municipality shall compensate the

1 district in an amount equal to the removed territory's pro rata
2 share of the district's bonded and other indebtedness as computed
3 according to the formula in Subsection (e). The district shall
4 apply compensation received from a municipality under this
5 subsection exclusively to the payment of the removed territory's
6 pro rata share of the district's bonded and other indebtedness.

7 (e) The amount of compensation under Subsection (d) shall be
8 determined by multiplying the district's total indebtedness at the
9 time the territory is removed by a fraction the numerator of which
10 is the assessed value of the property to be removed based on the
11 most recent certified county property tax rolls at the time of
12 removal and the denominator of which is the total assessed value of
13 the property of the district based on the most recent certified
14 county property tax rolls at the time of removal.

15 (f) On the district's request, a municipality shall
16 purchase from the district at fair market value any real or personal
17 property used to provide emergency services in territory disannexed
18 under this section. If any part of the indebtedness for which the
19 district receives compensation under Subsection (d) was for the
20 purchase of the real or personal property that the municipality
21 purchases under this subsection, the fair market value of that
22 property for the purpose of this subsection is reduced by a
23 percentage equal to the disannexed territory's pro rata share under
24 Subsection (d).

25 (g) For purposes of this section, total indebtedness
26 includes loans and lease-purchase agreements but does not include:

27 (1) a loan or lease-purchase agreement the district

1 enters into after the district receives notice about the
2 municipality's intent to remove district territory; or

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

6 SECTION 4. Subchapter D, Chapter 776, Health and Safety
7 Code, is amended by adding Section 776.0521 to read as follows:

8 Sec. 776.0521. ARBITRATION REGARDING REMOVED TERRITORY.

9 (a) The municipality and the district shall negotiate an agreement
10 on the amount of compensation required under Section 776.052. If
11 the municipality and the district cannot reach an agreement, the
12 municipality and the district shall resolve the dispute using
13 binding arbitration.

14 (b) A request for binding arbitration must be in writing and
15 may not be made before the 60th day after the date the municipality
16 receives notice from the district regarding the amount of
17 compensation required under Section 776.052.

18 (c) The municipality and the district must agree on the
19 arbitrator. If the parties cannot agree on the appointment of an
20 arbitrator before the 11th business day after the date arbitration
21 is requested, the mayor of the municipality shall immediately
22 request a list of seven neutral arbitrators from the American
23 Arbitration Association or the Federal Mediation and Conciliation
24 Service or their successors in function. An arbitrator included in
25 the list must be a resident of this state and may not be a resident
26 of a county in which any part of the municipality or any part of the
27 district is located. The municipality and the district must agree

1 on the appointment of an arbitrator included in the list. If the
2 municipality and the district cannot agree on the arbitrator before
3 the 11th business day after the date the list is provided to the
4 parties, each party or the party's designee may alternately strike
5 a name from the list. The remaining person on the list shall be
6 appointed as the arbitrator. In this subsection, "business day"
7 means a day other than a Saturday, Sunday, or state or national
8 holiday.

9 (d) The arbitrator shall:

10 (1) set a hearing to be held not later than the 10th
11 day after the date the arbitrator is appointed; and

12 (2) notify the parties to the arbitration in writing
13 of the time and place of the hearing not later than the eighth day
14 before the date of the hearing.

15 (e) The arbitrator may:

16 (1) receive in evidence any documentary evidence or
17 other information the arbitrator considers relevant;

18 (2) administer oaths; and

19 (3) issue subpoenas to require:

20 (A) the attendance and testimony of witnesses;
21 and

22 (B) the production of books, records, and other
23 evidence relevant to an issue presented to the arbitrator for
24 determination.

25 (f) Unless the parties to the dispute agree otherwise, the
26 arbitrator shall complete the hearing within two consecutive days.
27 The arbitrator shall permit each party one day to present evidence

1 and other information. The arbitrator, for good cause shown, may
2 schedule an additional hearing to be held not later than the seventh
3 day after the date of the first hearing. Unless otherwise agreed to
4 by the parties, the arbitrator must issue a decision in writing and
5 deliver a copy of the decision to the parties not later than the
6 14th day after the date of the final hearing.

7 (g) The municipality and the district shall share the cost
8 of arbitration.

9 SECTION 5. This Act takes effect September 1, 2003, and
10 applies only to removal of territory of an emergency services
11 district on or after that date.