

1-1 By: Madla S.B. No. 905
1-2 (In the Senate - Filed March 5, 2003; March 11, 2003, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 25, 2003, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 3, Nays 0;
1-6 April 25, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 905 By: Madla

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to reimbursement for land removed from emergency service
1-11 districts and dispute resolution relating to the amount of
1-12 reimbursement.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Section 775.022, Health and Safety Code, is
1-15 amended by amending Subsections (b) and (c) and adding Subsections
1-16 (e) and (f) to read as follows:

1-17 (b) The disannexation of territory under this section does
1-18 not diminish or impair the rights of the holders of any outstanding
1-19 and unpaid bonds, warrants, or other obligations of the district
1-20 including loans and lease-purchase agreements.

1-21 (c) If a municipality annexes a portion of a district, the
1-22 municipality shall compensate the district in an amount equal to
1-23 the annexed territory's pro rata share of the district's bonded and
1-24 other indebtedness as computed according to the formula in
1-25 Subsection (e) [based on the unpaid principal balances and the
1-26 actual property values at the time the territory is annexed]. The
1-27 district shall apply compensation received from a municipality
1-28 under this subsection exclusively to the payment of the annexed
1-29 territory's pro rata share of the district's bonded and other
1-30 indebtedness.

1-31 (e) The amount of compensation under Subsection (c) shall be
1-32 determined by multiplying the district's total indebtedness at the
1-33 time of the annexation by a fraction the numerator of which is the
1-34 assessed value of the property to be annexed based on the most
1-35 recent certified county property tax rolls at the time of
1-36 annexation and the denominator of which is the total assessed value
1-37 of the property of the district based on the most recent certified
1-38 county property tax rolls at the time of annexation.

1-39 (f) For purposes of this section, total indebtedness
1-40 includes loans and lease-purchase agreements but does not include:

1-41 (1) a loan or lease-purchase agreement the district
1-42 enters into after the district receives notice of the
1-43 municipality's intent to annex district territory; or

1-44 (2) any indebtedness attributed to any real or
1-45 personal property that the district requires a municipality to
1-46 purchase under Subsection (d).

1-47 SECTION 2. Subchapter B, Chapter 775, Health and Safety
1-48 Code, is amended by adding Section 775.0221 to read as follows:

1-49 Sec. 775.0221. ARBITRATION REGARDING REMOVED TERRITORY.

1-50 (a) The municipality and the district shall negotiate an agreement
1-51 on the amount of compensation required under Section 775.022. If
1-52 the municipality and the district cannot reach an agreement, the
1-53 municipality and the district shall resolve the dispute using
1-54 binding arbitration.

1-55 (b) A request for binding arbitration must be in writing and
1-56 may not be made before the 60th day after the date the municipality
1-57 receives notice from the district regarding the amount of
1-58 compensation required under Section 775.022.

1-59 (c) The municipality and the district must agree on the
1-60 arbitrator. If the parties cannot agree on the appointment of an
1-61 arbitrator before the 11th business day after the date arbitration
1-62 is requested, the mayor of the municipality shall immediately
1-63 request a list of seven neutral arbitrators from the American

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

2-14 (d) The arbitrator shall:

2-15 (1) set a hearing to be held not later than the 10th
 2-16 day after the date the arbitrator is appointed; and

2-17 (2) notify the parties to the arbitration in writing
 2-18 of the time and place of the hearing not later than the eighth day
 2-19 before the date of the hearing.

2-20 (e) The arbitrator may:

2-21 (1) receive in evidence any documentary evidence or
 2-22 other information the arbitrator considers relevant;

2-23 (2) administer oaths; and

2-24 (3) issue subpoenas to require:

2-25 (A) the attendance and testimony of witnesses;
 2-26 and

2-27 (B) the production of books, records, and other
 2-28 evidence relevant to an issue presented to the arbitrator for
 2-29 determination.

2-30 (f) Unless the parties to the dispute agree otherwise, the
 2-31 arbitrator shall complete the hearing within two consecutive days.
 2-32 The arbitrator shall permit each party one day to present evidence
 2-33 and other information. The arbitrator, for good cause shown, may
 2-34 schedule an additional hearing to be held not later than the seventh
 2-35 day after the date of the first hearing. Unless otherwise agreed to
 2-36 by the parties, the arbitrator must issue a decision in writing and
 2-37 deliver a copy of the decision to the parties not later than the
 2-38 14th day after the date of the final hearing.

2-39 (g) The municipality and the district shall share the cost
 2-40 of arbitration.

2-41 SECTION 3. Section 776.052, Health and Safety Code, is
 2-42 amended by amending Subsection (c) and adding Subsections (d)
 2-43 through (g) to read as follows:

2-44 (c) If a municipality that is not in the district annexes
 2-45 territory that is included in a district, the governing body of the
 2-46 municipality shall notify the secretary of the board in writing
 2-47 that the annexed territory is removed [~~excluded~~] from the
 2-48 district's territory.

2-49 (d) If a municipality removes territory from a district
 2-50 under Subsection (a) or (c), the municipality shall compensate the
 2-51 district in an amount equal to the removed territory's pro rata
 2-52 share of the district's bonded and other indebtedness as computed
 2-53 according to the formula in Subsection (e). The district shall
 2-54 apply compensation received from a municipality under this
 2-55 subsection exclusively to the payment of the removed territory's
 2-56 pro rata share of the district's bonded and other indebtedness.

2-57 (e) The amount of compensation under Subsection (d) shall be
 2-58 determined by multiplying the district's total indebtedness at the
 2-59 time the territory is removed by a fraction the numerator of which
 2-60 is the assessed value of the property to be removed based on the
 2-61 most recent certified county property tax rolls at the time of
 2-62 removal and the denominator of which is the total assessed value of
 2-63 the property of the district based on the most recent certified
 2-64 county property tax rolls at the time of removal.

2-65 (f) On the district's request, a municipality shall
 2-66 purchase from the district at fair market value any real or personal
 2-67 property used to provide emergency services in territory disannexed
 2-68 under this section. If any part of the indebtedness for which the
 2-69 district receives compensation under Subsection (d) was for the

3-1 purchase of the real or personal property that the municipality
 3-2 purchases under this subsection, the fair market value of that
 3-3 property for the purpose of this subsection is reduced by a
 3-4 percentage equal to the disannexed territory's pro rata share under
 3-5 Subsection (d).

3-6 (g) For purposes of this section, total indebtedness
 3-7 includes loans and lease-purchase agreements but does not include:

3-8 (1) a loan or lease-purchase agreement the district
 3-9 enters into after the district receives notice about the
 3-10 municipality's intent to remove district territory; or

3-11 (2) any indebtedness attributed to any real or
 3-12 personal property that the district requires a municipality to
 3-13 purchase under Subsection (f).

3-14 SECTION 4. Subchapter D, Chapter 776, Health and Safety
 3-15 Code, is amended by adding Section 776.0521 to read as follows:

3-16 Sec. 776.0521. ARBITRATION REGARDING REMOVED TERRITORY.

3-17 (a) The municipality and the district shall negotiate an agreement
 3-18 on the amount of compensation required under Section 776.052. If
 3-19 the municipality and the district cannot reach an agreement, the
 3-20 municipality and the district shall resolve the dispute using
 3-21 binding arbitration.

3-22 (b) A request for binding arbitration must be in writing and
 3-23 may not be made before the 60th day after the date the municipality
 3-24 receives notice from the district regarding the amount of
 3-25 compensation required under Section 776.052.

3-26 (c) The municipality and the district must agree on the
 3-27 arbitrator. If the parties cannot agree on the appointment of an
 3-28 arbitrator before the 11th business day after the date arbitration
 3-29 is requested, the mayor of the municipality shall immediately
 3-30 request a list of seven neutral arbitrators from the American
 3-31 Arbitration Association or the Federal Mediation and Conciliation
 3-32 Service or their successors in function. An arbitrator included in
 3-33 the list must be a resident of this state and may not be a resident
 3-34 of a county in which any part of the municipality or any part of the
 3-35 district is located. The municipality and the district must agree
 3-36 on the appointment of an arbitrator included in the list. If the
 3-37 municipality and the district cannot agree on the arbitrator before
 3-38 the 11th business day after the date the list is provided to the
 3-39 parties, each party or the party's designee may alternately strike
 3-40 a name from the list. The remaining person on the list shall be
 3-41 appointed as the arbitrator. In this subsection, "business day"
 3-42 means a day other than a Saturday, Sunday, or state or national
 3-43 holiday.

3-44 (d) The arbitrator shall:

3-45 (1) set a hearing to be held not later than the 10th
 3-46 day after the date the arbitrator is appointed; and

3-47 (2) notify the parties to the arbitration in writing
 3-48 of the time and place of the hearing not later than the eighth day
 3-49 before the date of the hearing.

3-50 (e) The arbitrator may:

3-51 (1) receive in evidence any documentary evidence or
 3-52 other information the arbitrator considers relevant;

3-53 (2) administer oaths; and

3-54 (3) issue subpoenas to require:

3-55 (A) the attendance and testimony of witnesses;

3-56 and

3-57 (B) the production of books, records, and other
 3-58 evidence relevant to an issue presented to the arbitrator for
 3-59 determination.

3-60 (f) Unless the parties to the dispute agree otherwise, the
 3-61 arbitrator shall complete the hearing within two consecutive days.
 3-62 The arbitrator shall permit each party one day to present evidence
 3-63 and other information. The arbitrator, for good cause shown, may
 3-64 schedule an additional hearing to be held not later than the seventh
 3-65 day after the date of the first hearing. Unless otherwise agreed to
 3-66 by the parties, the arbitrator must issue a decision in writing and
 3-67 deliver a copy of the decision to the parties not later than the
 3-68 14th day after the date of the final hearing.

3-69 (g) The municipality and the district shall share the cost

4-1 of arbitration.

4-2 SECTION 5. This Act takes effect September 1, 2003, and
4-3 applies only to removal of territory of an emergency services
4-4 district on or after that date.

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