

By: Riddle

H.B. No. 3248

Substitute the following for H.B. No. 3248:

By: Smith of Harris

C.S.H.B. No. 3248

A BILL TO BE ENTITLED

AN ACT

relating to the transfer or exclusion of territory in emergency services districts.

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

SECTION 1. Chapter 775, Health and Safety Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. CHANGE IN BOUNDARIES OF DISTRICT WITH PLANNED COMMUNITY

Sec. 775.201. DEFINITION. In this subchapter, "planned community" means a planned community of 25,000 or more acres of land originally established under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4501 et seq.) that is:

(1) located wholly or partly in a county with a population of 2.8 million or more; and

(2) subject to restrictive covenants containing ad valorem or annual variable budget-based assessments on real property for use in part to finance services of the same general type provided by the district.

Sec. 775.202. AGREEMENT ON BOUNDARIES WITH PROPERTY OWNERS IN PLANNED COMMUNITY. (a) After a hearing, a district located wholly in a county with a population of 2.8 million or more may exclude territory by making changes in the district's boundaries in accordance with an agreement among the district and the owners of two-thirds or more in acreage and two-thirds or more in taxable

1 value, according to the most recent certified county property tax  
2 rolls, of a defined area of territory of a planned community.

3 (b) The agreement must be in writing and describe:

4 (1) the affected territory by metes and bounds,  
5 including the changes in the boundaries to be made;

6 (2) the amount of any compensation to be paid to the  
7 district under Section 775.205;

8 (3) the effective date for the changes in boundaries;  
9 and

10 (4) any other applicable terms.

11 Sec. 775.203. NOTICE OF HEARING. (a) The board secretary  
12 shall give notice of the hearing.

13 (b) The notice must contain the time and place for the  
14 hearing and a description of the territory proposed to be excluded.

15 (c) The secretary shall:

16 (1) post copies of the notice for at least 15 days  
17 before the date of the hearing in three public places in the  
18 district, one of which must be in the territory proposed to be  
19 excluded; and

20 (2) not later than the 16th day before the date on  
21 which the hearing is held, publish the notice once in a newspaper of  
22 general circulation in each county in which the excluded territory  
23 is located.

24 Sec. 775.204. ADOPTION OF AGREEMENT AND APPROVAL OF  
25 EXCLUSION. After the hearing, if the board finds that the exclusion  
26 of the territory would be feasible and would benefit the district,  
27 the board shall by a resolution entered in its minutes:

1           (1) adopt the agreement; and

2           (2) approve the exclusion.

3           Sec. 775.205. EFFECT OF ADOPTION OF AGREEMENT AND APPROVAL  
4 OF EXCLUSION. (a) After adoption and approval under Section  
5 775.204, the district's tax on the property in the excluded  
6 territory continues until all agreed compensation has been paid in  
7 full.

8           (b) The district shall apply the compensation received  
9 under this section toward the payment of the obligations described  
10 by Subsection (c).

11           (c) The agreement must provide for the excluded territory to  
12 compensate the district in an amount equal to the excluded  
13 territory's pro rata share of the outstanding and unpaid bonds,  
14 warrants, or other direct and indirect obligations, including loans  
15 and lease-purchase agreements and written funding assistance  
16 agreements of the district and any not-for-profit fire departments  
17 and ambulance agencies or associations, for the financing and  
18 payment for firefighting, emergency medical service and emergency  
19 rescue equipment, fire and ambulance stations, or similar long-term  
20 capital assets to serve the district.

21           (d) The excluded territory's pro rata share is the unpaid  
22 principal balances of the outstanding loans and other obligations  
23 enumerated above multiplied by a fraction, the numerator of which  
24 is the taxable value of the property in the excluded territory and  
25 the denominator of which is the taxable value of the entire  
26 district, including the excluded territory. The taxable value  
27 calculated under this subsection for property in the excluded

1 territory, including as part of the entire district, does not  
2 include any special appraisal or exemptions for the property.

3 (e) The agreement to compensate the district does not  
4 include the following expenses incurred by the district after the  
5 boundaries change:

6 (1) expenses for district operations and maintenance;  
7 and

8 (2) expenses for district services.

9 (f) The agreement to compensate the district is required  
10 regardless of whether the loans and other obligations are subject  
11 to non-appropriation by the district or termination by either party  
12 before payment in full of the unpaid principal balance.

13 Sec. 775.206. NO EFFECT ON OUTSTANDING OBLIGATIONS. A  
14 change in boundaries under this subchapter does not diminish or  
15 impair the rights of the holders of any outstanding and unpaid  
16 bonds, warrants, or other district obligations.

17 SECTION 2. Section 272.001(b), Local Government Code, is  
18 amended to read as follows:

19 (b) The notice and bidding requirements of Subsection (a) do  
20 not apply to the types of land and real property interests described  
21 by this subsection and owned by a political subdivision. The land  
22 and those interests described by this subsection may not be  
23 conveyed, sold, or exchanged for less than the fair market value of  
24 the land or interest unless the conveyance, sale, or exchange is  
25 with one or more abutting property owners who own the underlying fee  
26 simple. The fair market value is determined by an appraisal  
27 obtained by the political subdivision that owns the land or

1 interest or, in the case of land or an interest owned by a home-rule  
2 municipality, the fair market value may be determined by the price  
3 obtained by the municipality at a public auction for which notice to  
4 the general public is published in the manner described by  
5 Subsection (a). The notice of the auction must include, instead of  
6 the content required by Subsection (a), a description of the land,  
7 including its location, the date, time, and location of the  
8 auction, and the procedures to be followed at the auction. The  
9 appraisal or public auction price is conclusive of the fair market  
10 value of the land or interest, regardless of any contrary provision  
11 of a home-rule charter. This subsection applies to:

12 (1) narrow strips of land, or land that because of its  
13 shape, lack of access to public roads, or small area cannot be used  
14 independently under its current zoning or under applicable  
15 subdivision or other development control ordinances;

16 (2) streets or alleys, owned in fee or used by  
17 easement;

18 (3) land or a real property interest originally  
19 acquired for streets, rights-of-way, or easements that the  
20 political subdivision chooses to exchange for other land to be used  
21 for streets, rights-of-way, easements, or other public purposes,  
22 including transactions partly for cash;

23 (4) land that the political subdivision wants to have  
24 developed by contract with an independent foundation;

25 (5) a real property interest conveyed to:

26 (A) a governmental entity that has the power of  
27 eminent domain; or

1                   (B) an emergency services district operating  
2 under Chapter 775, Health and Safety Code;

3                   (6) a municipality's land that is located in a  
4 reinvestment zone designated as provided by law and that the  
5 municipality desires to have developed under a project plan adopted  
6 by the municipality for the zone; or

7                   (7) a property interest owned by a defense base  
8 development authority established under Chapter 379B [~~378, Local~~  
9 ~~Government Code, as added by Chapter 1221, Acts of the 76th~~  
10 ~~Legislature, Regular Session, 1999]~~.

11                   SECTION 3. The changes in law made by this Act apply only to  
12 a change in boundaries agreed to on or after the effective date of  
13 this Act. A change in boundaries agreed to before the effective  
14 date of this Act is governed by the law existing at the time of the  
15 agreement, and the former law is continued in effect for that  
16 purpose.

17                   SECTION 4. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2007.