

House Bill 2653
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 775.034, Health and Safety Code, is amended by adding Subsection (h) to read as follows:

(h) This section does not apply to a district located wholly in a county with a population of more than three million.

SECTION 2. Subchapter C, Chapter 775, Health and Safety Code, is amended by adding Section 775.0345 to read as follows:

Sec. 775.0345. ELECTION OF BOARD IN CERTAIN POPULOUS COUNTIES. (a) This section applies only to a district located wholly in a county with a population of more than three million.

(b) The governing body of a district consists of a five-person board of emergency services commissioners elected as prescribed by this section. Except as provided by Subsection (h), emergency services commissioners serve two-year terms.

(c) After a district is created, the county judge shall establish a convenient day provided by Section 41.001, Election Code, to conduct an election to elect the initial emergency services commissioners.

(d) To be eligible to be a candidate for emergency services commissioner, a person must be at least 18 years of age and a resident of the district.

(e) A candidate for emergency services commissioner must give the county clerk a sworn notice of the candidate's intention to run for office. The notice must state the person's name, age, and address and state that

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Same as House version.

SECTION 2. Subchapter C, Chapter 775, Health and Safety Code, is amended by adding Section 775.0345 to read as follows:

Sec. 775.0345. ELECTION OF BOARD IN CERTAIN POPULOUS COUNTIES. (a) This section applies only to a district located wholly in a county with a population of more than three million.

(b) The governing body of a district consists of a five-person board of emergency services commissioners elected as prescribed by this section. Except as provided by Subsection (h), emergency services commissioners serve two-year terms.

(c) After a district is created, the county judge shall establish a convenient day provided by Section 41.001, Election Code, to conduct an election to elect the initial emergency services commissioners.

(d) To be eligible to be a candidate for emergency services commissioner, a person must be at least 18 years of age and a resident of the district.

(e) A candidate for emergency services commissioner **on an initial board** must give the county clerk a sworn notice of the candidate's intention to run for office. The notice must state the person's name, age, and address and

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the person is serving notice of intent to run for emergency services commissioner. On receipt of the notice, the county clerk shall have the candidate's name placed on the ballot.

(f) The county clerk shall appoint an election judge to certify the results of the election.

(g) After the election is held, the county clerk or the clerk's deputy shall prepare a sworn statement of the election costs incurred by the county. The statement shall be given to the newly elected board, which shall order the appropriate official to reimburse the county for the county's election costs.

(h) The initial emergency services commissioners' terms of office begin 30 days after canvassing of the election results. The two commissioners who received the fewest votes serve a term that expires on December 31 of the year in which the election was held. The other emergency services commissioners serve terms that expire on December 31 of the year following the election.

(i) The general election for commissioner shall be held annually on an authorized uniform election date as provided by Chapter 41, Election Code. The board may change the election date from one authorized election date to another authorized election date and shall adjust the terms of office to conform to the new election date.

(j) Subchapter C, Chapter 146, Election Code, applies to a write-in candidate for emergency services commissioner under this section in the same manner it applies to a write-in candidate for a city office under that

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state that the person is serving notice of intent to run for emergency services commissioner. On receipt of the notice, the county clerk shall have the candidate's name placed on the ballot.

(f) The county clerk shall appoint an election judge to certify the results of the election.

(g) After the election is held, the county clerk or the clerk's deputy shall prepare a sworn statement of the election costs incurred by the county. The statement shall be given to the newly elected board, which shall order the appropriate official to reimburse the county for the county's election costs.

(h) The initial emergency services commissioners' terms of office begin 30 days after canvassing of the election results. The two commissioners who received the fewest votes serve a term that expires on December 31 of the year in which the election was held. The other emergency services commissioners serve terms that expire on December 31 of the year following the election.

(i) The board shall hold the general election for commissioner annually on an authorized uniform election date as provided by Chapter 41, Election Code. The board may change the election date from one authorized election date to another authorized election date and shall adjust the terms of office to conform to the new election date.

(j) Subchapter C, Chapter 146, Election Code, applies to a write-in candidate for emergency services commissioner under this section in the same manner it

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subchapter.

SECTION 3. Subchapter C, Chapter 775, Health and Safety Code, is amended by adding Section 775.0355 to read as follows:

Sec. 775.0355. DISQUALIFICATION OF EMERGENCY SERVICES COMMISSIONERS. (a) In this section, "emergency services organization" means:

- (1) a volunteer fire department;
- (2) a career or combination fire department;
- (3) a municipal fire department;
- (4) an emergency medical services organization under the jurisdiction of the Department of State Health Services;
- (5) any other agency under the jurisdiction of the state fire marshal's office; or
- (6) any other organization or corporation that governs an emergency services organization.

(b) A person is disqualified from serving as an emergency services commissioner if that person:

- (1) is related within the third degree of affinity or consanguinity to:
 - (A) a person providing professional services to the district;
 - (B) a commissioner of the same district; or

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applies to a write-in candidate for a city office under that subchapter.

SECTION 3. Subchapter C, Chapter 775, Health and Safety Code, is amended by adding Section 775.0355 to read as follows:

Sec. 775.0355. DISQUALIFICATION OF EMERGENCY SERVICES COMMISSIONERS **IN CERTAIN POPULOUS COUNTIES.** (a) In this section, "emergency services organization" means:

- (1) a volunteer fire department;
- (2) a career or combination fire department;
- (3) a municipal fire department;
- (4) an emergency medical services organization under the jurisdiction of the Department of State Health Services;
- (5) any other agency under the jurisdiction of the state fire marshal's office; or
- (6) any other organization or corporation that governs an emergency services organization.

(b) This section applies only to a district located wholly in a county with a population of more than three million.

(c) A person is disqualified from serving as an emergency services commissioner if that person:

- (1) is related within the third degree of affinity or consanguinity to:
 - (A) a person providing professional services to the district;
 - (B) a commissioner of the same district; or

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(C) a person who is an employee or volunteer of an emergency services organization providing emergency services to the district;

(2) is an employee of a commissioner of the same district, attorney, or other person providing professional services to the district;

(3) is serving as an attorney, consultant, or architect or in some other professional capacity for the district or an emergency services organization providing emergency services to the district; or

(4) fails to maintain the qualifications required by law to serve as a commissioner.

(c) No later than the 60th day after the date the board determines a person is disqualified under Subsection (b), it shall replace the person serving as an emergency services commissioner with a person who is not disqualified.

(d) Any rights obtained by a third party through official action of a board covered by this section are not impaired or affected by the disqualification under this section of an emergency services commissioner to serve, provided that the third party had no knowledge, at the time the rights were obtained, of the fact that the commissioner was disqualified to serve.

No equivalent provision.

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(C) a person who is an employee or volunteer of an emergency services organization providing emergency services to the district;

(2) is an employee of a commissioner of the same district, attorney, or other person providing professional services to the district;

(3) is serving as an attorney, consultant, or architect or in some other professional capacity for the district or an emergency services organization providing emergency services to the district; or

(4) fails to maintain the qualifications required by law to serve as a commissioner.

(d) Any rights obtained by a third party through official action of a board covered by this section are not impaired or affected by the disqualification under this section of an emergency services commissioner to serve, provided that the third party had no knowledge, at the time the rights were obtained, of the fact that the commissioner was disqualified to serve.

SECTION 4. Subchapter C, Chapter 775, Health and Safety Code, is amended by adding Section 775.0445 to read as follows:

Sec. 775.0445. VACANCY ON BOARD OF

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DISTRICT LOCATED IN CERTAIN POPULOUS COUNTIES. (a) In this section, "vacancy" means a vacancy in the office of director that occurs for any reason, including an office that is vacant because:
(1) a director was disqualified under Section 775.0355;
or
(2) no candidate filed for election to the office.
(b) This section applies only to a district located wholly in a county with a population of more than three million.
(c) Not later than the 90th day after a board vacancy occurs, the remaining board members shall appoint a person to fill the unexpired term.
(d) A person appointed under this section must be eligible to serve under Section 775.0345.

No equivalent provision.

SECTION 5. Section 775.076, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:
(a) The board may issue bonds and notes as prescribed by this chapter to perform any of its powers.
(a-1) Before the board may issue bonds or notes authorized by this section, the commissioners court of each county in which the district is located must approve the issuance of the bonds or notes by a majority vote. This subsection does not apply to a district located wholly in a county with a population of more than three million.

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No equivalent provision.

SECTION 6. The heading to section 775.082, Health and Safety Code is amended to read as follows:
Sec. 775.082. AUDIT OF DISTRICT IN LESS POPULOUS COUNTIES.

No equivalent provision.

SECTION 7. Section 775.082, Health and Safety Code, is amended by adding Subsection (g) to read as follows:
(g) This section does not apply to a district located wholly in a county with a population of more than three million.

No equivalent provision.

SECTION 8. Subchapter E, Chapter 775, Health and Safety Code, is amended by adding Section 775.0825 to read as follows:
Sec. 775.0825. AUDIT OF DISTRICT IN CERTAIN POPULOUS COUNTIES. (a) This section applies only to a district located wholly in a county with a population of more than three million.
(b) A district shall prepare on or before July 1 of each year an audit of the district's fiscal accounts and records.
(c) The audit shall be performed and the report shall be prepared at the expense of the district.
(d) The audit shall be available for review and inspection at the administrative office of the district.
(e) A copy of the audit shall be filed with the clerk of the county commissioner's court within 30 days after receipt by the board.

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SECTION 4. (a) The changes in law made by this Act do not affect the entitlement of a commissioner of a board of emergency services commissioners serving on the board immediately before the effective date of this Act to continue to carry out the board's functions for the remainder of the commissioner's term.

(b) This Act does not prohibit a person who is a commissioner on the effective date of this Act from running for election to the board if the person has the qualifications required for a member under Section 775.0345, Health and Safety Code, as added by this Act.

(c) A person serving as an appointed member of a board of emergency services commissioners on the effective date of this Act shall continue to serve until the election and qualification of a new commissioner for that position.

(d) In 2008, the county judge of an emergency services district to which Section 775.0345, Health and Safety Code, as added by this Act, applies shall establish an election as required by that section to replace a commissioner appointed before the effective date of this Act as near as practicable to the date of the expiration of the appointed commissioner's term.

(e) In 2009, the county judge shall repeat the procedures described by Subsection (d) of this section for the remaining appointed commissioners.

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SECTION 9. (a) The changes in law made by this Act do not affect the entitlement of a commissioner of a board of emergency services commissioners serving on the board immediately before the effective date of this Act to continue to carry out the board's functions for the remainder of the commissioner's term.

(b) This Act does not prohibit a person who is a commissioner on the effective date of this Act from running for election to the board of emergency services commissioners if the person has the qualifications required for a member under Section 775.0345, Health and Safety Code, as added by this Act.

(c) A person serving as an appointed member of a board of emergency services commissioners on the effective date of this Act shall continue to serve until the election and qualification of a new commissioner for that position.

(d) In 2008, the county judge of an emergency services district to which Section 775.0345, Health and Safety Code, as added by this Act, applies shall establish an election as required by that section to replace commissioners whose terms expire December 31, 2007.

(e) In 2009, the county judge shall repeat the procedures described by Subsection (d) of this section for the remaining appointed commissioners whose terms expire December 31, 2008.

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SECTION 5. This Act takes effect September 1, 2007.

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SECTION 10. Same as House version.

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