

BILL ANALYSIS

Senate Research Center
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H.B. 2788
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Intergovernmental Relations
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are currently two areas of statute under which emergency services districts operate and may be created: one governing districts in counties of 125,000 or less, and the other governing all other emergency services districts. H.B. 2788 repeals the law relating to districts in counties of 125,000 or less and converts all districts created under that law to districts that operate under the law relating to all other districts, which brings all districts under one law and eliminates substantial duplication of legal authority. The bill authorizes the board of an emergency services district located wholly in a county with a population of 125,000 or less to create a new district by disannexing territory from the district and ordering a new district to be created in the disannexed territory.

H.B. 2788 amends current law relating to the powers and duties of counties and emergency services districts.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 775.0205(a), Health and Safety Code, to prohibit the most recently created emergency services district (district), if the territory in a district created under this chapter overlaps with the boundaries of another district created under this chapter, rather than another district created under this chapter or created under Chapter 776, from providing services in the overlapping territory that duplicate the services provided by the other district at the time the overlapping district was created.

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

SUBCHAPTER I. DIVISION OF DISTRICT

Sec. 775.221. **AUTHORITY TO DIVIDE DISTRICT.** Authorizes the board of a district (board) located wholly in one county with a population of 125,000 or less to create a new district by disannexing territory from the district and ordering a new district to be created in the disannexed territory in the manner provided by this subchapter.

Sec. 775.222. **PETITION FOR DIVISION; NOTICE OF HEARING.** (a) Requires the board, before the district may be divided, to receive a petition for division signed by at least seven percent of the district's qualified voters or at least 100 of the district's qualified voters, whichever is the lesser number.

(b) Requires that a petition for division include the name of the new district to be created and a description of the territory proposed to be the new district's territory.

(c) Requires the board, on receipt of a petition in the proper form, to set a place, date, and time for a hearing to consider the petition.

(d) Requires the board to issue a notice of the hearing that includes the name of the proposed district, a description of the proposed district's boundaries, and the place, date, and time of the hearing on the petition.

(e) Requires the board to publish the notice in a newspaper of general circulation in the district once a week for two consecutive weeks. Requires that the first publication occur not later than the 21st day before the date on which the hearing will be held.

Sec. 775.223. HEARING ON DIVISION OF DISTRICT. (a) Requires the board, at the hearing on the petition for division of the district, to consider the petition and each issue relating to the division of the district.

(b) Authorizes any interested person to appear before the board to support or oppose the division.

(c) Requires the board, if the board finds that the petition contains the number of signatures required under Section 775.222(a), to approve the petition not later than the 10th day after the date of the hearing.

Sec. 775.224. APPEAL. Authorizes a resident of the district or an owner of real or personal property located in the district to appeal the board's decision on the division of the district by filing an appeal in the district court in the county in which a district is located only on the basis that the board incorrectly tabulated the number of signatures on the petition.

Sec. 775.225. ELECTION TO CONFIRM DIVISION. (a) Requires the board, on granting a petition to dissolve the district, to order an election to be held in the territory of the proposed new district to confirm the division of the district.

(b) Requires that notice of the election be given in the same manner as the notice of hearing under Section 775.222.

(c) Requires that the election be held on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with the requirements of law.

(d) Requires that the ballot be printed to provide for voting for or against the proposition: "Dividing the _____ Emergency Services District to create a new emergency services district."

(e) Requires the board, if a majority of voters voting at the election vote to divide the district, to order the division.

(f) Prohibits the board, if a majority of those voting at the election vote against dividing the district, from ordering another election on the issue before the first anniversary of the date of the canvass of the election.

(g) Requires the existing district and the new district each to pay a pro rata share of the cost of an election held under this section, based on the assessed value of real property in each district subject to ad valorem taxation.

Sec. 775.226. DIVISION ORDER. Requires that a board order to divide a district disannex the land of the new district from the existing district contingent on the approval of the creation of the new district at the election held under this subchapter; create the new district in accordance with this chapter; name the new district; and include the metes and bounds description of the territory of the new district and the existing district after disannexation.

Sec. 775.227. ADMINISTRATION OF DISTRICTS AFTER DIVISION. (a) Provides that the existing board continues in existence to govern the territory of the existing district after disannexation.

(b) Requires the commissioners court, if the new district is located wholly in one county, to appoint a board in the manner described by Section 776.033 (Appointment of Board in District Located Wholly in One County) not later than the 14th day after the date of the board order dividing the district.

Sec. 775.228. TAXATION FOR OUTSTANDING BONDED DEBT. Provides that the disannexation of territory from a district under this subchapter does not diminish or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or other obligations of that district. Provides that property disannexed under this subchapter is not released from its pro rata share of any of the district's bonded indebtedness on the date of the disannexation, and the district may continue to tax property in the disannexed territory until that debt is paid as if the territory had not been disannexed.

SECTION 3. Amends Section 344.051(c), Local Government Code, to authorize a district, except as provided by Subsection (f) (relating to Subsection (c) not applying under certain conditions) to be created inside the boundaries of a district operating under Chapter 775, rather than Chapter 775 (Emergency Services Districts) or 776, Health and Safety Code, only if the governing body of the district gives its written consent by order or resolution not later than the 60th day after the date the governing body receives a request for its consent.

SECTION 4. Amends Section 151.027(c), Tax Code, to provide that this section does not prohibit certain acts, including the delivery of information to an eligible municipality, county, or emergency services district in accordance with Section 321.3022 (Tax Information) or 323.3022.

SECTION 5. Amends Section 323.101(f), Tax Code, to provide that the provisions of this chapter govern the application, collection, and administration of a sales and use tax imposed under Chapters 285 (Special Provisions Relating to Hospital Districts) or 775, Health and Safety Code, rather than Chapter 285, 775, or 776, to the extent not inconsistent with the provisions of those chapter. Prohibits Subsection (b) (relating a county being qualified to adopt the tax) from applying to a tax authorized under those chapters.

SECTION 6. Amends Subchapter D, Chapter 323, Tax Code, by adding Section 323.3022, as follows:

Sec. 323.3022. TAX INFORMATION. (a) Defines "emergency services district."

(b) Requires the comptroller of public accounts (comptroller), except as otherwise provided by this section, on request to provide to a county or district that has adopted a tax under this chapter information relating to the amount of tax paid to the county or district under this chapter during the preceding or current calendar year by each person doing business in the county or district who annually remits to the comptroller state and local sales tax payments of more than \$10,000 and any other information as provided by this section.

(c) Requires the comptroller on request to provide to a county or district that has adopted a tax under this chapter information relating to the amount of tax paid to the county or district under this chapter during the preceding or current calendar year by each person doing business in an area, as defined by the county or district, that is part of certain agreements, areas, districts or zones.

(d) Requires the comptroller to provide the information under Subsection (c) as an aggregate total for all persons doing business in the defined area without disclosing individual tax payments.

(e) Requires the comptroller, if the request for information under Subsection (c) involves not more than three persons doing business in the defined area who remit taxes under this chapter, to refuse to provide the information to the county or

district unless the comptroller receives permission from each of the persons allowing the comptroller to provide the information to the county or districts as requested.

(f) Requires that a separate request for information under this section be made in writing each year by the county judge or the president of the board of the district.

(g) Provides that information received by a county or emergency services district under this section is confidential, is not open to public inspection, and is authorized to be used only for the purpose of economic forecasting, for internal auditing of a tax paid to the county or district under this chapter, or for the purpose described by Subsection (h).

(h) Authorizes information received by a county or district under Subsection (c) to be used by the county or district to assist in determining revenue sharing under a revenue sharing agreement or other similar agreement.

(i) Authorizes the comptroller to set and collect from a county or district reasonable fees to cover the expense of compiling and providing information under this section.

(j) Provides that notwithstanding Chapter 551 (Open Meetings), Government Code, the commissioners court of a county or the board of an district is not required to confer with one or more employees or a third party in an open meeting to receive information or question the employees or third party regarding the information received by the county or district under this section.

SECTION 7. Repealer: Chapter 776 (Emergency Services Districts in Counties of 125,000 or Less), Health and Safety Code.

SECTION 8. (a) Provides that on the effective date of this Act, a district created under Chapter 776, Health and Safety Code, is converted into a district operated under Chapter 775, Health and Safety Code. Provides that a district converted under this section continues in existence and is subject to Chapter 775, Health and Safety Code.

(b) Provides that on and after the effective date of this Act, each person serving as a fire commissioner of a district created under Chapter 776, Health and Safety Code, is an emergency services commissioner and is required to serve on the board of the district as an emergency services commissioner for the remainder of the unexpired term to which the person was elected or appointed.

SECTION 9. Effective date: upon passage or September 1, 2009.