

By: Miller of Comal, Bolton

H.B. No. 2788

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of counties and emergency services districts.

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

SECTION 1. Section 775.0205(a), Health and Safety Code, is amended to read as follows:

(a) If the territory in a district created under this chapter overlaps with the boundaries of another district created under this chapter [~~or a district created under Chapter 776~~], the most recently created district may not provide services in the overlapping territory that duplicate the services provided by the other district at the time the overlapping district was created.

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

SUBCHAPTER I. DIVISION OF DISTRICT

Sec. 775.221. AUTHORITY TO DIVIDE DISTRICT. The board of a district located wholly in one county with a population of 125,000 or less may 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) Before the district may be divided, the district's board must 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

1 qualified voters, whichever is the lesser number.

2 (b) A petition for division must include:

3 (1) the name of the new district to be created; and

4 (2) a description of the territory proposed to be the  
5 new district's territory.

6 (c) On receipt of a petition in the proper form, the board  
7 shall set a place, date, and time for a hearing to consider the  
8 petition.

9 (d) The board shall issue a notice of the hearing that  
10 includes:

11 (1) the name of the proposed district;

12 (2) a description of the proposed district's  
13 boundaries; and

14 (3) the place, date, and time of the hearing on the  
15 petition.

16 (e) The board shall publish the notice in a newspaper of  
17 general circulation in the district once a week for two consecutive  
18 weeks. The first publication must occur not later than the 21st day  
19 before the date on which the hearing will be held.

20 Sec. 775.223. HEARING ON DIVISION OF DISTRICT. (a) At the  
21 hearing on the petition for division of the district, the board  
22 shall consider the petition and each issue relating to the division  
23 of the district.

24 (b) Any interested person may appear before the board to  
25 support or oppose the division.

26 (c) If the board finds that the petition contains the number  
27 of signatures required under Section 775.222(a), the board shall

1 approve the petition not later than the 10th day after the date of  
2 the hearing.

3 Sec. 775.224. APPEAL. A resident of the district or an  
4 owner of real or personal property located in the district may  
5 appeal the board's decision on the division of the district by  
6 filing an appeal in the district court in the county in which a  
7 district is located only on the basis that the board incorrectly  
8 tabulated the number of signatures on the petition.

9 Sec. 775.225. ELECTION TO CONFIRM DIVISION. (a) On  
10 granting a petition to dissolve the district, the board shall order  
11 an election to be held in the territory of the proposed new district  
12 to confirm the division of the district.

13 (b) Notice of the election shall be given in the same manner  
14 as the notice of hearing under Section 775.222.

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

18 (d) The ballot shall be printed to provide for voting for or  
19 against the proposition: "Dividing the \_\_\_\_\_ Emergency Services  
20 District to create a new emergency services district."

21 (e) If a majority of voters voting at the election vote to  
22 divide the district, the board shall order the division.

23 (f) If a majority of those voting at the election vote  
24 against dividing the district, the board may not order another  
25 election on the issue before the first anniversary of the date of  
26 the canvass of the election.

27 (g) The existing district and the new district each shall

1 pay a pro rata share of the cost of an election held under this  
2 section, based on the assessed value of real property in each  
3 district subject to ad valorem taxation.

4 Sec. 775.226. DIVISION ORDER. A board order to divide a  
5 district must:

6 (1) disannex the land of the new district from the  
7 existing district contingent on the approval of the creation of the  
8 new district at the election held under this subchapter;

9 (2) create the new district in accordance with this  
10 chapter;

11 (3) name the new district; and

12 (4) include the metes and bounds description of the  
13 territory of the new district and the existing district after  
14 disannexation.

15 Sec. 775.227. ADMINISTRATION OF DISTRICTS AFTER DIVISION.

16 (a) The existing board continues in existence to govern the  
17 territory of the existing district after disannexation.

18 (b) If the new district is located wholly in one county, the  
19 commissioners court shall appoint a board in the manner described  
20 by Section 776.033 not later than the 14th day after the date of the  
21 board order dividing the district.

22 Sec. 775.228. TAXATION FOR OUTSTANDING BONDED DEBT. The  
23 disannexation of territory from a district under this subchapter  
24 does not diminish or impair the rights of the holders of any  
25 outstanding and unpaid bonds, warrants, or other obligations of  
26 that district. Property disannexed under this subchapter is not  
27 released from its pro rata share of any of the district's bonded

1 indebtedness on the date of the disannexation, and the district may  
2 continue to tax property in the disannexed territory until that  
3 debt is paid as if the territory had not been disannexed.

4 SECTION 3. Section 344.051(c), Local Government Code, is  
5 amended to read as follows:

6 (c) Except as provided by Subsection (f), a district may be  
7 created inside the boundaries of an emergency services district  
8 operating under Chapter 775 [~~or 776~~], Health and Safety Code, only  
9 if the governing body of the emergency services district gives its  
10 written consent by order or resolution not later than the 60th day  
11 after the date the governing body receives a request for its  
12 consent.

13 SECTION 4. Section 151.027(c), Tax Code, is amended to read  
14 as follows:

15 (c) This section does not prohibit:

16 (1) the examination of information, if authorized by  
17 the comptroller, by another state officer or law enforcement  
18 officer, by a tax official of another state, by a tax official of  
19 the United Mexican States, or by an official of the United States if  
20 a reciprocal agreement exists;

21 (2) the delivery to a taxpayer, or a taxpayer's  
22 authorized representative, of a copy of a report or other paper  
23 filed by the taxpayer under this chapter;

24 (3) the publication of statistics classified to  
25 prevent the identification of a particular report or items in a  
26 particular report;

27 (4) the use of records, reports, or information

1 secured, derived, or obtained by the attorney general or the  
2 comptroller in an action under this chapter against the same  
3 taxpayer who furnished the information;

4 (5) the delivery to a successor, receiver, executor,  
5 administrator, assignee, or guarantor of a taxpayer of information  
6 about items included in the measure and amounts of any unpaid tax or  
7 amounts of tax, penalties, and interest required to be collected;

8 (6) the delivery of information to an eligible  
9 municipality, county, or emergency services district in accordance  
10 with Section 321.3022 or 323.3022; or

11 (7) the release of information in or derived from a  
12 record, report, or other instrument required to be furnished under  
13 this chapter by a governmental body, as that term is defined in  
14 Section 552.003, Government Code.

15 SECTION 5. Section 323.101(f), Tax Code, is amended to read  
16 as follows:

17 (f) The provisions of this chapter govern the application,  
18 collection, and administration of a sales and use tax imposed under  
19 Chapter 285 or [7] 775, [~~or 776,~~] Health and Safety Code, to the  
20 extent not inconsistent with the provisions of those chapters.  
21 Provided, however, that Subsection (b) shall not apply to a tax  
22 authorized under those chapters.

23 SECTION 6. Subchapter D, Chapter 323, Tax Code, is amended  
24 by adding Section 323.3022 to read as follows:

25 Sec. 323.3022. TAX INFORMATION. (a) In this section,  
26 "emergency services district" means a district created under  
27 Chapter 775, Health and Safety Code.

1       (b) Except as otherwise provided by this section, the  
2 comptroller on request shall provide to a county or emergency  
3 services district that has adopted a tax under this chapter:

4           (1) information relating to the amount of tax paid to  
5 the county or district under this chapter during the preceding or  
6 current calendar year by each person doing business in the county or  
7 district who annually remits to the comptroller state and local  
8 sales tax payments of more than \$10,000; and

9           (2) any other information as provided by this section.

10       (c) The comptroller on request shall provide to a county or  
11 emergency services district that has adopted a tax under this  
12 chapter information relating to the amount of tax paid to the county  
13 or district under this chapter during the preceding or current  
14 calendar year by each person doing business in an area, as defined  
15 by the county or district, that is part of:

16           (1) an interlocal agreement;

17           (2) a tax abatement agreement;

18           (3) a reinvestment zone;

19           (4) a tax increment financing district;

20           (5) a revenue sharing agreement;

21           (6) an enterprise zone;

22           (7) any other agreement, zone, or district similar to  
23 those listed in Subdivisions (1)-(6); or

24           (8) any area defined by the county or district for the  
25 purpose of economic forecasting.

26       (d) The comptroller shall provide the information under  
27 Subsection (c) as an aggregate total for all persons doing business

1 in the defined area without disclosing individual tax payments.

2 (e) If the request for information under Subsection (c)  
3 involves not more than three persons doing business in the defined  
4 area who remit taxes under this chapter, the comptroller shall  
5 refuse to provide the information to the county or emergency  
6 services district unless the comptroller receives permission from  
7 each of the persons allowing the comptroller to provide the  
8 information to the county or district as requested.

9 (f) A separate request for information under this section  
10 must be made in writing each year by the county judge or the  
11 president of the board of the emergency services district.

12 (g) Information received by a county or emergency services  
13 district under this section is confidential, is not open to public  
14 inspection, and may be used only for the purpose of economic  
15 forecasting, for internal auditing of a tax paid to the county or  
16 district under this chapter, or for the purpose described by  
17 Subsection (h).

18 (h) Information received by a county or emergency services  
19 district under Subsection (c) may be used by the county or district  
20 to assist in determining revenue sharing under a revenue sharing  
21 agreement or other similar agreement.

22 (i) The comptroller may set and collect from a county or  
23 emergency services district reasonable fees to cover the expense of  
24 compiling and providing information under this section.

25 (j) Notwithstanding Chapter 551, Government Code, the  
26 commissioners court of a county or the board of an emergency  
27 services district is not required to confer with one or more



1 employees or a third party in an open meeting to receive information  
2 or question the employees or third party regarding the information  
3 received by the county or district under this section.

4 SECTION 7. Chapter 776, Health and Safety Code, is  
5 repealed.

6 SECTION 8. (a) On the effective date of this Act, a  
7 district created under Chapter 776, Health and Safety Code, is  
8 converted into a district operated under Chapter 775, Health and  
9 Safety Code. A district converted under this section continues in  
10 existence and is subject to Chapter 775, Health and Safety Code.

11 (b) On and after the effective date of this Act, each person  
12 serving as a fire commissioner of a district created under Chapter  
13 776, Health and Safety Code, is an emergency services commissioner  
14 and shall serve on the board of the district as an emergency  
15 services commissioner for the remainder of the unexpired term to  
16 which the person was elected.

17 SECTION 9. 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, 2009.