

By: Zaffirini

S.B. No. 465

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the title of the members of the board of an emergency
3 services district.

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

5 SECTION 1. Section 775.001(1), Health and Safety Code, is
6 amended to read as follows:

7 (1) "Board" means the board of emergency services
8 directors [~~commissioners~~].

9 SECTION 2. Section 775.024(b), Health and Safety Code, is
10 amended to read as follows:

11 (b) The boards shall agree on a name for the proposed merged
12 district and choose five directors [~~commissioners~~] from among the
13 membership of the boards to serve on the initial board for the
14 proposed district. The boards shall agree to stagger the terms
15 appropriately.

16 SECTION 3. Section 775.026(d), Health and Safety Code, is
17 amended to read as follows:

18 (d) A fire commissioner of a rural fire prevention district
19 is an emergency services director [~~commissioner~~] of the converted
20 district on conversion of the district under this section and shall
21 serve until the term for which the director [~~commissioner~~] was
22 appointed or elected expires.

23 SECTION 4. Sections 775.034(a), (b), (c), (d), (f), and
24 (g), Health and Safety Code, are amended to read as follows:

1 (a) The commissioners court of a county in which a
2 single-county district is located shall appoint a five-member board
3 of emergency services directors [~~commissioners~~] to serve as the
4 district's governing body. To serve as a director [~~member of the~~
5 ~~board~~] a person must be:

6 (1) at least 18 years of age; and

7 (2) a resident citizen of the state and:

8 (A) a qualified voter within areas served by the
9 district; or

10 (B) the owner of land subject to taxation in the
11 district.

12 (b) Except as prescribed by Subsection (c), directors
13 [~~commissioners~~] serve two-year terms.

14 (c) After the votes are canvassed and the commissioners
15 court enters the order creating the district, the commissioners
16 court shall appoint the initial emergency services directors
17 [~~commissioners~~] to serve until January 1 of the year following the
18 district election. On January 1, the court shall designate three of
19 those emergency services directors [~~commissioners~~] to serve a
20 two-year term and two of those emergency services directors
21 [~~commissioners~~] to serve a one-year term.

22 (d) On January 1 of each year, the commissioners court shall
23 appoint a successor for each emergency services director
24 [~~commissioner~~] whose term has expired.

25 (f) A director [~~member of the board~~] who, because of
26 municipal annexation, is no longer a qualified voter of an area
27 served by the district or no longer owns land subject to taxation by

1 the district may continue to serve until the expiration of the
2 director's [~~member's~~] term.

3 (g) The commissioners court shall consider relevant factors
4 in determining the individuals to appoint as emergency services
5 directors [~~commissioners~~], including whether the individuals have
6 knowledge that relates to fire prevention or emergency medical
7 services and that is relevant to the common policies and practices
8 of the board.

9 SECTION 5. Sections 775.0345(b), (c), (d), (e), (h), (i),
10 and (j), Health and Safety Code, are amended to read as follows:

11 (b) The governing body of a district consists of a
12 five-person board of emergency services directors [~~commissioners~~]
13 elected as prescribed by this section. Except as provided by
14 Subsection (h), emergency services directors [~~commissioners~~] serve
15 two-year terms.

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

20 (d) To be eligible to be a candidate for emergency services
21 director [~~commissioner~~], a person must be at least 18 years of age
22 and a resident of the district.

23 (e) A candidate for emergency services director
24 [~~commissioner~~] on an initial board must give the county clerk a
25 sworn notice of the candidate's intention to run for office. The
26 notice must state the person's name, age, and address and state that
27 the person is serving notice of intent to run for emergency services

1 director [~~commissioner~~]. On receipt of the notice, the county
2 clerk shall have the candidate's name placed on the ballot.

3 (h) The initial emergency services directors'
4 [~~commissioners~~] terms of office begin 30 days after canvassing of
5 the election results. The two directors [~~commissioners~~] who
6 received the fewest votes serve a term that expires on December 31
7 of the year in which the election was held. The other emergency
8 services directors [~~commissioners~~] serve terms that expire on
9 December 31 of the year following the election.

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

16 (j) Subchapter C, Chapter 146, Election Code, applies to a
17 write-in candidate for emergency services director [~~commissioner~~]
18 under this section in the same manner it applies to a write-in
19 candidate for a city office under that subchapter.

20 SECTION 6. Sections 775.035(a), (b), (c), (d), (g), (h),
21 and (i), Health and Safety Code, are amended to read as follows:

22 (a) The governing body of a district located in more than
23 one county consists of a five-person board of emergency services
24 directors [~~commissioners~~] elected as prescribed by this section.
25 Except as provided by Subsection (g), emergency services directors
26 [~~commissioners~~] serve two-year terms.

27 (b) After a district located in more than one county is

1 created, the county judges of each county in the district shall
2 mutually establish a convenient day provided by Section 41.001,
3 Election Code, to conduct an election to elect the initial
4 emergency services directors [~~commissioners~~].

5 (c) To be eligible to be a candidate for emergency services
6 director [~~commissioner~~] of a district located in more than one
7 county, a person must be at least 18 years of age and a resident of
8 the district.

9 (d) A candidate for emergency services director
10 [~~commissioner~~] must give the county clerk of each county in the
11 district a sworn notice of the candidate's intention to run for
12 office. The notice must state the person's name, age, and address
13 and state that the person is serving notice of intent to run for
14 emergency services director [~~commissioner~~]. On receipt of the
15 notice, the county clerk shall have the candidate's name placed on
16 the ballot.

17 (g) The initial emergency services directors'
18 [~~commissioners'~~] terms of office begin 30 days after canvassing of
19 the election results. The two directors [~~commissioners~~] who
20 received the fewest votes serve a term that expires on December 31
21 of the year in which the election was held. The other emergency
22 services directors [~~commissioners~~] serve terms that expire on
23 December 31 of the year following the election.

24 (h) The general election for directors [~~commissioner~~] shall
25 be held annually on an authorized uniform election date as provided
26 by Chapter 41, Election Code. The board may change the election
27 date from one authorized election date to another authorized

1 election date and shall adjust the terms of office to conform to the
2 new election date.

3 (i) Subchapter C, Chapter 146, Election Code, applies to a
4 write-in candidate for emergency services director [~~commissioner~~]
5 under this section in the same manner it applies to a write-in
6 candidate for a city office under that subchapter.

7 SECTION 7. The heading to Section 775.0355, Health and
8 Safety Code, is amended to read as follows:

9 Sec. 775.0355. DISQUALIFICATION OF EMERGENCY SERVICES
10 DIRECTORS [~~COMMISSIONERS~~] IN CERTAIN POPULOUS COUNTIES.

11 SECTION 8. Sections 775.0355(c) and (d), Health and Safety
12 Code, are amended to read as follows:

13 (c) A person is disqualified from serving as an emergency
14 services director [~~commissioner~~] if that person:

15 (1) is related within the third degree of affinity or
16 consanguinity to:

17 (A) a person providing professional services to
18 the district;

19 (B) a director [~~commissioner~~] of the same
20 district; or

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

24 (2) is an employee of a director [~~commissioner~~] of the
25 same district, attorney, or other person providing professional
26 services to the district;

27 (3) is serving as an attorney, consultant, or

1 architect or in some other professional capacity for the district
2 or an emergency services organization providing emergency services
3 to the district; or

4 (4) fails to maintain the qualifications required by
5 law to serve as a director [~~commissioner~~].

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

12 SECTION 9. Section 775.037(a), Health and Safety Code, is
13 amended to read as follows:

14 (a) The board [~~emergency services commissioners~~] shall
15 elect from among its directors [~~their members~~] a president,
16 vice-president, secretary, treasurer, and assistant treasurer to
17 perform the duties usually required of the respective offices. The
18 office of secretary and treasurer may be combined.

19 SECTION 10. Section 775.038, Health and Safety Code, is
20 amended to read as follows:

21 Sec. 775.038. COMPENSATION; CONFLICT OF INTEREST. (a)
22 Except as provided by Subsection (b), an emergency services
23 director [~~commissioner~~] is entitled to receive compensation of not
24 more than \$50 per day for each day the director [~~commissioner~~]
25 actually spends performing the duties of a director [~~commissioner~~].
26 Compensation may not exceed \$3,000 per year. A director
27 [~~Commissioners~~] may be reimbursed for reasonable and necessary

1 expenses incurred in performing official duties.

2 (b) Instead of compensation under Subsection (a), a
3 director [~~commissioner~~] may elect to receive per diem compensation
4 of \$50 for each day the director [~~commissioner~~] actually spends
5 performing the duties of a director [~~commissioner~~]. A director
6 [~~commissioner~~] who receives per diem compensation may not be
7 reimbursed for reasonable and necessary expenses. Per diem
8 payments may not exceed \$3,000 per year.

9 (c) To receive compensation, per diem compensation, or
10 reimbursement for expenses, a director [~~commissioner~~] must file
11 with the district a verified statement showing the number of days
12 actually spent performing the duties of a director [~~commissioner~~]
13 and a general description of the duties performed for each day of
14 service.

15 (d) A director is [~~Commissioners are~~] subject to Chapter
16 171, Local Government Code.

17 SECTION 11. Section 775.042, Health and Safety Code, is
18 amended to read as follows:

19 Sec. 775.042. REMOVAL OF DIRECTOR [~~BOARD MEMBER~~]. (a) A
20 board may remove a director [~~member~~] if:

21 (1) the director [~~member~~] is absent from more than
22 half of the regularly scheduled board meetings that the director
23 [~~member~~] is eligible to attend during a calendar year without an
24 excuse approved by a majority vote of the board; and

25 (2) the other directors [~~members~~] of the board
26 unanimously vote to remove that director [~~member~~].

27 (b) Not later than the 30th day after the date of a vote to

1 remove a director [~~member~~] under Subsection (a), that director
2 [~~member~~] may file a written appeal for reinstatement to the
3 commissioners court of the county in which a single-county district
4 is located or, if the district is located in more than one county,
5 the commissioners court of the county where the director [~~member~~]
6 resides. The court may reinstate the director [~~member~~] if it finds
7 the removal unwarranted after considering:

- 8 (1) a reason for an absence;
- 9 (2) the time and place of a missed meeting;
- 10 (3) the business conducted at a missed meeting; and
- 11 (4) any other factors or circumstances the court
12 considers relevant.

13 (c) The validity of a board action is not affected because
14 it is taken when a ground for removal of a director [~~board member~~]
15 exists.

16 SECTION 12. Sections 775.044(a) and (b), Health and Safety
17 Code, are amended to read as follows:

18 (a) Not later than the 90th day after a board vacancy for a
19 district located in more than one county occurs, the remaining
20 directors [~~board members~~] shall appoint a person to fill the
21 unexpired term.

22 (b) If the board has not filled the vacancy before the 91st
23 day after the date of the vacancy, the commissioners court of the
24 county where the previous director [~~board member~~] resided shall
25 appoint a person to fill the vacancy.

26 SECTION 13. Section 775.0445(c), Health and Safety Code, is
27 amended to read as follows:

1 (c) Not later than the 90th day after a board vacancy
2 occurs, the remaining directors [~~board members~~] shall appoint a
3 person to fill the unexpired term.

4 SECTION 14. Section 775.055(h), Health and Safety Code, is
5 amended to read as follows:

6 (h) Each emergency services director [~~commissioner~~] is
7 discharged from liability under the emergency services director's
8 [~~commissioner's~~] bond on entry of the order prescribed by
9 Subsection (g).

10 SECTION 15. Section 775.083(a), Health and Safety Code, is
11 amended to read as follows:

12 (a) On or before January 1 of each year, a district shall
13 file with the Office of Rural Community Affairs an annual report
14 that includes the following:

- 15 (1) the district's name;
- 16 (2) the name of each county in which the district is
17 located;
- 18 (3) the district's business address;
- 19 (4) the name, mailing address, and term of office of
20 each director [~~commissioner~~];
- 21 (5) the name, mailing address, and term of office of
22 the district's general manager, executive director, and fire chief;
- 23 (6) the name of each legal counsel or other consultant
24 for the district; and
- 25 (7) the district's annual budget and tax rate for the
26 preceding fiscal year.

27 SECTION 16. Section 776.001(1), Health and Safety Code, is

1 amended to read as follows:

2 (1) "Board" means the board of emergency directors
3 [~~commissioners~~].

4 SECTION 17. Sections 776.033(a), (b), (c), and (e), Health
5 and Safety Code, are amended to read as follows:

6 (a) The commissioners court of a county in which a
7 single-county district is located shall appoint a five-member board
8 of emergency directors [~~commissioners~~] to serve as the district's
9 governing body. Except as prescribed by Subsection (b), a director
10 [~~commissioner~~] serves a two-year term.

11 (b) After the votes have been canvassed and the
12 commissioners court enters the order creating the district, the
13 commissioners court shall appoint the initial emergency directors
14 [~~commissioners~~] to serve until January 1 of the year following the
15 year of the district election. On January 1, the court shall
16 designate three of those directors [~~commissioners~~] to serve
17 two-year terms and two directors [~~commissioners~~] to serve one-year
18 terms.

19 (c) On January 1 of each year, the commissioners court shall
20 appoint a successor for each emergency director [~~commissioner~~]
21 whose term has expired.

22 (e) The commissioners court shall consider relevant factors
23 in determining the individuals to appoint as emergency services
24 directors [~~commissioners~~], including whether the individuals have
25 knowledge that relates to fire prevention or emergency medical
26 services and that is relevant to the common policies and practices
27 of the board.

1 SECTION 18. Sections 776.034(a), (b), (c), (d), (g), and
2 (h), Health and Safety Code, are amended to read as follows:

3 (a) The governing body of a district located in more than
4 one county consists of a five-person board of emergency directors
5 [~~commissioners~~] elected as prescribed by this section. Except as
6 provided by Subsection (g), an emergency director [~~commissioner~~]
7 serves a two-year term.

8 (b) After a district located in more than one county is
9 created, the county judges of each county in the district shall
10 mutually establish a convenient day in November, other than the
11 date of the general election for state and county officers, to
12 conduct an election to elect the initial emergency directors
13 [~~commissioners~~].

14 (c) To be eligible as a candidate for emergency director
15 [~~commissioner~~] of a district located in more than one county, a
16 person must be at least 18 years of age and a resident of the
17 district.

18 (d) A candidate for emergency director [~~commissioner~~] must
19 give the county clerk of each county in the district a sworn notice
20 of the candidate's intention to run for office. The notice must
21 state the person's name, age, and address and state that the person
22 intends to run for emergency director [~~commissioner~~]. On receipt of
23 the notice, the county clerk shall have the candidate's name placed
24 on the ballot.

25 (g) The initial emergency directors' [~~commissioners'~~] terms
26 of office begin on January 1 of the year following the year of the
27 election. The two directors [~~commissioners~~] who received the

1 fewest votes serve one-year terms. The other directors
2 [~~commissioners~~] serve two-year terms.

3 (h) The general election for directors [~~commissioner~~] shall
4 be held annually on an authorized election date as provided by
5 Chapter 41, Election Code.

6 SECTION 19. Sections 776.0345(b), (c), and (d), Health and
7 Safety Code, are amended to read as follows:

8 (b) The commissioners court of the largest county in which
9 the district is located shall appoint a five-member board of
10 emergency directors [~~commissioners~~] to serve as the district's
11 governing body. A director [~~commissioner~~] serves a two-year term.

12 (c) To be eligible for appointment as an emergency director
13 [~~commissioner~~] under this section, a person must be at least 18
14 years of age and reside in the district. Two directors
15 [~~commissioners~~] must reside in a county with a population of less
16 than 21,000 and three directors [~~commissioners~~] must reside in a
17 county with a population of more than 47,400.

18 (d) On January 1 of each year, the commissioners court shall
19 appoint a successor for each emergency director [~~commissioner~~]
20 whose term has expired.

21 SECTION 20. Section 776.036(a), Health and Safety Code, is
22 amended to read as follows:

23 (a) The board [~~emergency commissioners~~] shall elect from
24 among its directors [~~their members~~] a president, vice-president,
25 secretary, treasurer, and assistant treasurer to perform the duties
26 usually required of the respective offices. The office of
27 secretary and treasurer may be combined.

1 SECTION 21. Section 776.037, Health and Safety Code, is
2 amended to read as follows:

3 Sec. 776.037. COMPENSATION; CONFLICT OF INTEREST. (a)
4 Emergency directors [~~commissioners~~] serve without compensation but
5 may be reimbursed for reasonable and necessary expenses incurred in
6 performing official duties.

7 (b) Except as a resident or property owner in the district,
8 an emergency director [~~commissioner~~] may not have an interest in a
9 contract or transaction to which the district is a party and under
10 which the director [~~commissioner~~] may receive money or other things
11 of value as consideration.

12 SECTION 22. Section 776.057(h), Health and Safety Code, is
13 amended to read as follows:

14 (h) Each emergency director [~~commissioner~~] is discharged
15 from liability under the emergency director's [~~commissioner's~~] bond
16 on entry of the dissolution order under Subsection (g).

17 SECTION 23. Section 776.083(a), Health and Safety Code, is
18 amended to read as follows:

19 (a) On or before January 1 of each year, a district shall
20 file with the Office of Rural Community Affairs an annual report
21 that includes the following:

- 22 (1) the district's name;
- 23 (2) the name of each county in which the district is
24 located;
- 25 (3) the district's business address;
- 26 (4) the name, mailing address, and term of office of
27 each director [~~commissioner~~];

1 (5) the name, mailing address, and term of office of
2 the district's general manager, executive director, and fire chief;

3 (6) the name of each legal counsel or other consultant
4 for the district; and

5 (7) the district's annual budget and tax rate for the
6 preceding fiscal year.

7 SECTION 24. (a) The title of emergency services
8 commissioner is changed to emergency services director. The title
9 of emergency commissioner is changed to emergency director.

10 (b) Any reference in law to an emergency services
11 commissioner or emergency commissioner means an emergency services
12 director or emergency director, as appropriate.

13 (c) The validity of an action taken by or in relation to the
14 authority of an emergency services commissioner or emergency
15 commissioner before the change in title under Subsection (a) of
16 this section is not affected by this Act.

17 SECTION 25. This Act takes effect September 1, 2009.