

BILL ANALYSIS

C.S.H.B. 1878
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County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

As the state's population continues to rapidly grow, particularly in suburban and exurban areas adjacent to established cities, the need for and number of emergency services districts continues to increase. C.S.H.B. 1878 intends to allow streamlining of service administration as well as enhanced training and accountability measures for such districts.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1878 amends the Health and Safety Code, in provisions relating to emergency services districts created under Chapter 775 (Emergency Services Districts), to require the commissioners court of each county in which a proposed district is located, if the territory of a district proposed under Chapter 775 overlaps with the boundaries of another district created under Chapter 775 or Chapter 776 (Emergency Services Districts in Counties of 125,000 or Less), to send to the board of the existing district a copy of the petition for creation of the proposed district. The bill requires the board of the existing district to adopt a statement before the date of the confirmation election that specifies the types of emergency services the existing district will provide or continue to provide in the overlapping territory if the proposed district is created. The bill makes these provisions inapplicable to a proposed emergency services district located wholly in a county with a population of more than three million.

C.S.H.B. 1878 clarifies that the most recently created district, if the territory in a district created under Chapter 775 overlaps with the boundaries of another district created under Chapter 775 or Chapter 776, is prohibited from providing services in the overlapping territory that duplicate the services described in the required statement specifying the types of emergency services the existing district will provide or continue to provide in the overlapping territory if the proposed district is created.

C.S.H.B. 1878 establishes that the legislature finds that the performance of non-duplicative emergency services in the overlapping territory of districts is complementary to and not in conflict with the power and duties of the respective districts. The bill authorizes a person to serve as an emergency services commissioner of a district created under Chapter 775 at the same time that the person serves as an emergency services commissioner of another district with overlapping territory created under Chapter 775 or Chapter 776. The bill authorizes a person serving as a commissioner of more than one district to receive compensation for serving on only one board and entitles the person to reimbursement for reasonable and necessary expenses incurred in performing official duties for both boards.

C.S.H.B. 1878 specifies that two or more emergency services districts created under Chapter 775 may consolidate, rather than merge, into a single district. The bill authorizes such a

consolidation if the board of each district determines that consolidation would allow the districts to provide services more economically and efficiently and adopts a joint order of consolidation that includes the name and territory of the consolidated district; the proposed date on which the former districts dissolve and the consolidated district is created and will start offering services; and, if the maximum property tax rates in the districts are different, a statement that the districts will consolidate only if voters approve a property tax rate at a required election as provided by the bill. The bill requires the commissioners courts to jointly appoint commissioners to the board of the consolidated district if the boards do not make the appointments before the 31st day after the date the boards adopted the joint order. The bill establishes that such appointed commissioners serve until the next uniform election date that occurs after the date the joint order is adopted and that allows sufficient time to comply with the requirements of law if the consolidated district is in a county to which provisions of law relating to election of a board in certain populous counties or election of a board in a district located in more than one county apply. The bill establishes that the consolidated district is created on the latest of the date stated in the joint order, the date the initial board of the consolidated district is appointed, if applicable, or the date the maximum property tax rates the consolidated district may impose are established, if necessary. The bill makes conforming changes, including the removal of language relating to an election required to be held for the merger of districts.

C.S.H.B. 1878 requires the board of the district with the lower maximum property tax rate, if two emergency services districts created under Chapter 775 that want to consolidate have different maximum property tax rates, to order an election in its district to authorize the imposition of taxes in the territory of that district at a maximum rate that equals the maximum rate authorized in the district with the higher maximum rate. The bill prohibits the districts from proceeding with the consolidation if a majority of the voters do not favor the increase in the maximum property tax rate. The bill requires the board of the consolidated district, if the districts have different sales and use tax rates, to designate the territory of the former districts as subdistricts, continue to impose the sales and use tax in each subdistrict at the rate the tax was imposed by the former district, and send certain information to the comptroller of public accounts. The bill establishes that these requirements do not limit the authority of the board of the consolidated district to order a sales and use tax election in a subdistrict or in the entire district.

C.S.H.B. 1878, in provisions relating to emergency services districts created under Chapter 776, requires the commissioners court of each county in which a proposed district is located, if the territory of a district proposed under Chapter 776 overlaps with the boundaries of another district created under Chapter 775 or Chapter 776, to send to the board of the existing district a copy of the petition for creation of the proposed district. The bill requires the board of the existing district to adopt a statement before the date of the confirmation election that specifies the types of emergency services the existing district will provide or continue to provide in the overlapping territory if the proposed district is created.

C.S.H.B. 1878 clarifies that the most recently created district, if the territory in a district created under Chapter 776 overlaps with the boundaries of another district created under Chapter 775 or Chapter 776, is prohibited from providing services in the overlapping territory that duplicate the services described in the required statement specifying the types of emergency services the existing district will provide or continue to provide in the overlapping territory if the proposed district is created.

C.S.H.B. 1878 establishes that the legislature finds that the performance of non-duplicative emergency services in the overlapping territory of districts is complementary to and not in conflict with the power and duties of the respective districts. The bill authorizes a person to serve as an emergency services commissioner of a district created under Chapter 776 at the same time that the person serves as an emergency services commissioner of another district with overlapping territory created under Chapter 775 or Chapter 776. The bill authorizes a person serving as a commissioner of more than one district to receive compensation for serving on only

one board and entitles the person to reimbursement for reasonable and necessary expenses incurred in performing official duties for both boards.

C.S.H.B. 1878 requires each emergency services commissioner of an emergency services district created under Chapter 775, and each emergency commissioner of an emergency services district created under Chapter 776, to complete not more than four hours of certain training courses within certain time frames. The bill defines "department" as the Texas Department of Rural Affairs and requires the department to determine the minimum course requirements, make the course available not later than June 1, 2012, and impose a certain cost recovery fee. The bill authorizes the department to provide the training course in person or online and requires the department to approve any training course provided by an entity other than the department. The bill requires the department or an approved entity to use online resources provided by the Department of Information Resources to provide any online course and requires the training course to provide instruction in district and board responsibilities, government administration, ethics laws relating to public officers, including conflict of interest laws, and the governance and management of emergency services.

C.S.H.B. 1878 requires the department or an approved entity providing the training course to provide a certificate of course completion to each person who completes the course. The bill requires a commissioner who completes the course to file a copy of the certificate with the commissioners court of each county in which the district is located not later than the 10th day after the date the commissioner is required to complete the course. The bill makes the deadlines to take the course inapplicable to an emergency services commissioner or emergency commissioner appointed or elected to a board of emergency services commissioners or a board of emergency commissioners for a term that starts before June 1, 2012. The bill requires such an emergency services commissioner or emergency commissioner to complete a training course not later than the 90th day after the date the department makes the course available.

C.S.H.B. 1878 authorizes the commissioners court of the county in which an emergency services district created under Chapter 775 is located, by an order adopted by a majority vote after a hearing, to remove one or more board members if the board failed to give any report required under provisions relating to the powers and duties of the board, rather than only a required report regarding the district's budget, tax rate, and debt service for the preceding fiscal year, to the commissioners court before the 91st day after the date on which the report is due.

C.S.H.B. 1878 provides certain authorization for the commissioners court of a county in which a emergency services district created under Chapter 775 or Chapter 776 is located, by an order adopted by a majority vote after a hearing, to remove an appointed board member if the member does not complete a training course and file a copy of the certificate of course completion as required. The bill requires each commissioners court seeking removal to notify the board members that it is considering that action before the 60th day after the date the certificate of course completion is due. The bill requires the commissioners court of each county, if an emergency services district is located in more than one county, to adopt the order before the board member may be removed.

C.S.H.B. 1878 authorizes the board of an emergency services district created under Chapter 775 or Chapter 776 to contract with a volunteer fire department or a local government, including another district, as applicable, to provide staff, facilities, equipment, programs, or services the board considers necessary to provide or obtain emergency services. The bill establishes that a person acting under such a contract, including an emergency services commissioner or emergency commissioner, as applicable, does not, because of that action, hold more than one civil office of emolument or more than one office of honor, trust, or profit.

C.S.H.B. 1878 establishes that if a district contracts with a local government to provide or obtain emergency services the district is responsible for any civil liability that arises from furnishing those services if the district would have been responsible for furnishing the services in the

absence of the contract. The bill authorizes the parties to a contract between governmental entities to agree to assign responsibility for civil liability that arises from services provided under the contract in any manner agreed to by the parties. The bill requires the parties to assign that responsibility in a written provision of the contract that specifically references the applicable provision of the bill and states that the assignment of liability is intended to be different from liability otherwise assigned. The bill establishes that these provisions relating to service contracts do not change the liability limits and immunities for a governmental unit under the Texas Tort Claims Act or other law and establishes that a service contract is not a joint enterprise for liability purposes. The bill, for purposes of these service contract provisions, defines "local government" by reference to the Government Code and defines "volunteer fire department."

C.S.H.B. 1878 prohibits a board of an emergency services district created under Chapter 775 or Chapter 776 from setting the property tax rate for a fiscal year before the date the board adopts a budget for that fiscal year.

C.S.H.B. 1878, when an emergency services district created under Chapter 775 located wholly in one county that does not have a population of more than three million fails to complete and file an audit report by September 1 of each year and a county auditor is not ordered to prepare the report, abolishes the board and requires the commissioners court to appoint a new board.

C.S.H.B. 1878 makes conforming changes.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 1878 contains a provision not included in the original, in provisions of the bill providing for the consolidation of emergency services districts created under Chapter 775 (Emergency Services Districts) establishing that the commissioners appointed to the board of the consolidated district by the commissioners courts, in the event that the boards of emergency services commissioners of each district being consolidated do not make the appointments before the 31st day after the date the boards adopted an applicable joint order, serve until the next uniform election date that occurs after the date the joint order is adopted and that allows sufficient time to comply with the requirements of law if the consolidated district is in a county to which provisions of law relating to election of a board in certain populous counties or election of a board in a district located in more than one county apply.

C.S.H.B. 1878 differs from the original by adding language requiring the board of a consolidated district, if the consolidating districts have different sales and use tax rates, to send certain information to the comptroller of public accounts.

C.S.H.B. 1878 differs from the original, in a bill provision requiring each emergency services commissioner of an emergency services district created under Chapter 775 and each emergency commissioner of an emergency services district Chapter 776 (Emergency Services Districts in Counties of 125,000 or Less) to complete a training course within certain time frames, by specifying such a training course as a training course of not more than four hours.

C.S.H.B. 1878 differs from the original by adding language requiring the Texas Department of Rural Affairs to impose a fee to recover the department's costs of developing and administering the training course and, in a bill provision authorizing the department to provide the training course, by adding language authorizing the department to provide the training course in person or online. The substitute contains a provision not included in the original requiring the department or an approved entity to use online resources provided by the Department of Information Resources to provide any applicable online training course. The substitute differs

from the original, in a bill provision requiring a training course to provide instruction in ethics laws relating to public officers, by including conflict of interest laws.

C.S.H.B. 1878 differs from the original in nonsubstantive ways by conforming to certain bill drafting conventions and by making a technical correction.