

## **BILL ANALYSIS**

Senate Research Center  
82R5918 JXC-F

S.B. 917  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current law provides for the creation, powers, and duties of emergency services districts to provide firefighting and other emergency services to residents of areas where voters have approved their creation and that are not served by municipal fire departments.

As the state's population continues to grow rapidly, particularly in suburban and exurban areas adjacent to established cities, the need for emergency service districts continues to increase, as does the number of such districts. S.B. 917 would allow voluntary streamlining of service administration and other cost-saving measures, as well as enhance training and accountability requirements for the boards of the districts that provide these services. This bill would also clarify existing law to prevent duplication of services.

As proposed, S.B. 917 amends current law relating to emergency service 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 775.018, Health and Safety Code, by adding Subsections (f) and (g), as follows:

(f) Requires the commissioners court of each county in which the proposed district is located, if the territory of a district proposed under this chapter overlaps with the boundaries of another district created under this chapter 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. Provides that this subsection does not apply to a proposed district located wholly in a county with a population of more than three million.

(g) Requires the board of the existing district to adopt a statement before the date of the election required by this section 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. Provides that this subsection does not apply to a proposed district located wholly in a county with a population of more than three million.

SECTION 2. Amends Section 775.0205, Health and Safety Code, by amending Subsection (a) and adding Subsections (d-1), (d-2), and (d-3), as follows:

(a) Prohibits the most recently created district from providing services in the overlapping territory that duplicate the services described in the statement required by Section 775.018(g), rather than the services provided by the other district at the time the overlapping district was created, 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.

(d-1) Provides that the legislature finds that the performance of non-duplicative emergency services in the overlapping territory of emergency service districts is complementary to and not in conflict with the powers and duties of the respective districts.

(d-2) Authorizes a person to serve as an emergency services commissioner of a district created under this chapter at the same time that the person serves as an emergency services commissioner of another district with overlapping territory created under this chapter or Chapter 776.

(d-3) Authorizes a person serving as a commissioner of more than one district under this section to receive compensation for serving on only one board, and entitles that person to reimbursement for reasonable and necessary expenses incurred in performing official duties for both boards.

SECTION 3. Amends Section 775.024, Health and Safety Code, as follows:

Sec. 775.024. New heading: **CONSOLIDATION OF EMERGENCY SERVICES DISTRICTS.** (a) Authorizes two or more emergency services districts to consolidate into a single emergency services district if the board of each district:

(1) determines that consolidation would allow the districts to provide services more economically and efficiently; and

(2) adopts a joint order of consolidation that includes:

(A) the name and territory of the consolidated district;

(B) the proposed date on which the former districts dissolve and the consolidated district is created and will start offering services; and

(C) if the maximum ad valorem tax rates in the districts are different, a statement that the districts will consolidate only if voters approve an ad valorem tax rate at the election required by Section 775.0241.

Deletes existing text authorizing two or more emergency services districts to merge into a single emergency services district as provided by this section if the board of each of the districts votes in favor of the merger and the residents of each district approve the merger in an election held for that purpose. Makes nonsubstantive changes.

(b) Requires the boards to agree on a name for the consolidated district and to choose five commissioners from among the membership of the boards to serve on the initial board for the proposed district.

(c) 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. Deletes existing text relating to the required language of the ballot for the election to permit voting for or against a merger.

(d) Provides that the consolidated district is created on the latest of:

(1) the date stated in the joint order;

(2) the date the initial board of the consolidated district is appointed; or

(3) the date the maximum ad valorem tax rates the consolidated district may impose under Section 775.0241 are established, if necessary.

Deletes existing text providing that the merged district is created if a majority of the voters voting in each district favor the merger, and if less than a majority of the voters voting in any of the districts are in favor of the merger, the vote fails and the districts are not merged.

(e) Deletes existing text of Subsection (e) prohibiting the maximum tax rate that may be imposed by the merged district from exceeding the maximum tax rate authorized for any of the previous districts. Redesignates existing Subsection (f) as Subsection (e). Makes conforming changes.

SECTION 4. Amends Subchapter B, Chapter 775, Health and Safety Code, by adding Section 775.0241, as follows:

Sec. 775.0241. TAXES FOR CONSOLIDATED DISTRICT. (a) Requires the board of the district with the lower maximum ad valorem tax rate to order an election in its district under Section 775.0745 (Election To Increase Tax Rate), if two districts that want to consolidate under Section 775.0241 have different maximum ad valorem tax rates, 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.

(b) Prohibits the districts from proceeding with the consolidation if a majority of the voters do not favor the increase in the maximum ad valorem tax rate under Subsection (a).

(c) Requires the board of the consolidated district to designate the territory of the former districts as subdistricts and to continue to impose the sales and use tax in each subdistrict at the rate the tax was imposed by the former district if the districts have different sales and use tax rates.

(d) Provides that Subsection (c) does not limit the authority of the board of the consolidated district to order an election under Section 775.0752 (Sales And Use Tax Election Procedures) in a subdistrict or in the entire district.

SECTION 5. Amends Subchapter C, Chapter 775, Health and Safety Code, by adding Sections 775.0365 and 775.0366, as follows:

Sec. 775.0365. BOARD TRAINING. (a) Provides that, in this section, "department" means the Texas Department of Rural Affairs (TDRA).

(b) Requires each emergency services commissioner to complete a training course:

(1) for the commissioner's initial term, not later than the earlier of:

(A) the 180th day after the date the commissioner takes the oath of office; or

(B) the 180th day after the date the commissioner assumes responsibilities as an emergency services commissioner; and

(2) not later than the second anniversary of each date the commissioner completes a training course.

(c) Requires TDRA to:

(1) determine the minimum course requirements; and

(2) make the course available.

(d) Authorizes TDRA to provide the training course. Requires TDRA to approve any training course provided by an entity other than TDRA.

(e) Requires that the training course provide instruction in:

(1) district responsibilities;

(2) board responsibilities;

(3) government administration;

(4) ethics laws relating to public officers; and

(5) the governance and management of emergency services.

(f) Requires the entity providing the training course to provide a certificate of course completion to each person who completes the course.

(g) Requires an emergency services commissioner who completes the training course to file a copy of the certificate of course completion 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 under Subsection (b).

Sec. 775.0366. SERVICE CONTRACTS. (a) Defines, in this section, "local government" and "volunteer fire department."

(b) Authorizes the board of emergency service commissioners (board) to contract with a volunteer fire department or a local government, including another district, to provide staff, facilities, equipment, programs, or services the board considers necessary to provide or obtain emergency services.

(c) Provides that a person acting under a contract under this section, including an emergency services commissioner, does not, because of that action, hold more than one civil office of emolument or more than one office of honor, trust, or profit.

(d) Provides that, except as provided by Subsection (e), if a district contracts with a local government under this section 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.

(e) Authorizes the parties to a contract between governmental entities under this section to agree to assign responsibility for civil liability that arises from services provided under the contract in any manner agreed to by the parties. Requires the parties to assign that responsibility in a written provision of the contract that specifically references this subsection and states that the assignment of liability is intended to be different from liability otherwise assigned under Subsection (d).

(f) Provides that this section does not change the liability limits and immunities for a governmental unit under Chapter 101 (Tort Claims), Civil Practice and Remedies Code, or other law.

(g) Provides that a contract under this section is not a joint enterprise for liability purposes.

SECTION 6. Amends the heading to Section 775.0422, Health and Safety Code, to read as follows:

Sec. 775.0422. REMOVAL OF APPOINTED BOARD MEMBER BY COMMISSIONERS COURT.

SECTION 7. Amends Section 775.0422, Health and Safety Code, by amending Subsections (b) and (c) and adding Subsection (b-1), as follows:

(b) Authorizes the commissioners court of the county in which a district 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 a report required by Section 775.036 (Powers And Duties Of Board), rather than the report required by Section 775.036(a)(4) (relating to requiring the board, on a written request from the commissioners court of a county in which the district is located to give a written 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 under that section. Makes nonsubstantive changes.

(b-1) Authorizes the commissioners court of the county in which a district is located, by an order adopted by a majority vote after a hearing, to remove a board member, if the board member does not complete a training course and file a copy of the certificate of course completion as required by Section 775.0365. Requires the commissioners court of each county to adopt the order before the board member is authorized to be removed if the district is located in more than one county.

(c) Requires each commissioners court seeking removal under this section to notify the board members, before the 60th day after the date on which the report or certificate of course completion is due, that it is considering that action. Makes a nonsubstantive change.

SECTION 8. Amends Section 775.074, Health and Safety Code, by adding Subsection (d-1), as follows:

(d-1) Prohibits the board from setting the tax rate for a fiscal year before the date the board adopts a budget for that fiscal year.

SECTION 9. Amends Section 775.082, Health and Safety Code, by adding Subsection (e-1), as follows:

(e-1) Provides that when a district located wholly in one county fails to complete and file the audit report by September 1 of each year and a county auditor is not ordered to prepare the report, the board is abolished. Requires the commissioners court to appoint a new board as provided by Section 775.034 (Appointment of Board in District Located Wholly in One County).

SECTION 10. Amends Section 776.019, Health and Safety Code, by adding Subsections (e) and (f), as follows:

(e) Requires the commissioners court of each county in which the proposed district is located to send to the board of the existing district a copy of the petition for creation of the proposed district, if the territory of a district proposed under this chapter overlaps with the boundaries of another district created under this chapter or Chapter 775.

(f) Requires the board of the existing district to adopt a statement before the date of the election required by this section 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.

SECTION 11. Amends Section 776.021, Health and Safety Code, by amending Subsection (a) and adding Subsections (e), (f), and (g), as follows:

(a) Prohibits the most recently created district from providing services in the overlapping territory that duplicate the services described in the statement required by Section 776.019(f), rather than the services provided by the other district, if the territory in a district created under this chapter overlaps with the boundaries of another district created under this chapter or a district operating under Chapter 775.

(e) Provides that the legislature finds that the performance of non-duplicative emergency services in the overlapping territory of emergency service districts is complementary to and not in conflict with the powers and duties of the respective districts.

(f) Authorizes a person to serve as an emergency services commissioner of a district created under this chapter at the same time that the person serves as an emergency services commissioner of another district with overlapping territory created under this chapter or Chapter 775.

(g) Authorizes a person serving as a commissioner of more than one district under this section to receive compensation for serving on only one board, and entitles that person to reimbursement for reasonable and necessary expenses incurred in performing official duties for both boards.

SECTION 12. Amends Subchapter C, Chapter 776, Health and Safety Code, by adding Sections 776.0355, 776.0356, and 776.038, as follows:

Sec. 776.0355. BOARD TRAINING. (a) Provides that in this section, "department" means TDRA.

(b) Requires each emergency commissioner to complete a training course:

(1) for the commissioner's initial term, not later than the earlier of:

(A) the 180th day after the date the commissioner takes the oath of office; or

(B) the 180th day after the date the commissioner assumes responsibilities as an emergency commissioner; and

(2) not later than the second anniversary of each date the commissioner completes a training course.

(c) Requires TDRA to:

(1) determine the minimum course requirements; and

(2) make the course available.

(d) Authorizes TDRA to provide the training course. Requires TDRA to approve any training course provided by an entity other than TDRA.

(e) Requires that the training course provide instruction in:

(1) district responsibilities;

(2) board responsibilities;

(3) government administration;

(4) ethics laws relating to public officers; and

(5) the governance and management of emergency services.

(f) Requires the entity providing the training course to provide a certificate of course completion to each person who completes the course.

(g) Requires an emergency commissioner who completes the training course to file a copy of the certificate of course completion 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 under Subsection (b).

Sec. 776.0356. REMOVAL OF APPOINTED BOARD MEMBER BY COMMISSIONERS COURT. (a) Authorizes the commissioners court of each county in which a district is located, by an order adopted by a majority vote after a hearing, to remove an appointed board member if the board member fails to complete a training course and file a copy of the certificate of course completion as required by Section 776.0355.

(b) Requires each commissioners court seeking removal under this section, before the 60th day after the date the certificate of completion is due, to notify the board members that it is considering that action.

Sec. 776.038. SERVICE CONTRACTS. (a) Defines, in this section, "local government" and "volunteer fire department."

(b) Authorizes the board to contract with a volunteer fire department or a local government, including another district, to provide staff, facilities, equipment, programs, or services the board considers necessary to provide or obtain emergency services.

(c) Provides that a person acting under a contract under this section, including an emergency commissioner, does not, because of that action, hold more than one civil office of emolument or more than one office of honor, trust, or profit.

(d) Provides that, except as provided by Subsection (e), if a district contracts with a local government under this section 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.

(e) Authorizes the parties to a contract between governmental entities under this section to agree to assign responsibility for civil liability that arises from services provided under the contract in any manner agreed to by the parties. Requires the parties to assign that responsibility in a written provision of the contract that specifically references this subsection and states that the assignment of liability is intended to be different from liability otherwise assigned under Subsection (d).

(f) Provides that this section does not change the liability limits and immunities for a governmental unit under Chapter 101, Civil Practice and Remedies Code, or other law.

(g) Provides that a contract under this section is not a joint enterprise for liability purposes.

SECTION 13. Amends Section 776.075, Health and Safety Code, by adding Subsection (d-1), as follows:

(d-1) Prohibits the board from setting the tax rate for a fiscal year before the date the board adopts a budget for that fiscal year.

SECTION 14. (a) Provides that, in this section, "department" means TDRA.

(b) Requires TDRA, not later than June 1, 2012, to make available a training course as required by Sections 775.0365 and 776.0355, Health and Safety Code, as added by this Act.

(c) Provides that the deadlines to take the course under Sections 775.0365(b) and 776.0355(b), Health and Safety Code, as added by this Act, do not apply 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. Requires an emergency services commissioner or emergency commissioner described by this subsection to complete the course not later than the 90th day after the date TDRA makes available a training course under Subsection (b) of this section.

SECTION 15. Provides that the changes in law made by this Act to Chapter 776, Health and Safety Code, take effect only if Senate Bill 359 or another similar bill of the Regular Session of the 82nd Legislature relating to repealing Chapter 776, Health and Safety Code, is not enacted. Provides that if Senate Bill 359 or another similar bill of the Regular Session of the 82nd Legislature relating to repealing Chapter 776, Health and Safety Code, is enacted and becomes law, the changes in law made by this Act to Chapter 776, Health and Safety Code, do not take effect.

SECTION 16. Effective date: upon passage or September 1, 2011.