

By: Miller of Comal

H.B. No. 1878

Substitute the following for H.B. No. 1878:

By: Gooden

C.S.H.B. No. 1878

A BILL TO BE ENTITLED

AN ACT

relating to emergency service districts.

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

SECTION 1. Section 775.018, Health and Safety Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) If the territory of a district proposed under this chapter overlaps with the boundaries of another district created under this chapter or Chapter 776, the commissioners court of each county in which the proposed district is located shall send to the board of the existing district a copy of the petition for creation of the proposed district. This subsection does not apply to a proposed district located wholly in a county with a population of more than three million.

(g) The board of the existing district shall 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. This subsection does not apply to a proposed district located wholly in a county with a population of more than three million.

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

(a) If the territory in a district created under this

1 chapter overlaps with the boundaries of another district created
2 under this chapter or a district created under Chapter 776, the most
3 recently created district may not provide services in the
4 overlapping territory that duplicate the services described in the
5 statement required by Section 775.018(g) [~~provided by the other~~
6 ~~district at the time the overlapping district was created~~].

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

11 (d-2) A person may serve as an emergency services
12 commissioner of a district created under this chapter at the same
13 time that the person serves as an emergency services commissioner
14 of another district with overlapping territory created under this
15 chapter or Chapter 776.

16 (d-3) A person serving as a commissioner of more than one
17 district under this section:

18 (1) may receive compensation for serving on only one
19 board; and

20 (2) is entitled to reimbursement for reasonable and
21 necessary expenses incurred in performing official duties for both
22 boards.

23 SECTION 3. Section 775.024, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 775.024. CONSOLIDATION [~~MERCER~~] OF EMERGENCY SERVICES
26 DISTRICTS. (a) Two or more emergency services districts may
27 consolidate [~~merge~~] into a single emergency services district [~~as~~

1 ~~provided by this section]~~ if[+]

2 ~~[(1)]~~ the board of each district:

3 (1) determines that consolidation would allow the
4 districts to provide services more economically and efficiently ~~[of~~
5 ~~the districts votes in favor of the merger]~~; and

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

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

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

13 (C) if the maximum ad valorem tax rates in the
14 districts are different, a statement that the districts will
15 consolidate only if voters approve an ad valorem tax rate at the
16 election required by Section 775.0241 ~~[the residents of each~~
17 ~~district approve the merger in an election held for that purpose].~~

18 (b) The boards shall agree on a name for the proposed
19 consolidated ~~[merged]~~ district and choose five commissioners from
20 among the membership of the boards to serve on the initial board for
21 the proposed district. The boards shall agree to stagger the terms
22 appropriately.

23 (c) If the boards do not make the appointments before the
24 31st day after the date the boards adopted the joint order, the
25 commissioners courts shall jointly appoint commissioners to the
26 board of the consolidated district. If the consolidated district
27 is in a county to which Section 775.0345 or 775.035 applies, the

1 commissioners appointed under this subsection serve until the next
2 uniform election date that occurs after the date the joint order is
3 adopted and that allows sufficient time to comply with the
4 requirements of law. [~~The ballot for the election to approve a~~
5 ~~merger shall be printed to permit voting for or against the~~
6 ~~proposition: "The merger of the _____ (insert district names)~~
7 ~~to create the _____ (insert name of proposed district),~~
8 ~~which assumes all outstanding debts of the merged districts."~~]

9 (d) The consolidated district is created on the latest of:
10 (1) the date stated in the joint order;
11 (2) the date the initial board of the consolidated
12 district is appointed, if applicable; or
13 (3) the date the maximum ad valorem tax rates the
14 consolidated district may impose under Section 775.0241 are
15 established, if necessary. [~~If a majority of the voters voting in~~
16 ~~each district favor the merger, the merged district is created. If~~
17 ~~less than a majority of the voters voting in any of the districts~~
18 ~~are in favor of the merger, the vote fails and the districts are not~~
19 ~~merged.~~]

20 (e) [~~The maximum tax rate that may be imposed by the merged~~
21 ~~district may not exceed the maximum tax rate authorized for any of~~
22 ~~the previous districts.~~

23 [~~(f)~~] The consolidated [~~merged~~] district assumes all
24 powers, rights, duties, assets, and liabilities of the former
25 districts without a change in status. The consolidation [~~merger~~]
26 does not diminish or impair the rights of the holders of any
27 outstanding and unpaid bonds, warrants, or obligations of the

1 district.

2 SECTION 4. Subchapter B, Chapter 775, Health and Safety
3 Code, is amended by adding Section 775.0241 to read as follows:

4 Sec. 775.0241. TAXES FOR CONSOLIDATED DISTRICT. (a) If two
5 districts that want to consolidate under Section 775.0241 have
6 different maximum ad valorem tax rates, the board of the district
7 with the lower maximum ad valorem tax rate shall order an election
8 in its district under Section 775.0745 to authorize the imposition
9 of taxes in the territory of that district at a maximum rate that
10 equals the maximum rate authorized in the district with the higher
11 maximum rate.

12 (b) If a majority of the voters do not favor the increase in
13 the maximum ad valorem tax rate under Subsection (a), the districts
14 may not proceed with the consolidation.

15 (c) If the districts have different sales and use tax rates,
16 the board of the consolidated district shall:

17 (1) designate the territory of the former districts as
18 subdistricts;

19 (2) continue to impose the sales and use tax in each
20 subdistrict at the rate the tax was imposed by the former district;
21 and

22 (3) send to the comptroller by registered or certified
23 mail:

24 (A) a copy of the joint order described by
25 Section 775.024(a)(2); and

26 (B) a map of the consolidated district that
27 clearly shows the territory of each subdistrict.

1 (d) Subsection (c) does not limit the authority of the board
2 of the consolidated district to order an election under Section
3 775.0752 in a subdistrict or in the entire district.

4 SECTION 5. Subchapter C, Chapter 775, Health and Safety
5 Code, is amended by adding Sections 775.0365 and 775.0366 to read as
6 follows:

7 Sec. 775.0365. BOARD TRAINING. (a) In this section,
8 "department" means the Texas Department of Rural Affairs.

9 (b) Each emergency services commissioner shall complete a
10 training course of not more than four hours:

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

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

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

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

20 (c) The department shall:

21 (1) determine the minimum course requirements;

22 (2) make the course available; and

23 (3) impose a fee to recover the department's costs of
24 developing and administering the course.

25 (d) The department may provide the training course in person
26 or online. The department must approve any training course
27 provided by an entity other than the department. The department or

1 an approved entity shall use online resources provided by the
2 Department of Information Resources to provide any online course
3 provided under this subsection.

4 (e) The training course must provide instruction in:

5 (1) district responsibilities;

6 (2) board responsibilities;

7 (3) government administration;

8 (4) ethics laws relating to public officers, including
9 conflict of interest laws; and

10 (5) the governance and management of emergency
11 services.

12 (f) The department or an approved entity providing the
13 training course shall provide a certificate of course completion to
14 each person who completes the course.

15 (g) An emergency services commissioner who completes the
16 training course shall file a copy of the certificate of course
17 completion with the commissioners court of each county in which the
18 district is located not later than the 10th day after the date the
19 commissioner is required to complete the course under Subsection
20 (b).

21 Sec. 775.0366. SERVICE CONTRACTS. (a) In this section:

22 (1) "Local government" has the meaning assigned by
23 Section 791.003, Government Code.

24 (2) "Volunteer fire department" means an association
25 that:

26 (A) operates firefighting equipment;

27 (B) is organized primarily to provide and

1 actively provides firefighting services;

2 (C) does not pay its members compensation other
3 than nominal compensation; and

4 (D) does not distribute any of its income to its
5 members, officers, or governing body, other than for reimbursement
6 of expenses.

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

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

15 (d) Except as provided by Subsection (e), if a district
16 contracts with a local government under this section to provide or
17 obtain emergency services, the district is responsible for any
18 civil liability that arises from furnishing those services if the
19 district would have been responsible for furnishing the services in
20 the absence of the contract.

21 (e) The parties to a contract between governmental entities
22 under this section may agree to assign responsibility for civil
23 liability that arises from services provided under the contract in
24 any manner agreed to by the parties. The parties must assign that
25 responsibility in a written provision of the contract that
26 specifically references this subsection and states that the
27 assignment of liability is intended to be different from liability

1 otherwise assigned under Subsection (d).

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

5 (g) A contract under this section is not a joint enterprise
6 for liability purposes.

7 SECTION 6. The heading to Section 775.0422, Health and
8 Safety Code, is amended to read as follows:

9 Sec. 775.0422. REMOVAL OF APPOINTED BOARD MEMBER BY
10 COMMISSIONERS COURT [~~FOR FAILURE TO GIVE REPORT~~].

11 SECTION 7. Section 775.0422, Health and Safety Code, is
12 amended by amending Subsections (b) and (c) and adding Subsection
13 (b-1) to read as follows:

14 (b) The commissioners court of the county in which a
15 district is located, by an order adopted by a majority vote after a
16 hearing, may remove one or more board members if the board failed to
17 give a [the] report required by Section 775.036 [~~775.036(a)(4)~~] to
18 the commissioners court before the 91st day after the date on which
19 the report is [~~was~~] due under that section.

20 (b-1) The commissioners court of the county in which a
21 district is located, by an order adopted by a majority vote after a
22 hearing, may remove a board member if the board member does not
23 complete a training course and file a copy of the certificate of
24 course completion as required by Section 775.0365. If the district
25 is located in more than one county, the commissioners court of each
26 county must adopt the order before the board member may be removed.

27 (c) Before the 60th day after the date on which the report or

1 certificate of course completion is [was] due, each commissioners
2 court seeking removal under this section must notify the board
3 members that it is considering that action.

4 SECTION 8. Section 775.074, Health and Safety Code, is
5 amended by adding Subsection (d-1) to read as follows:

6 (d-1) The board may not set the tax rate for a fiscal year
7 before the date the board adopts a budget for that fiscal year.

8 SECTION 9. Section 775.082, Health and Safety Code, is
9 amended by adding Subsection (e-1) to read as follows:

10 (e-1) When a district located wholly in one county fails to
11 complete and file the audit report by September 1 of each year and a
12 county auditor is not ordered to prepare the report, the board is
13 abolished and the commissioners court shall appoint a new board as
14 provided by Section 775.034.

15 SECTION 10. Section 776.019, Health and Safety Code, is
16 amended by adding Subsections (e) and (f) to read as follows:

17 (e) If the territory of a district proposed under this
18 chapter overlaps with the boundaries of another district created
19 under this chapter or Chapter 775, the commissioners court of each
20 county in which the proposed district is located shall send to the
21 board of the existing district a copy of the petition for creation
22 of the proposed district.

23 (f) The board of the existing district shall adopt a
24 statement before the date of the election required by this section
25 that specifies the types of emergency services the existing
26 district will provide or continue to provide in the overlapping
27 territory if the proposed district is created.

1 SECTION 11. Section 776.021, Health and Safety Code, is
2 amended by amending Subsection (a) and adding Subsections (e), (f),
3 and (g) to read as follows:

4 (a) If the territory in a district created under this
5 chapter overlaps with the boundaries of another district created
6 under this chapter or a district operating under Chapter 775, the
7 most recently created district may not provide services in the
8 overlapping territory that duplicate the services described in the
9 statement required by Section 776.019(f) [~~provided by the other~~
10 ~~district~~].

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

15 (f) A person may serve as an emergency services commissioner
16 of a district created under this chapter at the same time that the
17 person serves as an emergency services commissioner of another
18 district with overlapping territory created under this chapter or
19 Chapter 775.

20 (g) A person serving as a commissioner of more than one
21 district under this section:

22 (1) may receive compensation for serving on only one
23 board; and

24 (2) is entitled to reimbursement for reasonable and
25 necessary expenses incurred in performing official duties for both
26 boards.

27 SECTION 12. Subchapter C, Chapter 776, Health and Safety

1 Code, is amended by adding Sections 776.0355, 776.0356, and 776.038
2 to read as follows:

3 Sec. 776.0355. BOARD TRAINING. (a) In this section,
4 "department" means the Texas Department of Rural Affairs.

5 (b) Each emergency commissioner shall complete a training
6 course of not more than four hours:

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

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

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

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

15 (c) The department shall:

16 (1) determine the minimum course requirements;

17 (2) make the course available; and

18 (3) impose a fee to recover the department's costs of
19 developing and administering the course.

20 (d) The department may provide the training course in person
21 or online. The department must approve any training course
22 provided by an entity other than the department. The department or
23 an approved entity shall use online resources provided by the
24 Department of Information Resources to provide any online course
25 provided under this subsection.

26 (e) The training course must provide instruction in:

27 (1) district responsibilities;

- 1 (2) board responsibilities;
2 (3) government administration;
3 (4) ethics laws relating to public officers, including
4 conflict of interest laws; and
5 (5) the governance and management of emergency
6 services.

7 (f) The department or an approved entity providing the
8 training course shall provide a certificate of course completion to
9 each person who completes the course.

10 (g) An emergency commissioner who completes the training
11 course shall file a copy of the certificate of course completion
12 with the commissioners court of each county in which the district is
13 located not later than the 10th day after the date the commissioner
14 is required to complete the course under Subsection (b).

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

21 (b) Before the 60th day after the date the certificate of
22 completion is due, each commissioners court seeking removal under
23 this section must notify the board members that it is considering
24 that action.

25 Sec. 776.038. SERVICE CONTRACTS. (a) In this section:

26 (1) "Local government" has the meaning assigned by
27 Section 791.003, Government Code.

1 (2) "Volunteer fire department" means an association
2 that:

3 (A) operates firefighting equipment;

4 (B) is organized primarily to provide and
5 actively provides firefighting services;

6 (C) does not pay its members compensation other
7 than nominal compensation; and

8 (D) does not distribute any of its income to its
9 members, officers, or governing body, other than for reimbursement
10 of expenses.

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

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

19 (d) Except as provided by Subsection (e), if a district
20 contracts with a local government under this section to provide or
21 obtain emergency services, the district is responsible for any
22 civil liability that arises from furnishing those services if the
23 district would have been responsible for furnishing the services in
24 the absence of the contract.

25 (e) The parties to a contract between governmental entities
26 under this section may agree to assign responsibility for civil
27 liability that arises from services provided under the contract in

1 any manner agreed to by the parties. The parties must assign that
2 responsibility in a written provision of the contract that
3 specifically references this subsection and states that the
4 assignment of liability is intended to be different from liability
5 otherwise assigned under Subsection (d).

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

9 (g) A contract under this section is not a joint enterprise
10 for liability purposes.

11 SECTION 13. Section 776.075, Health and Safety Code, is
12 amended by adding Subsection (d-1) to read as follows:

13 (d-1) The board may not set the tax rate for a fiscal year
14 before the date the board adopts a budget for that fiscal year.

15 SECTION 14. (a) In this section, "department" means the
16 Texas Department of Rural Affairs.

17 (b) Not later than June 1, 2012, the department shall make
18 available a training course as required by Sections 775.0365 and
19 776.0355, Health and Safety Code, as added by this Act.

20 (c) The deadlines to take the course under Sections
21 775.0365(b) and 776.0355(b), Health and Safety Code, as added by
22 this Act, do not apply to an emergency services commissioner or
23 emergency commissioner appointed or elected to a board of emergency
24 services commissioners or a board of emergency commissioners for a
25 term that starts before June 1, 2012. Not later than the 90th day
26 after the date the department makes available a training course
27 under Subsection (b) of this section, an emergency services

1 commissioner or emergency commissioner described by this
2 subsection must complete the course.

3 SECTION 15. This Act takes effect immediately if it
4 receives a vote of two-thirds of all the members elected to each
5 house, as provided by Section 39, Article III, Texas Constitution.
6 If this Act does not receive the vote necessary for immediate
7 effect, this Act takes effect September 1, 2011.