

By: Miller of Comal

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. ~~[The ballot for the election to~~
27 ~~approve a merger shall be printed to permit voting for or against~~

1 ~~the proposition: "The merger of the _____ (insert district~~
2 ~~names) to create the _____ (insert name of proposed~~
3 ~~district), which assumes all outstanding debts of the merged~~
4 ~~districts."]~~

5 (d) The consolidated district is created on the latest of:

6 (1) the date stated in the joint order;

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

9 (3) the date the maximum ad valorem tax rates the
10 consolidated district may impose under Section 775.0241 are
11 established, if necessary. [~~If a majority of the voters voting in~~
12 ~~each district favor the merger, the merged district is created. If~~
13 ~~less than a majority of the voters voting in any of the districts~~
14 ~~are in favor of the merger, the vote fails and the districts are not~~
15 ~~merged.]~~

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

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

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

27 Sec. 775.0241. TAXES FOR CONSOLIDATED DISTRICT. (a) If two

1 districts that want to consolidate under Section 775.0241 have
2 different maximum ad valorem tax rates, the board of the district
3 with the lower maximum ad valorem tax rate shall order an election
4 in its district under Section 775.0745 to authorize the imposition
5 of taxes in the territory of that district at a maximum rate that
6 equals the maximum rate authorized in the district with the higher
7 maximum rate.

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

11 (c) If the districts have different sales and use tax rates,
12 the board of the consolidated district shall designate the
13 territory of the former districts as subdistricts and shall
14 continue to impose the sales and use tax in each subdistrict at the
15 rate the tax was imposed by the former district.

16 (d) Subsection (c) does not limit the authority of the board
17 of the consolidated district to order an election under Section
18 775.0752 in a subdistrict or in the entire district.

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

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

24 (b) Each emergency services commissioner shall complete a
25 training course:

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

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

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

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

8 (c) The department shall:

9 (1) determine the minimum course requirements; and

10 (2) make the course available.

11 (d) The department may provide the training course. The
12 department must approve any training course provided by an entity
13 other than the department.

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

15 (1) district responsibilities;

16 (2) board responsibilities;

17 (3) government administration;

18 (4) ethics laws relating to public officers; and

19 (5) the governance and management of emergency
20 services.

21 (f) The entity providing the training course shall provide a
22 certificate of course completion to each person who completes the
23 course.

24 (g) An emergency services commissioner who completes the
25 training course shall file a copy of the certificate of course
26 completion with the commissioners court of each county in which the
27 district is located not later than the 10th day after the date the

1 commissioner is required to complete the course under Subsection
2 (b).

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

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

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

8 (A) operates firefighting equipment;

9 (B) is organized primarily to provide and
10 actively provides firefighting services;

11 (C) does not pay its members compensation other
12 than nominal compensation; and

13 (D) does not distribute any of its income to its
14 members, officers, or governing body, other than for reimbursement
15 of expenses.

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

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

24 (d) Except as provided by Subsection (e), if a district
25 contracts with a local government under this section to provide or
26 obtain emergency services, the district is responsible for any
27 civil liability that arises from furnishing those services if the

1 district would have been responsible for furnishing the services in
2 the absence of the contract.

3 (e) The parties to a contract between governmental entities
4 under this section may agree to assign responsibility for civil
5 liability that arises from services provided under the contract in
6 any manner agreed to by the parties. The parties must assign that
7 responsibility in a written provision of the contract that
8 specifically references this subsection and states that the
9 assignment of liability is intended to be different from liability
10 otherwise assigned under Subsection (d).

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

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

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

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

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

23 (b) The commissioners court of the county in which a
24 district is located, by an order adopted by a majority vote after a
25 hearing, may remove one or more board members if the board failed to
26 give a [the] report required by Section 775.036 [~~775.036(a)(4)~~] to
27 the commissioners court before the 91st day after the date on which

1 the report is [~~was~~] due under that section.

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

9 (c) Before the 60th day after the date on which the report or
10 certificate of course completion is [~~was~~] due, each commissioners
11 court seeking removal under this section must notify the board
12 members that it is considering that action.

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

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

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

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

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

26 (e) If the territory of a district proposed under this
27 chapter overlaps with the boundaries of another district created

1 under this chapter or Chapter 775, the commissioners court of each
2 county in which the proposed district is located shall send to the
3 board of the existing district a copy of the petition for creation
4 of the proposed district.

5 (f) The board of the existing district shall adopt a
6 statement before the date of the election required by this section
7 that specifies the types of emergency services the existing
8 district will provide or continue to provide in the overlapping
9 territory if the proposed district is created.

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

13 (a) If the territory in a district created under this
14 chapter overlaps with the boundaries of another district created
15 under this chapter or a district operating under Chapter 775, the
16 most recently created district may not provide services in the
17 overlapping territory that duplicate the services described in the
18 statement required by Section 776.019(f) [~~provided by the other~~
19 district].

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

24 (f) A person may serve as an emergency services commissioner
25 of a district created under this chapter at the same time that the
26 person serves as an emergency services commissioner of another
27 district with overlapping territory created under this chapter or

1 Chapter 776.

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

4 (1) may receive compensation for serving on only one
5 board; and

6 (2) is entitled to reimbursement for reasonable and
7 necessary expenses incurred in performing official duties for both
8 boards.

9 SECTION 12. Subchapter C, Chapter 776, Health and Safety
10 Code, is amended by adding Sections 776.0355, 776.0356, and 776.038
11 to read as follows:

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

14 (b) Each emergency commissioner shall complete a training
15 course:

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

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

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

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

24 (c) The department shall:

25 (1) determine the minimum course requirements; and

26 (2) make the course available.

27 (d) The department may provide the training course. The

1 department must approve any training course provided by an entity
2 other than the department.

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

4 (1) district responsibilities;

5 (2) board responsibilities;

6 (3) government administration;

7 (4) ethics laws relating to public officers; and

8 (5) the governance and management of emergency
9 services.

10 (f) The entity providing the training course shall provide a
11 certificate of course completion to each person who completes the
12 course.

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

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

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

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

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

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

6 (A) operates firefighting equipment;

7 (B) is organized primarily to provide and
8 actively provides firefighting services;

9 (C) does not pay its members compensation other
10 than nominal compensation; and

11 (D) does not distribute any of its income to its
12 members, officers, or governing body, other than for reimbursement
13 of expenses.

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

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

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

1 (e) The parties to a contract between governmental entities
2 under this section may agree to assign responsibility for civil
3 liability that arises from services provided under the contract in
4 any manner agreed to by the parties. The parties must assign that
5 responsibility in a written provision of the contract that
6 specifically references this subsection and states that the
7 assignment of liability is intended to be different from liability
8 otherwise assigned under Subsection (d).

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

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

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

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

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

20 (b) Not later than June 1, 2012, the department shall make
21 available a training course as required by Sections 775.0365 and
22 776.0355, Health and Safety Code, as added by this Act.

23 (c) The deadlines to take the course under Sections
24 775.0365(b) and 776.0355(b), Health and Safety Code, as added by
25 this Act, do not apply to an emergency services commissioner or
26 emergency commissioner appointed or elected to a board of emergency
27 services commissioners or a board of emergency commissioners for a

1 term that starts before June 1, 2012. Not later than the 90th day
2 after the date the department makes available a training course
3 under Subsection (b) of this section, an emergency services
4 commissioner or emergency commissioner described by this
5 subsection must complete the course.

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