

By: Wentworth

S.B. No. 917

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

1 two districts that want to consolidate under Section 775.024 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 (h) The department shall set a fee for the training course
4 in an amount reasonably necessary to recover costs associated with
5 developing and implementing the training program.

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

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

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

11 (A) operates firefighting equipment;

12 (B) is organized primarily to provide and
13 actively provides firefighting services;

14 (C) does not pay its members compensation other
15 than nominal compensation; and

16 (D) does not distribute any of its income to its
17 members, officers, or governing body, other than for reimbursement
18 of expenses.

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

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

27 (d) Except as provided by Subsection (e), if a district

1 contracts with a local government under this section to provide or
2 obtain emergency services, the district is responsible for any
3 civil liability that arises from furnishing those services if the
4 district would have been responsible for furnishing the services in
5 the absence of the contract.

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

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

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

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

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

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

26 (b) The commissioners court of the county in which a
27 district is located, by an order adopted by a majority vote after a

1 hearing, may remove one or more board members if the board failed to
2 give a a [~~the~~] report required by Section 775.036 [~~775.036(a)(4)~~] to
3 the commissioners court before the 91st day after the date on which
4 the report is [~~was~~] due under that section.

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

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

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

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

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

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

27 SECTION 10. Section 776.019, Health and Safety Code, is

1 amended by adding Subsections (e) and (f) to read as follows:

2 (e) If the territory of a district proposed under this
3 chapter overlaps with the boundaries of another district created
4 under this chapter or Chapter 775, the commissioners court of each
5 county in which the proposed district is located shall send to the
6 board of the existing district a copy of the petition for creation
7 of the proposed district.

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

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

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

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

27 (f) A person may serve as an emergency commissioner of a

1 district created under this chapter at the same time that the person
2 serves as an emergency commissioner of another district with
3 overlapping territory created under this chapter or Chapter 775.

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

6 (1) may receive compensation for serving on only one
7 board; and

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

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

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

16 (b) Each emergency commissioner shall complete a training
17 course:

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

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

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

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

26 (c) The department shall:

27 (1) determine the minimum course requirements; and

1 (2) make the course available.

2 (d) The department may provide the training course. The
3 department must approve any training course provided by an entity
4 other than the department.

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

6 (1) district responsibilities;

7 (2) board responsibilities;

8 (3) government administration;

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

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

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

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

20 (h) The department shall set a fee for the training course
21 in an amount reasonably necessary to recover costs associated with
22 developing and implementing the training program.

23 Sec. 776.0356. REMOVAL OF APPOINTED BOARD MEMBER BY
24 COMMISSIONERS COURT. (a) The commissioners court of each county
25 in which a district is located, by an order adopted by a majority
26 vote after a hearing, may remove an appointed board member if the
27 board member fails to complete a training course and file a copy of

1 the certificate of course completion as required by Section
2 776.0355.

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

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

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

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

12 (A) operates firefighting equipment;

13 (B) is organized primarily to provide and
14 actively provides firefighting services;

15 (C) does not pay its members compensation other
16 than nominal compensation; and

17 (D) does not distribute any of its income to its
18 members, officers, or governing body, other than for reimbursement
19 of expenses.

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

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

1 (d) Except as provided by Subsection (e), if a district
2 contracts with a local government under this section to provide or
3 obtain emergency services, the district is responsible for any
4 civil liability that arises from furnishing those services if the
5 district would have been responsible for furnishing the services in
6 the absence of the contract.

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

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

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

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

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

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

26 (b) Not later than June 1, 2012, the department shall make
27 available a training course as required by Sections 775.0365 and

1 776.0355, Health and Safety Code, as added by this Act.

2 (c) The deadlines to take the course under Subsection (b),
3 Section 775.0365, and Subsection (b), Section 776.0355, Health and
4 Safety Code, as added by this Act, do not apply to an emergency
5 services commissioner or emergency commissioner appointed or
6 elected to a board of emergency services commissioners or a board of
7 emergency commissioners for a term that starts before June 1, 2012.
8 Not later than the 90th day after the date the department makes
9 available a training course under Subsection (b) of this section,
10 an emergency services commissioner or emergency commissioner
11 described by this subsection must complete the course.

12 SECTION 15. The changes in law made by this Act to Chapter
13 776, Health and Safety Code, take effect only if Senate Bill No. 359
14 or another similar bill of the Regular Session of the 82nd
15 Legislature relating to repealing Chapter 776, Health and Safety
16 Code, is not enacted. If Senate Bill No. 359 or another similar
17 bill of the Regular Session of the 82nd Legislature relating to
18 repealing Chapter 776, Health and Safety Code, is enacted and
19 becomes law, the changes in law made by this Act to Chapter 776,
20 Health and Safety Code, do not take effect.

21 SECTION 16. This Act takes effect immediately if it
22 receives a vote of two-thirds of all the members elected to each
23 house, as provided by Section 39, Article III, Texas Constitution.
24 If this Act does not receive the vote necessary for immediate
25 effect, this Act takes effect September 1, 2011.