

1-1 By: Wentworth S.B. No. 917
1-2 (In the Senate - Filed February 24, 2011; March 8, 2011,
1-3 read first time and referred to Committee on Intergovernmental
1-4 Relations; April 4, 2011, reported favorably by the following
1-5 vote: Yeas 4, Nays 0; April 4, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to emergency service districts.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 775.018, Health and Safety Code, is
1-11 amended by adding Subsections (f) and (g) to read as follows:

1-12 (f) If the territory of a district proposed under this
1-13 chapter overlaps with the boundaries of another district created
1-14 under this chapter or Chapter 776, the commissioners court of each
1-15 county in which the proposed district is located shall send to the
1-16 board of the existing district a copy of the petition for creation
1-17 of the proposed district. This subsection does not apply to a
1-18 proposed district located wholly in a county with a population of
1-19 more than three million.

1-20 (g) The board of the existing district shall adopt a
1-21 statement before the date of the election required by this section
1-22 that specifies the types of emergency services the existing
1-23 district will provide or continue to provide in the overlapping
1-24 territory if the proposed district is created. This subsection
1-25 does not apply to a proposed district located wholly in a county
1-26 with a population of more than three million.

1-27 SECTION 2. Section 775.0205, Health and Safety Code, is
1-28 amended by amending Subsection (a) and adding Subsections (d-1),
1-29 (d-2), and (d-3) to read as follows:

1-30 (a) If the territory in a district created under this
1-31 chapter overlaps with the boundaries of another district created
1-32 under this chapter or a district created under Chapter 776, the most
1-33 recently created district may not provide services in the
1-34 overlapping territory that duplicate the services described in the
1-35 statement required by Section 775.018(g) [~~provided by the other~~
1-36 ~~district at the time the overlapping district was created~~].

1-37 (d-1) The legislature finds that the performance of
1-38 non-duplicative emergency services in the overlapping territory of
1-39 emergency service districts is complementary to and not in conflict
1-40 with the powers and duties of the respective districts.

1-41 (d-2) A person may serve as an emergency services
1-42 commissioner of a district created under this chapter at the same
1-43 time that the person serves as an emergency services commissioner
1-44 of another district with overlapping territory created under this
1-45 chapter or Chapter 776.

1-46 (d-3) A person serving as a commissioner of more than one
1-47 district under this section:

1-48 (1) may receive compensation for serving on only one
1-49 board; and

1-50 (2) is entitled to reimbursement for reasonable and
1-51 necessary expenses incurred in performing official duties for both
1-52 boards.

1-53 SECTION 3. Section 775.024, Health and Safety Code, is
1-54 amended to read as follows:

1-55 Sec. 775.024. CONSOLIDATION [~~MERCER~~] OF EMERGENCY SERVICES
1-56 DISTRICTS. (a) Two or more emergency services districts may
1-57 consolidate [~~merge~~] into a single emergency services district [~~as~~
1-58 ~~provided by this section~~] if [+
1-59 [~~(1)~~] the board of each district:

1-60 (1) determines that consolidation would allow the
1-61 districts to provide services more economically and efficiently [~~of~~
1-62 ~~the districts votes in favor of the merger~~]; and

1-63 (2) adopts a joint order of consolidation that
1-64 includes:

2-1 (A) the name and territory of the consolidated
 2-2 district;

2-3 (B) the proposed date on which the former
 2-4 districts dissolve and the consolidated district is created and
 2-5 will start offering services; and

2-6 (C) if the maximum ad valorem tax rates in the
 2-7 districts are different, a statement that the districts will
 2-8 consolidate only if voters approve an ad valorem tax rate at the
 2-9 election required by Section 775.0241 [~~the residents of each~~
 2-10 district approve the merger in an election held for that purpose].

2-11 (b) The boards shall agree on a name for the proposed
 2-12 consolidated [~~merged~~] district and choose five commissioners from
 2-13 among the membership of the boards to serve on the initial board for
 2-14 the proposed district. The boards shall agree to stagger the terms
 2-15 appropriately.

2-16 (c) If the boards do not make the appointments before the
 2-17 31st day after the date the boards adopted the joint order, the
 2-18 commissioners courts shall jointly appoint commissioners to the
 2-19 board of the consolidated district. [~~The ballot for the election to~~
 2-20 approve a merger shall be printed to permit voting for or against
 2-21 the proposition: "The merger of the _____ (insert district
 2-22 names) to create the _____ (insert name of proposed
 2-23 district), which assumes all outstanding debts of the merged
 2-24 districts."]

2-25 (d) The consolidated district is created on the latest of:

2-26 (1) the date stated in the joint order;

2-27 (2) the date the initial board of the consolidated
 2-28 district is appointed; or

2-29 (3) the date the maximum ad valorem tax rates the
 2-30 consolidated district may impose under Section 775.0241 are
 2-31 established, if necessary [~~If a majority of the voters voting in~~
 2-32 each district favor the merger, the merged district is created. If
 2-33 less than a majority of the voters voting in any of the districts
 2-34 are in favor of the merger, the vote fails and the districts are not
 2-35 merged].

2-36 (e) [~~The maximum tax rate that may be imposed by the merged~~
 2-37 district may not exceed the maximum tax rate authorized for any of
 2-38 the previous districts.

2-39 [~~(f)~~] The consolidated [~~merged~~] district assumes all
 2-40 powers, rights, duties, assets, and liabilities of the former
 2-41 districts without a change in status. The consolidation [~~merger~~]
 2-42 does not diminish or impair the rights of the holders of any
 2-43 outstanding and unpaid bonds, warrants, or obligations of the
 2-44 district.

2-45 SECTION 4. Subchapter B, Chapter 775, Health and Safety
 2-46 Code, is amended by adding Section 775.0241 to read as follows:

2-47 Sec. 775.0241. TAXES FOR CONSOLIDATED DISTRICT. (a) If
 2-48 two districts that want to consolidate under Section 775.024 have
 2-49 different maximum ad valorem tax rates, the board of the district
 2-50 with the lower maximum ad valorem tax rate shall order an election
 2-51 in its district under Section 775.0745 to authorize the imposition
 2-52 of taxes in the territory of that district at a maximum rate that
 2-53 equals the maximum rate authorized in the district with the higher
 2-54 maximum rate.

2-55 (b) If a majority of the voters do not favor the increase in
 2-56 the maximum ad valorem tax rate under Subsection (a), the districts
 2-57 may not proceed with the consolidation.

2-58 (c) If the districts have different sales and use tax rates,
 2-59 the board of the consolidated district shall designate the
 2-60 territory of the former districts as subdistricts and shall
 2-61 continue to impose the sales and use tax in each subdistrict at the
 2-62 rate the tax was imposed by the former district.

2-63 (d) Subsection (c) does not limit the authority of the board
 2-64 of the consolidated district to order an election under Section
 2-65 775.0752 in a subdistrict or in the entire district.

2-66 SECTION 5. Subchapter C, Chapter 775, Health and Safety
 2-67 Code, is amended by adding Sections 775.0365 and 775.0366 to read as
 2-68 follows:

2-69 Sec. 775.0365. BOARD TRAINING. (a) In this section,

3-1 "department" means the Texas Department of Rural Affairs.
3-2 (b) Each emergency services commissioner shall complete a
3-3 training course:
3-4 (1) for the commissioner's initial term, not later
3-5 than the earlier of:
3-6 (A) the 180th day after the date the commissioner
3-7 takes the oath of office; or
3-8 (B) the 180th day after the date the commissioner
3-9 assumes responsibilities as an emergency services commissioner;
3-10 and
3-11 (2) not later than the second anniversary of each date
3-12 the commissioner completes a training course.
3-13 (c) The department shall:
3-14 (1) determine the minimum course requirements; and
3-15 (2) make the course available.
3-16 (d) The department may provide the training course. The
3-17 department must approve any training course provided by an entity
3-18 other than the department.
3-19 (e) The training course must provide instruction in:
3-20 (1) district responsibilities;
3-21 (2) board responsibilities;
3-22 (3) government administration;
3-23 (4) ethics laws relating to public officers; and
3-24 (5) the governance and management of emergency
3-25 services.
3-26 (f) The entity providing the training course shall provide a
3-27 certificate of course completion to each person who completes the
3-28 course.
3-29 (g) An emergency services commissioner who completes the
3-30 training course shall file a copy of the certificate of course
3-31 completion with the commissioners court of each county in which the
3-32 district is located not later than the 10th day after the date the
3-33 commissioner is required to complete the course under Subsection
3-34 (b).
3-35 Sec. 775.0366. SERVICE CONTRACTS. (a) In this section:
3-36 (1) "Local government" has the meaning assigned by
3-37 Section 791.003, Government Code.
3-38 (2) "Volunteer fire department" means an association
3-39 that:
3-40 (A) operates firefighting equipment;
3-41 (B) is organized primarily to provide and
3-42 actively provides firefighting services;
3-43 (C) does not pay its members compensation other
3-44 than nominal compensation; and
3-45 (D) does not distribute any of its income to its
3-46 members, officers, or governing body, other than for reimbursement
3-47 of expenses.
3-48 (b) The board may contract with a volunteer fire department
3-49 or a local government, including another district, to provide
3-50 staff, facilities, equipment, programs, or services the board
3-51 considers necessary to provide or obtain emergency services.
3-52 (c) A person acting under a contract under this section,
3-53 including an emergency services commissioner, does not, because of
3-54 that action, hold more than one civil office of emolument or more
3-55 than one office of honor, trust, or profit.
3-56 (d) Except as provided by Subsection (e), if a district
3-57 contracts with a local government under this section to provide or
3-58 obtain emergency services, the district is responsible for any
3-59 civil liability that arises from furnishing those services if the
3-60 district would have been responsible for furnishing the services in
3-61 the absence of the contract.
3-62 (e) The parties to a contract between governmental entities
3-63 under this section may agree to assign responsibility for civil
3-64 liability that arises from services provided under the contract in
3-65 any manner agreed to by the parties. The parties must assign that
3-66 responsibility in a written provision of the contract that
3-67 specifically references this subsection and states that the
3-68 assignment of liability is intended to be different from liability
3-69 otherwise assigned under Subsection (d).

4-1 (f) This section does not change the liability limits and
 4-2 immunities for a governmental unit under Chapter 101, Civil
 4-3 Practice and Remedies Code, or other law.

4-4 (g) A contract under this section is not a joint enterprise
 4-5 for liability purposes.

4-6 SECTION 6. The heading to Section 775.0422, Health and
 4-7 Safety Code, is amended to read as follows:

4-8 Sec. 775.0422. REMOVAL OF APPOINTED BOARD MEMBER BY
 4-9 COMMISSIONERS COURT [~~FOR FAILURE TO GIVE REPORT~~].

4-10 SECTION 7. Section 775.0422, Health and Safety Code, is
 4-11 amended by amending Subsections (b) and (c) and adding Subsection
 4-12 (b-1) to read as follows:

4-13 (b) The commissioners court of the county in which a
 4-14 district is located, by an order adopted by a majority vote after a
 4-15 hearing, may remove one or more board members if the board failed to
 4-16 give a ~~the~~ report required by Section 775.036 [~~775.036(a)(4)~~] to
 4-17 the commissioners court before the 91st day after the date on which
 4-18 the report is ~~is~~ due under that section.

4-19 (b-1) The commissioners court of the county in which a
 4-20 district is located, by an order adopted by a majority vote after a
 4-21 hearing, may remove a board member if the board member does not
 4-22 complete a training course and file a copy of the certificate of
 4-23 course completion as required by Section 775.0365. If the district
 4-24 is located in more than one county, the commissioners court of each
 4-25 county must adopt the order before the board member may be removed.

4-26 (c) Before the 60th day after the date on which the report or
 4-27 certificate of course completion is ~~is~~ due, each commissioners
 4-28 court seeking removal under this section must notify the board
 4-29 members that it is considering that action.

4-30 SECTION 8. Section 775.074, Health and Safety Code, is
 4-31 amended by adding Subsection (d-1) to read as follows:

4-32 (d-1) The board may not set the tax rate for a fiscal year
 4-33 before the date the board adopts a budget for that fiscal year.

4-34 SECTION 9. Section 775.082, Health and Safety Code, is
 4-35 amended by adding Subsection (e-1) to read as follows:

4-36 (e-1) When a district located wholly in one county fails to
 4-37 complete and file the audit report by September 1 of each year and a
 4-38 county auditor is not ordered to prepare the report, the board is
 4-39 abolished and the commissioners court shall appoint a new board as
 4-40 provided by Section 775.034.

4-41 SECTION 10. Section 776.019, Health and Safety Code, is
 4-42 amended by adding Subsections (e) and (f) to read as follows:

4-43 (e) If the territory of a district proposed under this
 4-44 chapter overlaps with the boundaries of another district created
 4-45 under this chapter or Chapter 775, the commissioners court of each
 4-46 county in which the proposed district is located shall send to the
 4-47 board of the existing district a copy of the petition for creation
 4-48 of the proposed district.

4-49 (f) The board of the existing district shall adopt a
 4-50 statement before the date of the election required by this section
 4-51 that specifies the types of emergency services the existing
 4-52 district will provide or continue to provide in the overlapping
 4-53 territory if the proposed district is created.

4-54 SECTION 11. Section 776.021, Health and Safety Code, is
 4-55 amended by amending Subsection (a) and adding Subsections (e), (f),
 4-56 and (g) to read as follows:

4-57 (a) If the territory in a district created under this
 4-58 chapter overlaps with the boundaries of another district created
 4-59 under this chapter or a district operating under Chapter 775, the
 4-60 most recently created district may not provide services in the
 4-61 overlapping territory that duplicate the services described in the
 4-62 statement required by Section 776.019(f) [~~provided by the other~~
 4-63 ~~district~~].

4-64 (e) The legislature finds that the performance of
 4-65 non-duplicative emergency services in the overlapping territory of
 4-66 emergency service districts is complementary to and not in conflict
 4-67 with the powers and duties of the respective districts.

4-68 (f) A person may serve as an emergency commissioner of a
 4-69 district created under this chapter at the same time that the person

5-1 serves as an emergency commissioner of another district with
5-2 overlapping territory created under this chapter or Chapter 775.

5-3 (g) A person serving as a commissioner of more than one
5-4 district under this section:

5-5 (1) may receive compensation for serving on only one
5-6 board; and

5-7 (2) is entitled to reimbursement for reasonable and
5-8 necessary expenses incurred in performing official duties for both
5-9 boards.

5-10 SECTION 12. Subchapter C, Chapter 776, Health and Safety
5-11 Code, is amended by adding Sections 776.0355, 776.0356, and 776.038
5-12 to read as follows:

5-13 Sec. 776.0355. BOARD TRAINING. (a) In this section,
5-14 "department" means the Texas Department of Rural Affairs.

5-15 (b) Each emergency commissioner shall complete a training
5-16 course:

5-17 (1) for the commissioner's initial term, not later
5-18 than the earlier of:

5-19 (A) the 180th day after the date the commissioner
5-20 takes the oath of office; or

5-21 (B) the 180th day after the date the commissioner
5-22 assumes responsibilities as an emergency commissioner; and

5-23 (2) not later than the second anniversary of each date
5-24 the commissioner completes a training course.

5-25 (c) The department shall:

5-26 (1) determine the minimum course requirements; and

5-27 (2) make the course available.

5-28 (d) The department may provide the training course. The
5-29 department must approve any training course provided by an entity
5-30 other than the department.

5-31 (e) The training course must provide instruction in:

5-32 (1) district responsibilities;

5-33 (2) board responsibilities;

5-34 (3) government administration;

5-35 (4) ethics laws relating to public officers; and

5-36 (5) the governance and management of emergency
5-37 services.

5-38 (f) The entity providing the training course shall provide a
5-39 certificate of course completion to each person who completes the
5-40 course.

5-41 (g) An emergency commissioner who completes the training
5-42 course shall file a copy of the certificate of course completion
5-43 with the commissioners court of each county in which the district is
5-44 located not later than the 10th day after the date the commissioner
5-45 is required to complete the course under Subsection (b).

5-46 Sec. 776.0356. REMOVAL OF APPOINTED BOARD MEMBER BY
5-47 COMMISSIONERS COURT. (a) The commissioners court of each county
5-48 in which a district is located, by an order adopted by a majority
5-49 vote after a hearing, may remove an appointed board member if the
5-50 board member fails to complete a training course and file a copy of
5-51 the certificate of course completion as required by Section
5-52 776.0355.

5-53 (b) Before the 60th day after the date the certificate of
5-54 completion is due, each commissioners court seeking removal under
5-55 this section must notify the board members that it is considering
5-56 that action.

5-57 Sec. 776.038. SERVICE CONTRACTS. (a) In this section:

5-58 (1) "Local government" has the meaning assigned by
5-59 Section 791.003, Government Code.

5-60 (2) "Volunteer fire department" means an association
5-61 that:

5-62 (A) operates firefighting equipment;

5-63 (B) is organized primarily to provide and
5-64 actively provides firefighting services;

5-65 (C) does not pay its members compensation other
5-66 than nominal compensation; and

5-67 (D) does not distribute any of its income to its
5-68 members, officers, or governing body, other than for reimbursement
5-69 of expenses.

6-1 (b) The board may contract with a volunteer fire department
 6-2 or a local government, including another district, to provide
 6-3 staff, facilities, equipment, programs, or services the board
 6-4 considers necessary to provide or obtain emergency services.

6-5 (c) A person acting under a contract under this section,
 6-6 including an emergency commissioner, does not, because of that
 6-7 action, hold more than one civil office of emolument or more than
 6-8 one office of honor, trust, or profit.

6-9 (d) Except as provided by Subsection (e), if a district
 6-10 contracts with a local government under this section to provide or
 6-11 obtain emergency services, the district is responsible for any
 6-12 civil liability that arises from furnishing those services if the
 6-13 district would have been responsible for furnishing the services in
 6-14 the absence of the contract.

6-15 (e) The parties to a contract between governmental entities
 6-16 under this section may agree to assign responsibility for civil
 6-17 liability that arises from services provided under the contract in
 6-18 any manner agreed to by the parties. The parties must assign that
 6-19 responsibility in a written provision of the contract that
 6-20 specifically references this subsection and states that the
 6-21 assignment of liability is intended to be different from liability
 6-22 otherwise assigned under Subsection (d).

6-23 (f) This section does not change the liability limits and
 6-24 immunities for a governmental unit under Chapter 101, Civil
 6-25 Practice and Remedies Code, or other law.

6-26 (g) A contract under this section is not a joint enterprise
 6-27 for liability purposes.

6-28 SECTION 13. Section 776.075, Health and Safety Code, is
 6-29 amended by adding Subsection (d-1) to read as follows:

6-30 (d-1) The board may not set the tax rate for a fiscal year
 6-31 before the date the board adopts a budget for that fiscal year.

6-32 SECTION 14. (a) In this section, "department" means the
 6-33 Texas Department of Rural Affairs.

6-34 (b) Not later than June 1, 2012, the department shall make
 6-35 available a training course as required by Sections 775.0365 and
 6-36 776.0355, Health and Safety Code, as added by this Act.

6-37 (c) The deadlines to take the course under Subsection (b),
 6-38 Section 775.0365, and Subsection (b), Section 776.0355, Health and
 6-39 Safety Code, as added by this Act, do not apply to an emergency
 6-40 services commissioner or emergency commissioner appointed or
 6-41 elected to a board of emergency services commissioners or a board of
 6-42 emergency commissioners for a term that starts before June 1, 2012.
 6-43 Not later than the 90th day after the date the department makes
 6-44 available a training course under Subsection (b) of this section,
 6-45 an emergency services commissioner or emergency commissioner
 6-46 described by this subsection must complete the course.

6-47 SECTION 15. The changes in law made by this Act to Chapter
 6-48 776, Health and Safety Code, take effect only if Senate Bill No. 359
 6-49 or another similar bill of the Regular Session of the 82nd
 6-50 Legislature relating to repealing Chapter 776, Health and Safety
 6-51 Code, is not enacted. If Senate Bill No. 359 or another similar
 6-52 bill of the Regular Session of the 82nd Legislature relating to
 6-53 repealing Chapter 776, Health and Safety Code, is enacted and
 6-54 becomes law, the changes in law made by this Act to Chapter 776,
 6-55 Health and Safety Code, do not take effect.

6-56 SECTION 16. This Act takes effect immediately if it
 6-57 receives a vote of two-thirds of all the members elected to each
 6-58 house, as provided by Section 39, Article III, Texas Constitution.
 6-59 If this Act does not receive the vote necessary for immediate
 6-60 effect, this Act takes effect September 1, 2011.

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