

BILL ANALYSIS

C.S.H.B. 685
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County Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

For an emergency services district located wholly in one county, such as certain districts in El Paso County, the commissioners court of the county appoints a board of emergency services commissioners to serve as the district's governing body. Interested parties contend that a county lacks sufficient oversight over certain decisions made by such emergency commissioners and that there is little a commissioners court can do about a district's mismanagement for a district operating in a questionable manner. These same parties contend that a commissioners court is unfairly blamed for the poor performance of district appointees and that providing a county with improved oversight will remedy these issues. C.S.H.B. 685 seeks to bring transparency to the operations of certain emergency services districts and to increase the accountability of such districts.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 685 amends the Health and Safety Code to establish provisions relating to commissioners court oversight of an emergency services district that is located wholly in a county that borders the United Mexican States, that has a population of more than 800,000, and for which the commissioners court appoints a board of emergency services commissioners. The bill specifies that its provisions control over a provision of other law to the extent of a conflict.

C.S.H.B. 685 authorizes a commissioners court to adopt a resolution to delegate to a board a duty assigned to the commissioners court under the bill's provisions that relates to that district or a resolution to waive a requirement under such provisions that the commissioners court approve an action of a district. The bill authorizes an adopted resolution to apply to more than one board or district and authorizes a commissioners court by resolution to terminate the delegation of a duty or the waiver of an approval requirement.

C.S.H.B. 685 authorizes a commissioners court to establish policies and procedures a board must comply with when providing services through and using public funds for a volunteer fire department or emergency service provider or when constructing, purchasing, acquiring, contracting for, leasing, adding to, maintaining, operating, developing, regulating, selling, exchanging, or conveying real or personal property, a property right, equipment, goods, services, a facility, or a system to maintain a building or other facility or to provide a service to or required by the district. The bill sets out provisions relating to such policies and procedures. The bill specifies that these provisions regarding powers relating to district property, facilities, and equipment do not authorize a commissioners court or a board to use real or personal property, a property right, equipment, a facility, or a system to provide a telecommunications service, advanced communications service, information service, or a video service.

C.S.H.B. 685, effective January 1, 2014, requires a commissioners court to establish a schedule for a district to prepare an annual budget, tax rate calculations and notices, and a recommended tax rate and to submit the budget, calculations, notices, and recommendation to the commissioners court for final approval. The bill requires the schedule to take into account certain requirements applicable to adopting a district tax rate and to provide the commissioners court a reasonable amount of time to review the required submissions. The bill requires a board to prepare an annual budget and submit the budget to the commissioners court for final approval according to the established schedule and to submit to the commissioners court and the county auditor tax rate calculations and notices and a recommended tax rate according to the established schedule. The bill specifies that a commissioners court is considered to have approved a submitted budget if the commissioners court does not approve or deny the budget before the 31st day after the date the budget is submitted. The bill specifies that a commissioners court is considered to have approved a recommended tax rate, and makes such tax rate the rate for the year in which the rate is recommended, if the commissioners court does not approve or deny the tax rate before the 31st day after the date the tax rate is submitted.

C.S.H.B. 685 requires a board to encourage and promote participation by all sectors of the business community, including small businesses and businesses owned by members of a minority group or by women, in the process by which the district enters into contracts. The bill requires the board to develop a plan for the district to identify and remove barriers that do not have a definite or objective relationship to quality or competence and that unfairly discriminate against such businesses. The bill specifies that such barriers may include contracting procedures and contract specifications or conditions.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 685 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Chapter 775, Health and Safety Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. DISTRICTS IN CERTAIN COUNTIES

Sec. 775.301. DEFINITION. In this subchapter, "commissioners court" means the commissioners court of a county that borders the United Mexican States and has a population of more than 800,000.

Sec. 775.302. APPLICABILITY; SUBCHAPTER SUPERSEDES. (a) This subchapter applies only to a district that is located wholly or partly in a county that

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 775, Health and Safety Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. DISTRICTS IN CERTAIN COUNTIES

Sec. 775.301. DEFINITION. In this subchapter, "commissioners court" means the commissioners court of a county that borders the United Mexican States, has a population of more than 800,000, and appoints a board of emergency services commissioners under this chapter.

Sec. 775.302. APPLICABILITY. (a) This subchapter applies only to a district that is located wholly in a county that borders the United Mexican States, that has a population

borders the United Mexican States and has a population of more than 800,000.

(b) This subchapter controls over a provision of this chapter or other law to the extent of a conflict.

No equivalent provision.

Sec. 775.303. POWERS RELATING TO DISTRICT PROPERTY, FACILITIES, AND EQUIPMENT. (a) With the approval of the commissioners court, the board may construct, acquire, lease, add to, maintain, operate, develop, regulate, sell, exchange, and convey any property, property right, equipment, facility, or system to maintain a building or other facility or to provide a service required by the district.

(b) Notwithstanding any other law, the board may, with the approval of the commissioners court, lease undeveloped real property for not more than 50 years to provide for the development and construction of facilities designed to generate revenue for the financial benefit of the district. The board, directly or through a nonprofit corporation, may contract or enter into a joint venture with a public or private entity as necessary to enter into a lease

of more than 800,000, and for which the commissioners court appoints a board of emergency services commissioners under Section 775.034.

(b) This subchapter controls over a provision of this chapter or other law to the extent of a conflict.

Sec. 775.303. DELEGATION OR WAIVER BY COMMISSIONERS COURT.

(a) The commissioners court may adopt a resolution to:

(1) delegate to the board of a district a duty assigned to the commissioners court under this subchapter that relates to that district; or

(2) waive a requirement in this subchapter that the commissioners court approve an action of a district.

(b) A resolution adopted under this section may apply to more than one board or district.

(c) The commissioners court may by resolution terminate the delegation of a duty or the waiver of an approval requirement.

Sec. 775.304. POWERS RELATING TO DISTRICT PROPERTY, FACILITIES, AND EQUIPMENT. (a) The

commissioners court may establish policies and procedures the board must comply with when:

(1) constructing, purchasing, acquiring, contracting for, leasing, adding to, maintaining, operating, developing, regulating, selling, exchanging, or conveying real or personal property, a property right, equipment, goods, services, a facility, or a system to maintain a building or other facility or to provide a service to or required by the district; or

(2) providing services through and using public funds for a volunteer fire department or emergency service provider.

No equivalent provision.

under this subsection.

(c) The board may not borrow money or make other financial arrangements under Section 775.085 unless the commissioners court approves the transaction.

No equivalent provision.

(b) The policies and procedures:

(1) may include requiring the board to submit to the commissioners court periodic reports on the district's compliance with the policies and procedures;

(2) must establish the types of transactions, including maximum dollar amounts, the board may make when conducting an activity described by Subsection (a) without the approval of the commissioners court, if any;

(3) must designate by name, title, or position a person in the county as the primary point of contact between the commissioners court and the board; and

(4) may not be established until the commissioners court consults with the board.

No equivalent provision.

(c) This section does not authorize the commissioners court or the board to use real or personal property, a property right, equipment, a facility, or a system to provide a telecommunications service, advanced communications service, or information service as defined by 47 U.S.C. Section 153, or a video service as defined by Section 66.002, Utilities Code.

Sec. 775.304. CONTRACTING AUTHORITY. (a) With the approval of the commissioners court, the board may, in performing its powers under Section 775.303, contract or cooperate with:

(1) the federal government;

(2) this state;

(3) another governmental entity; or

(4) a privately owned or operated hospital.

(b) The district may not enter into a contract with a local government under Section 775.0366 unless the commissioners court approves that contract.

(c) The board shall encourage and promote participation by all sectors of the business community, including small businesses and businesses owned by members of a minority

No equivalent provision.

Sec. 775.306. BUSINESS PARTICIPATION. The board shall encourage and promote participation by all sectors of the business community, including small businesses and businesses owned by members of a minority group or by women,

group or by women, in the process by which the district enters into contracts. The board shall develop a plan for the district to identify and remove barriers that do not have a definite or objective relationship to quality or competence and that unfairly discriminate against small businesses and businesses owned by members of a minority group or by women. These barriers may include contracting procedures and contract specifications or conditions.

Sec. 775.305. COUNTY AUTHORITY TO SELL, LEASE, AND PURCHASE FACILITIES FOR DISTRICT PURPOSES.

(a) The commissioners court may sell real or personal property in order to enter into a contract to:

(1) lease or rent buildings, land, facilities, equipment, or services from others for district purposes;

(2) construct, repair, renovate, improve, or enlarge buildings, land, facilities, or equipment for district purposes; and

(3) pay regular monthly utility bills, including electricity, gas, and water bills, for the leased or rented buildings, land, facilities, equipment, or services.

(b) The commissioners court may pay for the facilities, equipment, and services and for the regular monthly utility bills for those facilities, equipment, and services from the county's general fund if a majority of the commissioners court considers the facilities, equipment, and services essential to the proper administration of the county.

(c) A construction project under this section shall be let by contract. The contract must contain the prevailing wage for mechanics, laborers, and other persons employed in the project.

(d) On or before the expiration of the lease or rental contract, the county may purchase the facilities with county general funds if a majority of the commissioners court considers the purchase price reasonable.

Sec. 775.306. PURCHASING PROCEDURES. A district shall purchase items in accordance with the same procedures and subject to the same requirements applicable to a county under Subchapter C, Chapter 262, Local Government Code. For the purposes of this

in the process by which the district enters into contracts. The board shall develop a plan for the district to identify and remove barriers that do not have a definite or objective relationship to quality or competence and that unfairly discriminate against small businesses and businesses owned by members of a minority group or by women. These barriers may include contracting procedures and contract specifications or conditions.

No equivalent provision.

No equivalent provision.

section, a district is treated as if it were a county.

Sec. 775.307. BUDGET. The board shall prepare an annual budget. The board shall present the annual budget to the commissioners court for final approval.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

Sec. 775.308. AD VALOREM TAX. (a) With respect to the imposition or collection of an ad valorem tax imposed for the benefit of a district to which this subchapter applies, the commissioners court has the

Sec. 775.305. BUDGET. (a) The commissioners court shall establish a schedule for a district to prepare an annual budget, tax rate calculations and notices, and a recommended tax rate and to submit the budget, calculations, notices, and recommendation to the commissioners court for final approval.

(b) The schedule must take into account requirements of this chapter, Chapter 26, Tax Code, and Section 21, Article VIII, Texas Constitution, applicable to adopting a district tax rate and provide the commissioners court a reasonable amount of time to review the submissions required under Subsection (a).

(c) The board shall:
(1) prepare an annual budget and submit the budget to the commissioners court for final approval according to the schedule established under this section; and
(2) submit to the commissioners court and the county auditor tax rate calculations and notices and a recommended tax rate according to the schedule established under this section.

(d) If the commissioners court does not approve or deny a budget submitted to the commissioners court under this section before the 31st day after the date the budget is submitted, the commissioners court is considered to have approved the budget.

(e) If the commissioners court does not approve or deny a tax rate recommended to the commissioners court under this section before the 31st day after the date the recommended tax rate is submitted, the commissioners court is considered to have approved the recommended tax rate and the recommended tax rate is the rate for the year in which the rate is recommended.

No equivalent provision.

authority assigned by law to the board of the district, including the authority to:

(1) adopt an exemption, partial exemption, or other form of relief from an ad valorem tax;

(2) elect to tax property that would otherwise be exempt from an ad valorem tax;

(3) exercise a power granted to a taxing unit under Section 6.30, Tax Code; and

(4) determine whether the district may call an election under Section 775.0745 to increase the district's tax rate.

(b) The board of a district to which this subchapter applies may not exercise a power granted by Subsection (a) to the commissioners court with respect to the imposition or collection of an ad valorem tax imposed for the benefit of the district.

SECTION 2. This Act takes effect September 1, 2013.

SECTION 2. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2013.

(b) Section 775.305, Health and Safety Code, as added by this Act, takes effect January 1, 2014.