

BILL ANALYSIS

C.S.H.B. 3257
By: Schaefer
Elections
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Many emergency service districts have been created in Texas since such creation was authorized. Interested parties note that, although these districts have direct taxing authority, there is no direct accountability to the voters and that emergency district board members are appointed by members of the county commissioners courts who have limited power to remove them once they are appointed. The parties observe that other volunteer organizations with direct taxing authority, such as school boards and city councils, are directly accountable to the voters, and they assert that the same should be true for emergency service district boards. The parties further assert that efforts must be made to ensure that there are no conflicts of interest for emergency service district board members in regard to a member's ties to the provided services. The parties note that more taxpayer money flows into emergency service districts as certain rural counties become less rural and that even more direct accountability is needed in those circumstances. C.S.H.B. 3257 seeks to resolve these issues.

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. 3257 amends the Health and Safety Code, in statutory provisions relating to an emergency services district located wholly in a county with a population of more than three million, to apply these provisions to an emergency services district in a county with a population of more than 200,000 that borders Lake Palestine. Under these provisions, the bill requires the voter registrar of the county, rather than the county clerk, to perform certain duties relating to the election for the office of emergency services commissioner on an initial board and requires the voter registrar or the deputy registrar of the county, rather than the county clerk, to prepare the required sworn statement of the election costs incurred by the county.

C.S.H.B. 3257, in statutory provisions relating to a vacancy on an emergency services district board of directors in a county with a population of more than three million, to apply these provisions to a district located wholly in a county with a population of more than 200,000 that borders Lake Palestine and, for such a county, to prescribe a separate procedure for filling a board vacancy.

C.S.H.B. 3257 provides that statutory provisions relating to the appointment of an emergency services district board of directors in a district located wholly in one county do not apply to a district located wholly in a county with a population of more than 200,000 that borders Lake Palestine. The bill applies statutory provisions relating to the disqualification of emergency services commissioners in a county with a population of more than three million to a district located wholly in a county with a population of more than 200,000 that borders Lake Palestine.

C.S.H.B. 3257 provides that its provisions do not prohibit a person who is a commissioner on the

bill's effective date and who was appointed under statutory provisions governing the appointment of a board in a district located wholly in one county from running for election to the board if the person has the qualifications as required by the bill. The bill provides for the establishment of an election to elect initial emergency services commissioners and provides for the expiration of terms of certain board members who are serving on the bill's effective date.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3257 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. Subchapter C, Chapter 775, Health and Safety Code, is amended by adding Section 775.0346 to read as follows:
Sec. 775.0346. ELECTION OF BOARD IN CERTAIN COUNTIES. (a) This section applies only to a county:

- (1) with a population of more than 200,000;
- (2) that borders Lake Palestine; and
- (3) has at least one emergency services district.

(b) The governing body of a district consists of a five-person board of emergency services commissioners elected as prescribed by this section. Except as provided by Subsection (h), emergency services commissioners serve four-year terms.

(c) After a district is created, the county judge shall establish a convenient day provided by Section 41.001, Election Code, to conduct an election to elect the initial emergency services commissioners.

(d) If the district is already in existence on the effective date of this section, the county judge shall establish a convenient day provided by Section 41.001, Election Code, to conduct an election to elect emergency services commissioners.

(e) To be eligible to be a candidate for

HOUSE COMMITTEE SUBSTITUTE

SECTION 3. Sections 775.0345(a), (e), (f), and (g), Health and Safety Code, are amended to read as follows:

(a) This section applies only to a district located wholly in a

county:

- (1) with a population of more than three million; or

- (2) with a population of more than 200,000 that borders Lake Palestine.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

emergency services commissioner, a person must be at least 18 years of age and a resident of the district.

(f) A candidate for emergency services commissioner on an initial board or a board already in existence on the effective date of this section must give the county clerk a sworn notice of the candidate's intention to run for office. The notice must state the person's name, age, and address and state that the person is serving notice of intent to run for emergency services commissioner. On receipt of the notice, the county clerk shall have the candidate's name placed on the ballot.

(g) The county clerk shall appoint an election judge to certify the results of the election.

(h) After the election is held, the county clerk or the clerk's deputy shall prepare a sworn statement of the election costs incurred by the county. The statement shall be given to the newly elected board, which shall order the appropriate official to reimburse the county for the county's election costs.

(i) The initial emergency services commissioners' terms of office begin 30 days after canvassing of the election results. The two commissioners who received the fewest votes serve a term that expires on December 31 of the second year following the year in which the election was held. The other emergency services commissioners serve terms that expire on December 31 of the fourth year following the year in which the election was held.

(i) In a district already in existence on the effective date of this section, the emergency services commissioners' terms of office begin 30 days after canvassing of election results. At this time, the terms of office for previously appointed emergency services commissioners shall expire. The two commissioners who received the fewest votes serve a term that expires on December 31 of the second year following the year in which the election was held. The other emergency services commissioners serve

(e) A candidate for emergency services commissioner on an initial board must give the voter registrar of the county ~~[clerk]~~ a sworn notice of the candidate's intention to run for office. The notice must state the person's name, age, and address and state that the person is serving notice of intent to run for emergency services commissioner. On receipt of the notice, the voter registrar of the county ~~[clerk]~~ shall have the candidate's name placed on the ballot.

~~(f) The voter registrar of the county [clerk] shall appoint an election judge to certify the results of the election.~~

(g) After the election is held, the voter registrar or deputy registrar of the county ~~[clerk or the clerk's deputy]~~ shall prepare a sworn statement of the election costs incurred by the county. The statement shall be given to the newly elected board, which shall order the appropriate official to reimburse the county for the county's election costs.

~~No equivalent provision.~~

~~No equivalent provision.~~

terms that expire on December 31 of the fourth year following the year in which the election was held.

(j) The board shall hold the general election for commissioner every two years on an authorized uniform election date as provided by Chapter 41, Election Code. The board may change the election date from one authorized election date to another authorized election date and shall adjust the terms of office to conform to the new election date.

No equivalent provision.

(k) Subchapter C, Chapter 146, Election Code, applies to a write-in candidate for emergency services commissioner under this section in the same manner it applies to a write-in candidate for a city office under that subchapter.

No equivalent provision.

SECTION 2. Subchapter C, Chapter 775, Health and Safety Code, is amended by adding Section 775.0356 to read as follows:
Sec. 755.0356. DISQUALIFICATION OF EMERGENCY SERVICE COMMISSIONERS IN CERTAIN COUNTIES.

No equivalent provision.

(a) This section applies only to a county:
(1) with a population of more than 200,000;
(2) that borders Lake Palestine; and
(3) has at least one emergency services district.
(b) In this section, "emergency services organization" means:
(1) a volunteer fire department;
(2) a career or combination fire department;
(3) a municipal fire department;
(4) an emergency medical services organization under the jurisdiction of the Department of State Health Services;
(5) any other agency under the jurisdiction of the state fire marshal's office; or
(6) any other organization or corporation that governs an emergency services organization.
(c) A person is disqualified from serving as an emergency services commissioner if that person:
(1) is related within the third degree of affinity or consanguinity to:
(A) a person providing professional services to the district;
(B) a commissioner of the same district; or
(C) a person who is an employee or

volunteer of an emergency services organization providing emergency services to the district;

(2) is an employee of a commissioner of the same district, attorney, or other person providing professional services to the district;

(3) is serving as an attorney, consultant, or architect or in some other professional capacity for the district or an emergency services organization providing emergency services to the district; or

(4) fails to maintain the qualifications required by law to serve as a commissioner.

(d) Any rights obtained by a third party through official action of a board covered by this section are not impaired or affected by the disqualification under this section of an emergency services commissioner to serve, provided that the third party had no knowledge, at the time the rights were obtained, of the fact that the commissioner was disqualified to serve.

SECTION 3. Subchapter C, Chapter 775, Health and Safety Code, is amended by adding Section 775.0446 to read as follows:
Sec. 775.0446. VACANCY ON BOARD OF DISTRICT LOCATED IN CERTAIN COUNTIES.

(a) This section applies only to a county:

(1) with a population of more than 200,000;

(2) that borders Lake Palestine; and

(3) has at least one emergency services district.

(b) In this section, "vacancy" means a vacancy in the office of director that occurs for any reason, including an office that is vacant because:

(1) a director was disqualified under Section 775.0356; or

(2) no candidate filed for election to the office.

(c) Not later than the 90th day after a board vacancy occurs, the remaining board members shall appoint a person to fill the unexpired term.

SECTION 7. Section 775.0445, Health and Safety Code, is amended by amending Subsections (b) and (c) and adding Subsection (c-1) to read as follows:

(b) This section applies only to a district located wholly in a county:

(1) with a population of more than three million; or

(2) with a population of more than 200,000 that borders Lake Palestine.

No equivalent provision.

(c) Not later than the 90th day after a board vacancy occurs in a county with a population of more than three million, the remaining board members shall appoint a person to fill the unexpired term.

(3) A person appointed under this section must be eligible to serve under Section 775.0346.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

(c-1) Not later than the 90th day after a board vacancy occurs in a county with a population of more than 200,000 that borders Lake Palestine, the remaining board members shall appoint a person to serve until the next election of directors for the district. If the vacant position is not regularly scheduled to be filled at that election, the board shall by order require that the election include an election to fill the position for the unexpired term. The appointed director's term ends on the qualification of the director elected at that election.

SECTION 1. Section 775.034(h), Health and Safety Code, is amended to read as follows:

(h) This section does not apply to a district located wholly in a county:

(1) with a population of more than three million; or

(2) with a population of more than 200,000 that borders Lake Palestine.

SECTION 2. The heading to Section 775.0345, Health and Safety Code, is amended to read as follows:

Sec. 775.0345. ELECTION OF BOARD IN CERTAIN [~~POPULOUS~~] COUNTIES.

SECTION 4. The heading to Section 775.0355, Health and Safety Code, is amended to read as follows:

Sec. 775.0355. DISQUALIFICATION OF EMERGENCY SERVICES COMMISSIONERS IN CERTAIN [~~POPULOUS~~] COUNTIES.

SECTION 5. Section 775.0355(b), Health and Safety Code, is amended to read as follows:

(b) This section applies only to a district located wholly in a county:

(1) with a population of more than three million; or

(2) with a population of more than 200,000 that borders Lake Palestine.

No equivalent provision.

SECTION 6. The heading to Section 775.0445, Health and Safety Code, is amended to read as follows:

Sec. 775.0445. VACANCY ON BOARD OF DISTRICT LOCATED IN CERTAIN [POPULOUS] COUNTIES.

No equivalent provision.

SECTION 8. (a) This Act does not prohibit a person who is a commissioner on the effective date of this Act and who was appointed under Section 775.034, Health and Safety Code, from running for election to the board if the person has the qualifications required for a member under Section 775.0345, Health and Safety Code, as amended by this Act.

(b) The terms of the members of a board of emergency services commissioners serving on the effective date of this Act who were appointed under Section 775.034, Health and Safety Code, before the effective date of this Act expire on the date a majority of the members of the initial board of emergency services commissioners elected under Subsection (c) of this section qualify to serve.

(c) The county judge of a county with an emergency services district to which Section 775.0345(a)(2), Health and Safety Code, as added by this Act, applies on the effective date of this Act and to which Section 775.034, Health and Safety Code, previously applied, shall establish an election to elect the initial emergency services commissioners of that district in the manner required by Sections 775.0345(c)-(h), Health and Safety Code, for election of the initial commissioners as if the district had been created on the effective date of this Act.

SECTION 4. This Act takes effect September 1, 2013.

SECTION 9. Same as introduced version.