

BILL ANALYSIS

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S.B. 1108
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Emergency communications or 9-1-1 is currently delivered by regional planning commissions, which must secure funding from the state's Commission on State Emergency Communications and are reliant on state appropriations, and emergency communication districts. There is one regional emergency communications district (CAPCOG), 24 emergency communication districts (ECD), and 26 municipal emergency communication districts (MECD) that serve various communities around the state.

While programs administered through regional planning commissions rely on the appropriation of emergency service fees from the legislature, emergency communication districts have a predictable source of revenue to support full deployment of digital 9-1-1 services, commonly referred to as Next Generation 9-1-1 (NG9-1-1), receiving collected emergency service fees directly. This direct collection of fees has allowed some areas of the state to adopt the necessary digital infrastructure for NG9-1-1 and keep up with technology demands while programs at the regional planning commissions have struggled to replace outdated infrastructure due to the uncertainty of funding levels.

S.B. 1108 authorizes the creation of regional emergency communication districts in regions with a population of less than 1.5 million where the governing bodies of each participating county and municipality in a region adopt a resolution approving the creation. The option to create a regional emergency communications district will provide elected officials in a region the ability to determine how best to meet local needs in the 9-1-1 program and ensure a predictable source of revenue in those areas.

S.B. 1108 adds a new subchapter to the Health and Safety Code to set out provisions relating to the creation and territory of a regional emergency communications district and designates such a district as a political subdivision of this state created to carry out essential governmental functions.

The bill provisions apply to state planning regions with a population of less than 1.5 million that is composed of counties and municipalities that at the date of bill passage exclusively receive 9-1-1 system services through a regional planning commission. The governing bodies of each participating county and municipality in the region adopt a resolution to participate in a regional emergency communications district. The bill authorizes the district to exercise all powers necessary or convenient to carry out the purposes of the bill's provisions.

S.B. 1108 does not affect existing emergency communications districts already created in the Health and Safety Code but does authorize regional emergency communications districts to enter into interlocal agreements with other emergency communications districts to promote enhanced public safety and increased fiscal and service efficiencies.

This legislation defines and specifies procedures related to powers and duties of a district a board of managers; the budget, annual report, allowable expenses and audit requirements; the provision of 9-1-1 services; and the imposition of emergency service fees not to exceed fifty cents per month.

As proposed, S.B. 1108 amends current law relating to the creation of regional emergency communication districts, and authorizes a fee.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of managers of a regional emergency communications district in SECTION 1 (Section 772.608, Health and Safety Code) of this bill.

Rulemaking authority is expressly granted to the governing body of the regional planning commission for the regional emergency communications district's region in SECTION 1 (Section 772.621, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 772, Health and Safety Code, by adding Subchapter H, as follows:

SUBCHAPTER H. REGIONAL EMERGENCY COMMUNICATION DISTRICTS: STATE PLANNING REGIONS WITH 9-1-1 POPULATION SERVED LESS THAN 1.5 MILLION

Sec. 772.601. **SHORT TITLE.** Provides that this subchapter may be cited as the Regional Emergency Communication Districts Act.

Sec. 772.602. **DEFINITIONS.** Defines "board," "district," "region," and "regional planning commission" in this subchapter.

Sec. 772.603. **APPLICATION OF SUBCHAPTER.** (a) Provides that this subchapter applies to a region:

- (1) composed of counties and municipalities that on September 1, 2015, exclusively received 9-1-1 system services provided by a 9-1-1 system operated through a regional planning commission;
- (2) in which the total population served by the 9-1-1 system operated through a regional planning commission was less than 1.5 million on September 1, 2015; and
- (3) in which the governing bodies of each participating county and municipality in the region adopt a resolution under Section 772.604 to participate in the district.

(b) Provides that this subchapter does not affect:

- (1) a public agency or group of public agencies acting jointly that provided 9-1-1 service before September 1, 1987, or that had voted or contracted before that date to provide that service;
- (2) a district created under Subchapter B (Emergency Communication Districts: Counties with Population Over Two Million), C (Emergency Communication Districts: Counties with Population Over 1.5 Million), D (Emergency Communication Districts: Counties with Population Over 20,000), F (Consolidated Districts), or G (Regional Emergency Communications Districts: State Planning Region with Population Over 1.5 Million); or
- (3) the distribution of funds under Section 771.072 (Equalization Surcharge).

Sec. 772.604. **CREATION OF DISTRICT.** (a) Provides that a district is created when the governing bodies of each participating county and municipality in a region adopt a resolution approving the district's creation. Provides that the district's creation is effective on the date the last resolution is adopted by a participating county or municipality.

(b) Requires the district to file with the county clerk of each county in which the district is located a certificate declaring the creation of the district.

Sec. 772.605. POLITICAL SUBDIVISION; DISTRICT POWERS. (a) Provides that a district is a political subdivision of this state created to carry out essential governmental functions.

(b) Authorizes a district to exercise all powers necessary to carry out the purposes and provisions of this subchapter.

(c) Authorizes a district created under this subchapter to enter into an interlocal agreement with an emergency communication district established under Subchapter B, C, D, F, or G to promote enhanced public safety and increased fiscal and service efficiencies.

Sec. 772.606. TERRITORY OF DISTRICT. Provides that the territory of a district consists of the territory of each participating county or municipality located in a region, and does not include any land that is located in the territory of an emergency communication district authorized under Subchapter B, C, D, F, or G.

Sec. 772.607. BOARD OF MANAGERS. (a) Provides that a district is governed by a board of managers.

(b) Provides that a district's initial board is composed of members who are appointed by the governing bodies of each participating county and municipality. Requires that at least two-thirds of the initial board members be elected officials of the participating counties and municipalities.

(c) Requires the initial board appointed under Subsection (b) to establish the size of the board and the qualifications of board members.

Sec. 772.608. POWERS AND DUTIES OF BOARD. (a) Requires the board to name, control, and manage the district.

(b) Requires the board to approve, adopt, and amend an annual budget.

(c) Authorizes the board to adopt orders, rules, bylaws, policies, and procedures governing the operations of the board and the district.

Sec. 772.609. DIRECTOR OF DISTRICT; STAFF; FISCAL AND ADMINISTRATIVE AGENT. (a) Requires the regional planning commission for the region in which the district is established to serve as the fiscal and administrative agent for the district.

(b) Authorizes the executive director of the regional planning commission for the region to serve as director of the district.

(c) Provides that the director is responsible for:

(1) performing all duties required by the board;

(2) ensuring that board policies and procedures are implemented for the purposes of this subchapter;

(3) preparing an annual budget; and

(4) employing and assigning employees of the regional planning commission to perform duties under this subchapter in accordance with the district's approved annual budget.

(d) Authorizes the director to use district money to compensate an employee assigned duties under this subchapter.

(e) Provides that the director and an employee assigned duties under this subchapter are employees of the regional planning commission for all purposes.

Sec. 772.610. AUDIT AND REPORTING REQUIREMENTS. Requires the district to prepare an annual report that includes:

- (1) the amount and source of funds received by the district;
- (2) the amount and source of funds spent by the district; and
- (3) the results of an audit of the district's affairs prepared by an independent certified public accountant in compliance with the district's policies and procedures.

Sec. 772.611. PROVISION OF 9-1-1 SERVICE. (a) Requires a district to provide 9-1-1 service to each participating county or municipality through one or a combination of the following methods and features or equivalent state-of-the-art technology:

- (1) the transfer method;
- (2) the relay method;
- (3) the dispatch method;
- (4) automatic number identification;
- (5) automatic location identification; or
- (6) selective routing.

(b) Requires the district to design, implement, and operate a 9-1-1 system for each participating county and municipality in the district.

(c) Provides that, for each individual telephone subscriber in the district, 9-1-1 service is mandatory and is not an optional service under any definition of terms relating to telephone service.

Sec. 772.612. LIABILITY. Provides that the liability protection provided by Section 771.053 (Statewide Limitation on Liability of Service Providers and Certain Public Officers) applies to services provided under this subchapter.

Sec. 772.613. PRIMARY EMERGENCY TELEPHONE NUMBER. Provides that the digits 9-1-1 are the primary emergency telephone number in a district. Provides that the public safety agency whose services are available through a 9-1-1 system:

- (1) is authorized to maintain a separate number for an emergency telephone call; and
- (2) is required to maintain a separate number for a nonemergency telephone call.

Sec. 772.614. TRANSMITTING REQUESTS FOR EMERGENCY AID. (a) Requires that the 9-1-1 system established under this subchapter be capable of transmitting requests for firefighting, law enforcement, ambulance, and medical services to a public safety agency that provides the requested service at the location from which the call originates. Authorizes a 9-1-1 system to provide for transmitting requests for other emergency services, including poison control, suicide prevention, and civil defense.

(b) Authorizes a public safety answering point to transmit emergency response requests to private safety entities with the board's approval.

(c) Authorizes a privately owned automatic intrusion alarm or other privately owned automatic alerting device, with the consent of a participating county or municipality, to be installed to cause the number 9-1-1 to be dialed to gain access to emergency services.

Sec. 772.615. 9-1-1 EMERGENCY SERVICE FEE. (a) Authorizes the board to impose a 9-1-1 emergency service fee on service users in the district.

(b) Authorizes that the fee be imposed only on the base rate charge or the charge's equivalent, excluding charges for coin-operated telephone equipment. Prohibits the fee from being imposed on:

(1) more than 100 local exchange access lines or the lines' equivalent for a single business entity at a single location, unless the lines are used by residents of the location; or

(2) any line that the Commission on State Emergency Communications has excluded from the definition of a local exchange access line or equivalent local exchange access line under Section 771.063 (Definition of Local Exchange Access Line and Equivalent Local Exchange Access Line).

(c) Requires that each line that terminates at a residential unit and is a communication link equivalent to a residential local exchange access line, if a business service user provides residential facilities, be charged the 9-1-1 emergency service fee. Requires that the fee have uniform application throughout the district and be imposed in each participating county or municipality in the district.

(d) Prohibits the amount of the fee from exceeding 50 cents per month for each line.

(e) Requires the board to set the amount of the fee each year as part of the annual budget. Requires the board to notify each service supplier of a change in the amount of the fee not later than the 91st day before the date the change takes effect.

(f) Requires the board, in imposing the fee, to attempt to match the district's revenues to the district's operating expenditures, including the current and planned expenditures for the purchase, installation, and maintenance of 9-1-1 emergency services in accordance with the district's approved annual budget and operating policies.

Sec. 772.616. COLLECTION OF FEE. (a) Requires a service supplier or a business service user that provides residential facilities and owns or leases a publicly or privately owned telephone switch used to provide telephone service to facility residents to collect the fees imposed on a customer under Section 772.615.

(b) Requires the service supplier or business service user, not later than the 30th day after the last day of the month in which the fees are collected, to deliver the fees to the district in the manner determined by the district. Requires the district to establish an alternative date for payment of fees under this section, provided that the required payment date is not earlier than the 30th day after the last day of the report period in which the fees are collected. Requires the service supplier or business service user to file with each payment to the district a receipt in the form prescribed by the district.

(c) Requires that both a service supplier and a business service user under Subsection (a) maintain records of the amount of fees the service supplier or business service user collects until at least the second anniversary of the date of collection. Authorizes the board to require, at the board's expense, an annual audit of the service supplier's or business service user's books and records with respect to the collection and remittance of the fees.

(d) Provides that a business service user that does not collect and remit the 9-1-1 emergency service fee as required is subject to a civil cause of action under Subsection

(g). Provides that a sworn affidavit by the district specifying the unremitted fees is prima facie evidence that the fees were not remitted and of the amount of the unremitted fees.

(e) Authorizes a service supplier to retain an administrative fee of two percent of the amount of fees the service supplier collects under this section.

(f) Provides that a service supplier is not required to take any legal action to enforce the collection of the 9-1-1 emergency service fee. Requires the service supplier to provide the district with an annual certificate of delinquency that includes the amount of all delinquent fees and the name and address of each nonpaying service user. Provides that the certificate of delinquency is prima facie evidence that a fee included in the certificate is delinquent and of the amount of the delinquent fee. Provides that a service user account is considered delinquent if the fee is not paid to the service supplier before the 31st day after the payment due date stated on the user's bill from the service supplier.

(g) Authorizes the district to file legal proceedings against a service user to collect fees not paid by the service user and to establish internal collection procedures and recover the cost of collection from the nonpaying service user. Require the court, if the district prevails in a legal proceeding filed under this subsection, to award costs, attorney's fees, and interest to be paid by the nonpaying service user. Provides that a delinquent fee accrues interest at the legal rate beginning on the date the payment becomes due.

Sec. 772.617. DISTRICT DEPOSITORY. Requires the board to select a depository for the district in the manner provided by law.

Sec. 772.618. ALLOWABLE EXPENSES. Provides that a district's allowable operating expenses include all costs attributable to designing a 9-1-1 system and all equipment and personnel necessary to establish and maintain a public safety answering point and other related operations that the board considers necessary.

Sec. 772.619. NUMBER AND LOCATION IDENTIFICATION. (a) Requires a service supplier, as part of 9-1-1 service, to furnish, for each call, the telephone number of the subscriber and the address associated with the number.

(b) Requires a business service user that provides residential facilities and owns or leases a publicly or privately owned telephone switch used to provide telephone service to facility residents to provide to those residential end users the same level of 9-1-1 service that a service supplier is required to provide under Subsection (a) to other residential end users in the district.

(c) Provides that information furnished under this section is confidential and is not available for public inspection.

(d) Prohibits a service supplier or business service user under Subsection (b) from being held liable to a person who uses a 9-1-1 system created under this subchapter for the release to the district of the information specified in Subsections (a) and (b).

Sec. 772.620. PUBLIC REVIEW. (a) Requires the board to solicit public comments and hold a public review hearing on the continuation of the district and the 9-1-1 emergency service fee periodically. Requires the first hearing to be held on or before the third anniversary of the date of the district's creation. Requires that subsequent hearings be held on or before the third anniversary of the date each resolution required by Subsection (c) is adopted.

(b) Requires the board to publish notice of the time and place of a hearing once a week for two consecutive weeks in a daily newspaper of general circulation published in the district. Requires that the first notice be published not later than the 16th day before the date set for the hearing.

(c) Requires the board, after the hearing, to adopt a resolution on the continuation or dissolution of the district and the 9-1-1 emergency service fee.

Sec. 772.621. DISSOLUTION PROCEDURES. (a) Requires that 9-1-1 services, if a district is dissolved, be discontinued in compliance with the district's policies and bylaws and be administered in accordance with Chapter 771 (State Administration of Emergency Communications).

(b) Requires the regional planning commission for the district's region to assume the district's assets, provide 9-1-1 service, and pay the district's debts. Requires the regional planning commission, if the district's assets are insufficient to retire all existing debts of the district on the date of dissolution, to continue to impose the 9-1-1 emergency service fee in compliance with Section 772.615. Requires each service supplier to continue to collect the fee for the regional planning commission. Authorizes proceeds from the imposition of the fee by the regional planning commission after dissolution of the district to be used only to retire the outstanding debts of the district.

(c) Requires the regional planning commission to retire the district's debts to the extent practicable according to the terms of the instruments creating the debts and the terms of the resolutions authorizing creation of the debts.

(d) Authorizes the governing body of the regional planning commission for the district's region to adopt rules necessary to administer this section.

Sec. 772.622. TRANSFER OF ASSETS. Authorizes the regional planning commission for the region in which the district is established, if a district is established under this subchapter, to transfer to the district any land, buildings, improvements, equipment, and other assets acquired by the regional planning commission in relation to the provision of 9-1-1 service in accordance with Chapter 771.

SECTION 2. Amends Section 771.001(3), Health and Safety Code, to redefine "emergency communication district."

SECTION 3. Effective date: September 1, 2015.