

By: Aycock

H.B. No. 737

Substitute the following for H.B. No. 737:

By: Zedler

C.S.H.B. No. 737

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of regional emergency communications
3 districts; authorizing the issuance of bonds; authorizing a fee.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 772, Health and Safety Code, is amended
6 by adding Subchapter H to read as follows:

7 SUBCHAPTER H. REGIONAL EMERGENCY COMMUNICATIONS DISTRICTS:
8 CERTAIN STATE PLANNING REGIONS WITH POPULATIONS OF AT LEAST 425,000

9 Sec. 772.551. DEFINITIONS. In this subchapter:

10 (1) "Board" means the board of managers of a district.

11 (2) "District" means a regional emergency
12 communications district created under this subchapter.

13 (3) "Participating jurisdiction" means a county or
14 principal municipality that adopts a resolution to participate in a
15 district created under this subchapter.

16 (4) "Principal municipality" means the municipality
17 with the largest population in a region.

18 (5) "Region" means a state planning region established
19 under Chapter 391, Local Government Code.

20 (6) "Regional planning commission" means a commission
21 or council of governments created under Chapter 391, Local
22 Government Code, for a designated region.

23 Sec. 772.552. APPLICATION OF SUBCHAPTER. This subchapter
24 applies to a region:

1 (1) with a population of at least 425,000;

2 (2) composed of counties each with a population of
3 4,500 or more but less than 311,000;

4 (3) composed of counties and municipalities that
5 operate a 9-1-1 system solely through a regional planning
6 commission; and

7 (4) in which the governing bodies of each county and
8 the principal municipality in the region adopt a resolution under
9 Section 772.553 to participate in the district.

10 Sec. 772.553. CREATION OF DISTRICT. (a) A district is
11 created when the governing bodies of each county and the principal
12 municipality in a region adopt a resolution approving the
13 district's creation and the county's or municipality's
14 participation in the district. The district's creation is
15 effective on the date the last governing body of the counties and
16 the principal municipality that comprise the region adopts the
17 resolution.

18 (b) The district shall file with the county clerk of each
19 county that comprises the district a certificate declaring the
20 creation of the district.

21 Sec. 772.554. POLITICAL SUBDIVISION; DISTRICT POWERS. (a)
22 A district is a political subdivision of this state created to carry
23 out essential governmental functions.

24 (b) A district may exercise all powers necessary or
25 convenient to carry out the purposes and provisions of this
26 subchapter.

27 Sec. 772.555. TERRITORY OF DISTRICT. (a) The territory of

1 a district consists of:

2 (1) the territory of the region in which the district
3 is established; and

4 (2) for each municipality partially located in the
5 region, the territory of that municipality located in another
6 region.

7 (b) If a municipality in the district annexes territory that
8 is outside the boundaries of the district, the annexed territory
9 becomes part of the district.

10 Sec. 772.556. BOARD. (a) A district is governed by a board
11 of managers composed of the members of the governing body of the
12 regional planning commission for the region in which the district
13 is established. Service on the board by a member of the governing
14 body is an additional duty of the member's office or employment.

15 (b) A board member serves without compensation. The
16 district shall pay all reasonable expenses necessarily incurred by
17 the board member in performing the board's functions under this
18 subchapter.

19 (c) A majority of the voting members of the board
20 constitutes a quorum.

21 Sec. 772.557. POWERS AND DUTIES OF BOARD. (a) The board
22 shall name, control, and manage the district.

23 (b) The board may adopt orders, rules, and policies
24 governing the operations of the board and the district.

25 (c) The board may contract with any person to carry out the
26 purposes of this subchapter.

27 (d) The board shall determine the nature and sources of

1 funding for the district. The board may accept grants or other
2 funding from the federal or state government, a county, a
3 municipality, or a private person.

4 (e) The board may sue in the district's name.

5 Sec. 772.558. ADVISORY COMMITTEE. (a) The board shall
6 appoint an advisory committee consisting of representatives of the
7 participating jurisdictions. The advisory committee shall review,
8 advise, and provide recommendations to the board on district
9 issues, including equipment, training, budget, and general
10 operational issues.

11 (b) An advisory committee member must have the training and
12 experience necessary to perform the duties assigned by the board.

13 (c) Chapter 2110, Government Code, does not apply to the
14 advisory committee.

15 Sec. 772.559. DIRECTOR OF DISTRICT; STAFF. (a) The
16 executive director of the regional planning commission in the
17 district's region serves as director of the district.

18 (b) The director shall:

19 (1) perform all duties required by the board;

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

22 (3) assign employees of the regional planning
23 commission to perform duties under this subchapter as necessary to
24 carry out the district's operations.

25 (c) The director may use district money to compensate an
26 employee assigned duties under this subchapter and the director.

27 (d) The director and an employee assigned duties under this

1 subchapter are employees of the regional planning commission for
2 all purposes.

3 Sec. 772.560. BUDGET; ANNUAL REPORT; AUDIT. (a) The
4 director shall prepare, under the direction of the board, an annual
5 budget for the district. The budget and any revision of the budget
6 must be approved by the board.

7 (b) As soon as practicable after the end of each district
8 fiscal year, the director shall prepare and present to the board a
9 written report of all money received by the district and district
10 expenditures for the preceding fiscal year. The report must show,
11 in detail, the operations of the district for the period covered by
12 the report.

13 (c) The board annually shall have an independent financial
14 audit made of the district.

15 Sec. 772.561. PROVISION OF 9-1-1 SERVICE. (a) A district
16 shall provide 9-1-1 service to each participating jurisdiction
17 through one or a combination of the following methods and features
18 or equivalent state-of-the-art technology:

- 19 (1) the transfer method;
- 20 (2) the relay method;
- 21 (3) the dispatch method;
- 22 (4) automatic number identification;
- 23 (5) automatic location identification; or
- 24 (6) selective routing.

25 (b) The district shall recommend minimum standards for a
26 9-1-1 system. The 9-1-1 system must be computerized.

27 (c) For each individual telephone subscriber in the

1 district, 9-1-1 service is mandatory and is not an optional service
2 under any definition of terms relating to telephone service.

3 Sec. 772.562. LIABILITY. A service supplier involved in
4 providing 9-1-1 service, a manufacturer of equipment used in
5 providing 9-1-1 service, or an officer or employee of a service
6 supplier involved in providing 9-1-1 service may not be held liable
7 for any claim, damage, or loss arising from the provision of 9-1-1
8 service unless the act or omission proximately causing the claim,
9 damage, or loss constitutes gross negligence, recklessness, or
10 intentional misconduct.

11 Sec. 772.563. PRIMARY EMERGENCY TELEPHONE NUMBER. The
12 digits 9-1-1 are the primary emergency telephone number in a
13 district. A public safety agency whose services are available
14 through a 9-1-1 system:

15 (1) may maintain a separate number for an emergency
16 telephone call; and

17 (2) shall maintain a separate number for a
18 nonemergency telephone call.

19 Sec. 772.564. TRANSMITTING REQUESTS FOR EMERGENCY AID. (a)
20 A 9-1-1 system established under this subchapter must be capable of
21 transmitting requests for firefighting, law enforcement,
22 ambulance, and medical services to a public safety agency that
23 provides the requested service at the location from which the call
24 originates. A 9-1-1 system may provide for transmitting requests
25 for other emergency services, including poison control, suicide
26 prevention, and civil defense.

27 (b) A public safety answering point may transmit emergency

1 response requests to private safety entities.

2 (c) With the consent of a participating jurisdiction, a
3 privately owned automatic intrusion alarm or other privately owned
4 automatic alerting device may be installed to cause the number
5 9-1-1 to be dialed to gain access to emergency services.

6 Sec. 772.565. 9-1-1 EMERGENCY SERVICE FEE. (a) The board
7 may impose a 9-1-1 emergency service fee on service users in the
8 district.

9 (b) The 9-1-1 emergency service fee may be imposed only on
10 the base rate charge or the charge's equivalent, excluding charges
11 for coin-operated telephone equipment. The fee may not be imposed
12 on:

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

16 (2) any line that the Commission on State Emergency
17 Communications has excluded from the definition of a local exchange
18 access line or equivalent local exchange access line under Section
19 771.063.

20 (c) If a business service user provides residential
21 facilities, each line that terminates at a residential unit and is a
22 communication link equivalent to a residential local exchange
23 access line shall be charged the 9-1-1 emergency service fee. The
24 fee must have uniform application throughout the district and be
25 imposed in each participating jurisdiction in the district.

26 (d) The rate of the 9-1-1 emergency service fee may not
27 exceed six percent of the monthly base rate the principal service

1 supplier in the participating jurisdiction charges a service user.

2 (e) The board shall set the amount of the 9-1-1 emergency
3 service fee each year as part of the annual budget. The board shall
4 notify each service supplier of a change in the amount of the fee
5 not later than the 91st day before the date the change takes effect.

6 (f) In imposing the 9-1-1 emergency service fee, the board
7 shall attempt to match the district's revenues to the district's
8 operating expenditures and to provide reasonable reserves for
9 contingencies and for the purchase and installation of 9-1-1
10 emergency service equipment. If the revenue received from the fee
11 exceeds the amount of money needed to fund the district, the board
12 by resolution shall reduce the rate of the fee to an amount adequate
13 to fund the district as required by this subsection or suspend the
14 imposition of the fee. If the board suspends the imposition of the
15 fee, the board by resolution may reinstitute the fee if money
16 received by the district is not adequate to fund the district.

17 (g) For a county or municipality whose governing body at a
18 later date votes to receive 9-1-1 service from the district, the
19 9-1-1 emergency service fee is imposed beginning on the date
20 specified by the board. The board may charge the incoming county or
21 municipality an additional amount of money to cover the initial
22 cost of providing 9-1-1 service to that county or municipality. The
23 fee authorized to be charged in a district applies to new territory
24 added to the district under Section 772.555(b) when the territory
25 becomes part of the district.

26 Sec. 772.566. COLLECTION OF 9-1-1 EMERGENCY SERVICE FEE.

27 (a) Each billed service user is liable for the 9-1-1 emergency

1 service fee imposed under Section 772.565 until the fee is paid to
2 the service supplier. The fee must be added to and stated
3 separately in the service user's bill from the service supplier.
4 The service supplier shall collect the fee at the same time as the
5 service charge to the service user in accordance with the service
6 supplier's regular billing practice. A business service user that
7 provides residential facilities and owns or leases a publicly or
8 privately owned telephone switch used to provide telephone service
9 to facility residents shall collect the fee and transmit the
10 collected fees monthly to the district.

11 (b) The amount collected by a service supplier from the
12 9-1-1 emergency service fee is due quarterly. The service supplier
13 shall remit the amount collected in a calendar quarter to the
14 district not later than the 60th day after the last day of the
15 calendar quarter. With each payment, the service supplier shall
16 file a return in a form prescribed by the board.

17 (c) Both a service supplier and a business service user
18 under Subsection (a) shall maintain records of the amount of 9-1-1
19 emergency service fees the service supplier or business service
20 user collects until at least the second anniversary of the date of
21 collection. The board may require, at the board's expense, an
22 annual audit of the service supplier's or business service user's
23 books and records with respect to the collection and remittance of
24 the fees.

25 (d) A business service user that does not collect and remit
26 the 9-1-1 emergency service fee as required is subject to a civil
27 cause of action under Subsection (g). A sworn affidavit by the

1 district specifying the unremitted fees is prima facie evidence
2 that the fees were not remitted and of the amount of the unremitted
3 fees.

4 (e) A service supplier may retain an administrative fee of
5 two percent of the amount of 9-1-1 emergency service fees the
6 service supplier collects under this section.

7 (f) A service supplier is not required to take any legal
8 action to enforce the collection of the 9-1-1 emergency service
9 fee. The service supplier shall provide the district with an annual
10 certificate of delinquency that includes the amount of all
11 delinquent fees and the name and address of each nonpaying service
12 user. The certificate of delinquency is prima facie evidence that a
13 fee included in the certificate is delinquent and of the amount of
14 the delinquent fee. A service user account is considered
15 delinquent if the fee is not paid to the service supplier before the
16 31st day after the payment due date stated on the user's bill from
17 the service supplier.

18 (g) The district may file legal proceedings against a
19 service user to collect 9-1-1 emergency service fees not paid by the
20 service user and may establish internal collection procedures and
21 recover the cost of collection from the nonpaying service user. If
22 legal proceedings are filed by the district, the court may award
23 costs, attorney's fees, and interest to be paid by the nonpaying
24 service user. A delinquent fee accrues interest at the legal rate
25 beginning on the date the payment becomes due.

26 Sec. 772.567. DISTRICT DEPOSITORY. (a) The board shall
27 select a depository for the district in the manner provided by law

1 for the selection of a county depository.

2 (b) A depository selected by the board is the district's
3 depository until the second anniversary of the date of selection
4 and until a successor depository is selected and qualified.

5 Sec. 772.568. ALLOWABLE EXPENSES. A district's allowable
6 operating expenses include all costs attributable to designing a
7 9-1-1 system and all equipment and personnel necessary to establish
8 and operate a public safety answering point and other related
9 operations that the board considers necessary.

10 Sec. 772.569. NUMBER AND LOCATION IDENTIFICATION. (a) As
11 part of computerized 9-1-1 service, a service supplier shall
12 furnish, for each call, the telephone number of the subscriber and
13 the address associated with the number.

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

21 (c) Information furnished under this section is
22 confidential and is not available for public inspection.

23 (d) A service supplier or business service user under
24 Subsection (b) may not be held liable to a person who uses a 9-1-1
25 system created under this subchapter for the release to the
26 district of the information specified in Subsections (a) and (b).

27 Sec. 772.570. PUBLIC REVIEW. (a) Periodically, the board

1 shall solicit public comments and hold a public review hearing on
2 the continuation of the district and the 9-1-1 emergency service
3 fee. The first hearing shall be held on or before the third
4 anniversary of the date of the district's creation. Subsequent
5 hearings shall be held on or before the third anniversary of the
6 date each resolution required by Subsection (c) is adopted.

7 (b) The board shall publish notice of the time and place of a
8 hearing once a week for two consecutive weeks in a daily newspaper
9 of general circulation published in the district. The first notice
10 must be published not later than the 16th day before the date set
11 for the hearing.

12 (c) After the hearing, the board shall adopt a resolution on
13 the continuation or dissolution of the district and the 9-1-1
14 emergency service fee.

15 Sec. 772.571. DISSOLUTION PROCEDURES. (a) If a district is
16 dissolved, 9-1-1 service must be discontinued. The regional
17 planning commission for the district's region shall assume the
18 district's assets, provide 9-1-1 service, and pay the district's
19 debts. If the district's assets are insufficient to retire all
20 existing debts of the district on the date of dissolution, the
21 regional planning commission shall continue to impose the 9-1-1
22 emergency service fee, and each service supplier shall continue to
23 collect the fee for the regional planning commission. Proceeds
24 from the imposition of the fee by the regional planning commission
25 after dissolution of the district may be used only to retire the
26 outstanding debts of the district.

27 (b) The regional planning commission shall retire the

1 district's debts to the extent practicable according to the terms
2 of the instruments creating the debts and the terms of the
3 resolutions authorizing creation of the debts.

4 (c) The governing body of the regional planning commission
5 for the district's region may adopt rules necessary to administer
6 this section.

7 Sec. 772.572. ISSUANCE OF BONDS. The board may issue bonds
8 in the name of the district to finance:

9 (1) the acquisition by any method of facilities,
10 equipment, or supplies necessary for the district to provide 9-1-1
11 service to each participating jurisdiction; or

12 (2) the installation of equipment necessary for the
13 district to provide 9-1-1 service to each participating
14 jurisdiction.

15 Sec. 772.573. REPAYMENT OF BONDS. The board may provide for
16 the payment of principal of and interest on district bonds by
17 pledging all or part of the district's revenues from the 9-1-1
18 emergency service fee or from other sources.

19 Sec. 772.574. ADDITIONAL SECURITY FOR BONDS. (a) District
20 bonds may be additionally secured by a deed of trust or mortgage
21 lien on all or part of the district's physical properties and rights
22 appurtenant to the properties, vesting in the trustee power to sell
23 the properties for payment of the indebtedness, power to operate
24 the properties, and any other power necessary for the further
25 security of the bonds.

26 (b) The bond trust indenture, regardless of the existence of
27 a deed of trust or mortgage lien on the properties, may:

1 (1) contain provisions prescribed by the board for the
2 security of the bonds and the preservation of the trust estate; and

3 (2) make provisions for:

4 (A) amendment or modification; and

5 (B) investment of district funds.

6 (c) A purchaser under a sale under the deed of trust or
7 mortgage lien is the absolute owner of the properties and rights
8 purchased and may maintain and operate the properties.

9 Sec. 772.575. FORM OF BONDS. (a) A district may issue
10 bonds in various series or issues.

11 (b) Bonds may mature serially or otherwise not more than 25
12 years after the bonds' date of issuance. Bonds shall bear interest
13 at any rate permitted by state law.

14 (c) A district's bonds and interest coupons:

15 (1) are investment securities under Chapter 8,
16 Business & Commerce Code;

17 (2) may be issued registrable as to principal or to
18 both principal and interest; and

19 (3) may be made redeemable before maturity or contain
20 a mandatory redemption provision at the option of the district.

21 (d) A district may issue bonds in the form, denomination,
22 and manner and under the terms and conditions provided by the board
23 in the resolution authorizing the bonds' issuance. The bonds must
24 be signed and executed as provided by the board in the resolution.

25 Sec. 772.576. PROVISIONS OF BONDS. (a) In this section,
26 "resolution" means a board resolution authorizing the issuance of
27 bonds, including refunding bonds.

1 (b) In a resolution, the board may:

2 (1) provide for the flow of funds and the
3 establishment and maintenance of an interest and sinking fund,
4 reserve fund, or other fund; and

5 (2) make additional covenants with respect to the
6 bonds, the pledged revenues, and the operation and maintenance of
7 any facilities the revenue of which is pledged.

8 (c) A resolution may:

9 (1) prohibit the further issuance of bonds or other
10 obligations payable from the pledged revenue; or

11 (2) reserve the right to issue additional bonds to be
12 secured by a pledge of and payable from the revenue on a parity with
13 or subordinate to the lien and pledge in support of the bonds being
14 issued.

15 (d) A resolution may contain other provisions and covenants
16 determined by the board.

17 (e) The board may adopt and have executed any other
18 proceedings or instruments necessary or convenient for issuance of
19 bonds.

20 Sec. 772.577. APPROVAL AND REGISTRATION OF BONDS. (a)
21 Bonds issued by a district must be submitted to the attorney general
22 for examination.

23 (b) If the attorney general finds that the bonds have been
24 authorized in accordance with law, the attorney general shall
25 approve the bonds. On approval by the attorney general, the
26 comptroller shall register the bonds.

27 (c) After approval and registration, the bonds are

1 incontestable in any court or other forum for any reason and are
2 valid and binding obligations in accordance with the bonds' terms
3 for all purposes.

4 Sec. 772.578. REFUNDING BONDS. (a) A district may issue
5 bonds to refund all or any part of the district's outstanding bonds,
6 including matured and unpaid interest coupons.

7 (b) Refunding bonds shall mature serially or otherwise, as
8 determined by the board, not more than 25 years after the bonds'
9 date of issuance. Bonds shall bear interest at any rate permitted
10 by state law.

11 (c) Refunding bonds may be payable from the same source as
12 the bonds being refunded or from other sources.

13 (d) Refunding bonds must be approved by the attorney general
14 in the same manner as the district's other bonds. The comptroller
15 shall register the refunding bonds on the surrender and
16 cancellation of the bonds being refunded.

17 (e) A resolution authorizing the issuance of refunding
18 bonds may provide that the bonds be sold and the proceeds deposited
19 in a place at which the bonds being refunded are payable, in which
20 case the refunding bonds may be issued before the cancellation of
21 the bonds being refunded. If refunding bonds are issued before
22 cancellation of the other bonds, an amount sufficient to pay the
23 principal of the bonds being refunded and interest on those bonds
24 accruing to the bonds' maturity dates or option dates, if the bonds
25 have been duly called for payment before maturity according to the
26 bonds' terms, must be deposited in the place at which the bonds
27 being refunded are payable. The comptroller shall register the

1 refunding bonds without the surrender and cancellation of the bonds
2 being refunded.

3 (f) A refunding may be accomplished in one or more
4 installment deliveries. Refunding bonds and the bonds' interest
5 coupons are investment securities under Chapter 8, Business &
6 Commerce Code.

7 (g) Instead of the method set forth in Subsections (a)-(f),
8 a district may refund bonds, notes, or other obligations as
9 provided by the general laws of this state.

10 Sec. 772.579. BONDS AS INVESTMENTS AND SECURITY FOR
11 DEPOSITS. (a) District bonds are legal and authorized investments
12 for:

- 13 (1) a bank;
- 14 (2) a savings bank;
- 15 (3) a credit union;
- 16 (4) a trust company;
- 17 (5) a savings and loan association;
- 18 (6) an insurance company;
- 19 (7) a fiduciary;
- 20 (8) a trustee;
- 21 (9) a guardian; and
- 22 (10) a sinking fund of a municipality, county, school
23 district, special district, and other political subdivision of this
24 state and other public funds of this state and state agencies,
25 including the permanent school fund.

26 (b) District bonds may secure deposits of public funds of
27 the state or a municipality, county, school district, or other

1 political subdivision of this state. The bonds are lawful and
2 sufficient security for deposits to the extent of the bonds' value
3 if accompanied by all unmatured coupons.

4 (c) District bonds are authorized investments under Chapter
5 2256, Government Code.

6 Sec. 772.580. EXEMPTION FROM TAXATION. A bond issued by the
7 district under this subchapter, any transaction relating to the
8 bond, and profits made in the sale or redemption of the bond are
9 exempt from taxation by the state or by any municipality, county,
10 special district, or other political subdivision of this state.

11 Sec. 772.581. TRANSFER OF ASSETS. If a regional emergency
12 communications district is established under this subchapter, the
13 regional planning commission for the region in which the district
14 is established may transfer to the district any land, buildings,
15 improvements, equipment, and other assets acquired by the regional
16 planning commission in relation to the provision of 9-1-1 service.

17 SECTION 2. Section 771.001(3), Health and Safety Code, is
18 amended to read as follows:

19 (3) "Emergency communication district" means:

20 (A) a public agency or group of public agencies
21 acting jointly that provided 9-1-1 service before September 1,
22 1987, or that had voted or contracted before that date to provide
23 that service; or

24 (B) a district created under Subchapter B, C, D,
25 F, ~~G~~, or H, Chapter 772.

26 SECTION 3. This Act takes effect September 1, 2015.