

By: Kolkhorst

S.B. No. 1563

A BILL TO BE ENTITLED

AN ACT

relating to audits of the fiscal accounts and records of emergency services districts.

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

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

SUBCHAPTER N. AUDIT OF DISTRICTS

Sec. 775.451. DUTY TO AUDIT. (a) The board shall have the district's fiscal accounts and records audited annually at the expense of the district.

(b) The person who performs the audit shall be a certified public accountant holding a license issued by the Texas State Board of Public Accountancy.

(c) The audit required by this section shall be completed not later than the 120th day after the close of the district's fiscal year.

Sec. 775.452. FORM OF AUDIT. (a) For a district located wholly in one county, the commissioners court shall adopt accounting and auditing manuals.

(b) For a district located in more than one county, the county auditors of each county in which the district is located, with the approval of the commissioners court of each county, shall adopt accounting and auditing manuals.

(c) Except as otherwise provided by the manuals, the

1 district audit shall be performed according to the generally
2 accepted auditing standards adopted by the American Institute of
3 Certified Public Accountants. Financial statements shall be
4 prepared in accordance with generally accepted accounting
5 principles.

6 Sec. 775.453. FINANCIAL REPORTS. The district's
7 depository, the district's treasurer, and the district's
8 bookkeeper, if any, who receives or has control over any district
9 funds shall keep a full and itemized account of district funds in
10 the depository's, treasurer's, or bookkeeper's possession. The
11 itemized accounts and records shall be available for audit.

12 Sec. 775.454. FILING OF AUDITS, AFFIDAVITS, AND FINANCIAL
13 REPORTS. (a) After the board has approved the audit report, the
14 board shall, not later than the 135th day after the close of the
15 district's fiscal year, submit a copy of the report to the
16 commissioners court of each county in which the district is located
17 for filing.

18 (b) If the board refuses to approve the annual audit report,
19 the board shall, not later than the 135th day after the close of the
20 district's fiscal year, submit a copy of the report to the
21 commissioners court of each county in which the district is located
22 for filing, accompanied by a statement from the board explaining
23 the reasons for the board's failure to approve the report.

24 (c) Copies of each audit report, annual financial dormancy
25 affidavit described by Section 775.458, or annual financial report
26 described by Section 775.459, as applicable, shall be filed
27 annually in the office of the district.

1 (d) Each district shall file with the commissioners court of
2 each county in which the district is located an annual filing
3 affidavit, executed by an authorized representative of the board,
4 stating that all copies of the annual audit report, annual
5 financial dormancy affidavit, or annual financial report have been
6 filed under this section.

7 (e) The annual filing affidavit shall be submitted with the
8 applicable annual document when the document is submitted to a
9 commissioners court for filing under this subchapter.

10 (f) A commissioners court shall file with the attorney
11 general the names of any districts in the county that do not comply
12 with this subchapter.

13 (g) A submission to a county commissioners court required by
14 this section may be made electronically.

15 Sec. 775.455. REVIEW BY COMMISSIONERS COURT. (a) The
16 commissioners court of each county in which a district is located
17 may review the audit report of the district.

18 (b) If the commissioners court has any objections or
19 determines any violations of generally accepted auditing standards
20 or accounting principles, statutes, or board rules, or if the
21 commissioners court has any recommendations, the commissioners
22 court shall notify the board and the district's auditor.

23 (c) Before the audit report may be accepted by the
24 commissioners court as being in compliance with the provisions of
25 this subchapter, the board and the auditor shall remedy objections
26 and correct violations of which they have been notified by the
27 commissioners court.

1 (d) If the audit report indicates that a penal law has been
2 violated, the commissioners court shall notify the appropriate
3 county or district attorney and the attorney general.

4 (e) A commissioners court in which a district is located may
5 request that the state auditor assist in the establishment of
6 standards and procedures for review of district audits by the
7 commissioners court. Participation by the state auditor is subject
8 to approval by the legislative audit committee for inclusion in the
9 audit plan under Section 321.013(c), Government Code.

10 Sec. 775.456. REVIEW BY COUNTY AUDITOR. (a) A county
11 auditor may review the audit report of each district in the county.

12 (b) A commissioners court may request that the state auditor
13 assist in the establishment of standards and procedures for review
14 of district audits by the county auditors. Participation by the
15 state auditor is subject to approval by the legislative audit
16 committee for inclusion in the audit plan under Section 321.013(c),
17 Government Code.

18 Sec. 775.457. ACCESS TO AND MAINTENANCE OF DISTRICT
19 RECORDS. (a) The commissioners court of each county in which a
20 district is located shall have access to all vouchers, receipts,
21 district fiscal and financial records, and other district records
22 the commissioners court considers necessary.

23 (b) All district fiscal records shall be prepared on a
24 timely basis and maintained in an orderly manner in accordance with
25 generally accepted accounting principles. The fiscal records shall
26 be available for public inspection during regular business hours. A
27 district's fiscal records may be removed from the district's office

1 for the purposes of recording the district's fiscal affairs and
2 preparing an audit, during which time the fiscal records are under
3 the control of the district's auditor.

4 Sec. 775.458. FINANCIALLY DORMANT DISTRICTS. (a) A
5 financially dormant district is a district that had:

6 (1) \$500 or less of receipts from operations, tax
7 assessments, loans, contributions, or any other sources during the
8 calendar year;

9 (2) \$500 or less of disbursements of funds during the
10 calendar year;

11 (3) no bonds or other long-term (more than one year)
12 liabilities outstanding during the calendar year; and

13 (4) no cash or investments that exceeded \$5,000 at any
14 time during the calendar year.

15 (b) A financially dormant district may elect to file with
16 the commissioners court of each county in which the district is
17 located a financial dormancy affidavit instead of complying with
18 the audit requirements of Section 775.451.

19 (c) The annual financial dormancy affidavit must be:

20 (1) prepared in a format prescribed by the
21 commissioners court to which the affidavit is submitted; and

22 (2) submitted for filing by an authorized
23 representative of the district.

24 (d) The affidavit must be filed annually on or before
25 January 31 until the district becomes financially active. The board
26 shall send notice to the commissioners court of each county in which
27 the district is located if the district becomes financially active.

1 After the district becomes financially active, the district shall
2 file annual audit reports as prescribed by this subchapter.

3 (e) A district that becomes financially dormant after
4 having been financially active shall file annual financial dormancy
5 affidavits on or before January 31, until the district is dissolved
6 or again becomes financially active.

7 (f) A district governed by this section is subject to
8 periodic audits by the commissioners court of each county in which
9 the district is located.

10 Sec. 775.459. AUDIT REPORT EXEMPTION. (a) A district may
11 elect to file annual financial reports with the commissioners court
12 of each county in which the district is located instead of complying
13 with the audit requirements of Section 775.451 if:

14 (1) the district had no bonds or other long-term (more
15 than one year) liabilities outstanding during the fiscal period;

16 (2) the district did not have gross receipts from
17 operations, loans, taxes, or contributions in excess of \$250,000
18 during the fiscal period; and

19 (3) the district's cash and temporary investments were
20 not in excess of \$250,000 during the fiscal period.

21 (b) The annual financial report must be:

22 (1) accompanied by an affidavit attesting to the
23 accuracy and authenticity of the financial report that is signed by
24 an authorized representative of the district;

25 (2) prepared in a format prescribed by the
26 commissioners court to which the report is submitted; and

27 (3) on file with the commissioners court of each

1 county in which the district is located not later than the 45th day
2 after the close of the district's fiscal year.

3 (c) A district governed by this section is subject to
4 periodic audits by the commissioners court of each county in which
5 the district is located.

6 Sec. 775.460. FAILURE TO AUDIT. If a district fails to file
7 an audit report, an annual financial dormancy affidavit, or an
8 annual financial report, as applicable, according to the schedule
9 required by this subchapter, the president and treasurer of the
10 board are removed from the board and:

11 (1) in a district located wholly in one county, the
12 commissioners court shall fill the vacancies as provided by Section
13 775.034; and

14 (2) in a district located in more than one county,
15 notwithstanding Section 775.044, the commissioners courts shall
16 fill the vacancies with qualified persons by joint order.

17 Sec. 775.461. POLICIES AND AUDITS OF DISTRICTS. (a) The
18 board shall adopt a written:

19 (1) code of ethics for district directors, officers,
20 employees, and persons who are engaged in handling investments for
21 the district;

22 (2) policy relating to travel expenditures;

23 (3) policy relating to district investments that
24 ensures that:

25 (A) purchases and sales of investments are
26 initiated by authorized individuals, conform to investment
27 objectives and regulations, and are properly documented and

1 approved; and

2 (B) periodic review is made of district
3 investments to evaluate investment performance and security;

4 (4) policy and procedure for selection, monitoring, or
5 review and evaluation of professional services; and

6 (5) policy that ensures a better use of management
7 information including:

8 (A) budgets for use in planning and controlling
9 cost;

10 (B) an audit committee of the board; and

11 (C) uniform reporting requirements that require
12 the use of generally accepted accounting and audit principles.

13 (b) The state auditor may audit the financial transactions
14 of a district if the state auditor determines that the audit is
15 necessary.

16 SECTION 2. Sections 775.082, 775.0821, and 775.0825, Health
17 and Safety Code, are repealed.

18 SECTION 3. This Act takes effect July 1, 2018.