

BILL ANALYSIS

Senate Research Center

H.B. 1983
By: Bosse (Madla)
Economic Development
5/9/1999
Engrossed

DIGEST

The Advisory Commission on State Emergency Communications (advisory commission) was created in 1987 to assist local governments in providing 9-1-1 telephone service by assisting in the delivery of 9-1-1 calls to locally run answering points provided by regional planning commissions. The advisory commission is scheduled to be abolished by September 1, 1999, unless continued by the legislature. This bill would rename the advisory commission as the Commission on State Emergency Communications (commission) and continues the commission until September 1, 2011.

PURPOSE

As proposed, H.B. 1983 renames the Advisory Commission on State Emergency Communications as the Commission on State Emergency Communications, and allows for the commission's continuance.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the comptroller in SECTION 29 (Sections 771.077(a) and (b), Health and Safety Code) and to the Commission on State Emergency Communications in SECTION 30 (Section 771.078, Health and Safety Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 771.001(1), (4), and (10), Health and Safety Code, to define "commission," rather than "advisory commission."

SECTION 2. Amends the heading of Chapter 771B, Health and Safety Code, as follows:

SUBCHAPTER B. COMMISSION ON STATE EMERGENCY COMMUNICATIONS

SECTION 3. Amends Section 771.031, Health and Safety Code, to set forth the required composition of the membership of the Commission on State Emergency Communications (commission). Provides that appointed members of the commission serve staggered terms of six years, with the terms of one-third of the members, rather than four members, expiring September 1 of each odd-numbered year. Requires the governor to designate one appointed member of the commission as the presiding officer of the commission to serve at the pleasure of the governor. Deletes text regarding the composition of the Advisory Commission on State Emergency Communications. Deletes a provision regarding the major association representing municipal governments.

SECTION 4. Amends Chapter 771B, Health and Safety Code, by adding Sections 771.0315 and 771.0316, as follows:

Sec. 771.0315. **ELIGIBILITY FOR MEMBERSHIP OR TO BE GENERAL COUNSEL.** Adds standard language developed by the Sunset Advisory Commission regarding eligibility for membership or to be general counsel.

Sec. 771.0316. **GROUND FOR REMOVAL OF COMMISSION MEMBER.** Adds standard language developed by the Sunset Advisory Commission regarding grounds for removal of commission members.

SECTION 5. Provides that the commission is abolished and this chapter expires September 1, 2011, rather than 1999, unless continued in existence as provided by Chapter 325, Government Code (Texas Sunset

Act).

SECTION 6. Amends Section 771.033, Health and Safety Code, as follows:

Sec. 771.033. New heading: MEETINGS. Requires the commission to meet in certain places fixed by the commission and at the call of the presiding officer, rather than the chairman. Deletes provision requiring the commission to appoint a chairman. Makes a conforming change.

SECTION 7. Amends Section 771.034, Health and Safety Code, to make a conforming change.

SECTION 8. Amends Section 771.035, Health and Safety Code, as follows:

Sec. 771.035. New heading: STAFF; PERSONNEL POLICIES. Adds standard language developed by the Sunset Advisory Commission regarding staff and personnel policies. Makes a conforming change.

SECTION 9. Amends Chapter 771B, Health and Safety Code, by adding Section 771.036, as follows:

Sec. 771.036. STANDARDS OF CONDUCT. Adds standard language developed by the Sunset Advisory Commission regarding standards of conduct.

SECTION 10. Amends Chapter 771B, Health and Safety Code, by adding Section 771.037, as follows:

Sec. 771.037. COMMISSION MEMBER TRAINING. Adds standard language developed by the Sunset Advisory Commission regarding commission member training.

SECTION 11. Amends Chapter 771B, Health and Safety Code, by adding Section 771.038, as follows:

Sec. 771.038. PUBLIC COMMENTS. Adds standard language developed by the Sunset Advisory Commission regarding public comments.

SECTION 12. Amends Chapter 771B, Health and Safety Code, by adding Section 771.039, as follows:

Sec. 771.039. COMPLAINTS. Adds standard language developed by the Sunset Advisory Commission regarding complaints.

SECTION 13. Amends Section 771.051, Health and Safety Code, as follows:

Sec. 771.051. New heading: POWERS AND DUTIES OF COMMISSION. Provides that the commission is the state's authority on emergency communications. Requires the commission to coordinate emergency communications services and providers, and make efforts to gain voluntary cooperation in the commission's activities of emergency communications authorities and providers outside the jurisdiction of the commission. Requires the commission to develop and implement policies that clearly separate the policy making responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission. Makes conforming changes.

SECTION 14. Amends Section 771.052, Health and Safety Code, to make a conforming change.

SECTION 15. Amends Section 771.053(b), Health and Safety Code, to make a conforming change.

SECTION 16. Amends Section 771.055, Health and Safety Code, as follows:

Sec. 771.055. New heading: STRATEGIC PLANNING. Requires each regional planning commission to develop a regional plan for the establishment and operation of 9-1-1 service throughout the region. Requires a regional plan to describe, rather than include a description of, how the 9-1-1 service is to be administered. Requires a regional plan to be updated at least once every state fiscal biennium and to include projected financial operating information for two state fiscal years, and strategic planning information for five state fiscal years, following the submission of the plan. Requires the commission to prepare a five-year strategic plan, required to be delivered to the governor and the Legislative Budget Board along with the commission's appropriation

request, for statewide 9-1-1 service using information contained in regional plans and provided by emergency communication districts and home-rule municipalities that operate 9-1-1 systems independent of the state system. Requires the strategic plan to include certain information and make certain provisions.

SECTION 17. Amends Section 771.056, Health and Safety Code, as follows:

Sec. 771.056. New heading: SUBMISSION OF REGIONAL PLAN TO COMMISSION. Requires a commission established under Chapter 391, Local Government Code, (regional planning commission) to submit a regional plan or an amendment to the plan, to the commission for approval. Requires the commission to notify a regional planning commission of the approval or disapproval of a regional plan or an amendment not later than 90 days after the commission received an administratively complete plan or amendment. Requires the commission to allocate to a region that submitted a plan approved by the commission, funds collected under Sections 771.071, 771.0711, and 771.072 in an amount considered to be appropriate to operate 9-1-1 service according to contracts executed under Section 771.078. Makes conforming changes.

SECTION 18. Amends Section 771.057, Health and Safety Code, to make a conforming change.

SECTION 19. Amends Section 771.058, Health and Safety Code, by amending Subsections (b) and (c) and adding Subsection (d), to authorize an emergency communication district described by Sections 771.001(3)(A) or 771.001(3)(B), rather than 771.001(2)(A) or 771.001(2)(B), to choose to participate in a regional plan. Provides that participation in a regional plan by a public agency operating or group of agencies (public agency) operating as an emergency communication district as provided by Subsection (d) does not affect the authority of the public agency to set fees in territory under its jurisdiction at the time of recognition or added to the district after the recognition. Authorizes a public agency, in a county with a population of 120,000 or less, that contracted with a 9-1-1 service provider before September 1, 1987 to withdraw from a regional plan in which it chooses to participate, and requires the agency to be recognized and operate as an emergency communications district. Provides that a public agency is governed by Chapter 772D and is authorized to collect all fees authorized by that subchapter or other applicable law.

SECTION 20. Amends Section 771.061(b), Health and Safety Code, to delete text regarding a regional planning commission. Makes a conforming change.

SECTION 21. Amends Section 771.062, Health and Safety Code, to authorize an emergency communication district or a home-rule municipality that operates an independent 9-1-1 system to submit strategic planning information to the commission, which should provide certain information. Requires the commission to establish guidelines for preparing information for a strategic plan, which are required to include the time frames of information and instructions for submission.

SECTION 22. Amends Sections 771.071(a), (c), (e), and (f), Health and Safety Code, to require the commission to deposit money from fees imposed on customers under this section to the credit of the 9-1-1 services fee fund. Requires the commission to appropriate money appropriated to the commission from the 9-1-1 services fee fund to regional planning commissions for use in providing 9-1-1 services as provided by contracts executed under Section 771.078, and to distribute money to public agencies for use in providing those services, rather than requiring the regional planning commission or designated public agency to distribute fees to public agencies in the county for providing 9-1-1 service. Deletes text regarding the regional planning commission or other designated public agency. Makes conforming changes.

SECTION 23. Amends Sections 771.0711(a), (b), (c), (e), (f), and (g), Health and Safety Code, to provide that money the commission collects under this subsection is to remain outside the state treasury until the money is deposited to the credit of the 9-1-1 services fee fund. Requires the commission to distribute money to each emergency communications district that does not participate in the state system, within 15 days of collecting money under Subsection (b), in an amount that reflects the total amount collected by the population of the area served by the district bears to the population of the state. Requires the commission to deposit the remaining money collected under Subsection (b) to the 9-1-1 services fee fund. Deletes text regarding local fees. Deletes text regarding areas served by a commission or district. Makes conforming and nonsubstantive changes.

SECTION 24. Amends Sections 771.072(a), (c), and (f), Health and Safety Code, to require an interstate long-distance service provider to deliver surcharges imposed on its customers to the commission not later than the 30th day, rather than the 60th day, after the last day of the month in which the surcharges are collected. Provides that Section 403.095, Government Code, rather than Sections 403.094 and 403.095, does not apply to an account established by this subsection. Makes conforming changes.

SECTION 25. Amends Sections 771.0725(b), (c), and (d), Health and Safety Code, to provide that a review of a rate or allocation is not a rate change for purposes of Chapter 36 or 53, Utilities Code, rather than Title IIE or Title IIIIE, Public Utility Regulatory Act of 1995 (Article 1446e-0, V.T.C.S.). Makes conforming changes.

SECTION 26. Amends Sections 771.073(b), (c), (e), (f), and (g), Health and Safety Code, to require a business service user to collect the 9-1-1 emergency service fee and transmit the fees monthly to the commission, rather than to collect the fee. Authorizes a court to award to the commission court costs, attorney fees, and interest on a delinquent amount, to be paid by a nonpaying business user. Provides that a sworn affidavit by the commission, rather than an entity that administers 9-1-1 service, specifying the unremitted fees is prima facie evidence that the fees were not remitted. Authorizes a service provider to retain one percent, rather than two percent, of the total amount of the fees collected. Makes conforming changes.

SECTION 27. Amends Section 771.075, Health and Safety Code, to make nonsubstantive and conforming changes.

SECTION 28. Amends Sections 771.076(a), (b), and (d), Health and Safety Code, to authorize an employee of the commission to notify the comptroller of any irregularity that may indicate that an audit of a service provider collecting a fee or surcharge under this subchapter is warranted. Authorizes the commission to require that an audit be conducted of a public agency receiving money under this chapter. Deletes text regarding service provider collecting fees. Requires, rather than authorizes, the commission to audit collections and disbursements by a service provider to determine if the provider is complying with this chapter. Deletes text regarding an audit under Subsection (a). Makes conforming changes.

SECTION 29. Amends Section 771.077, Health and Safety Code, as follows:

Sec. 771.077. COLLECTION OF FEES AND SURCHARGES. Requires the comptroller, rather than the advisory commission, by rule to establish collection procedures to collect past due amounts. Requires the commission, by rule, to establish procedures to be used by the commission to notify the comptroller of a service provider's or business service user's failure to timely deliver surcharges. Requires the comptroller to remit to the commission money collected under this section, to deposit to the 9-1-1 services fee fund any money collected under this section, and deposit to the account as authorized by Section 771.072 any money collected under this section, for fees provided by Section 771.072 and associated late penalties. Requires the commission to deposit or distribute the money remitted under Subsection(e)(1) as Section 771.0711 provides for fees received under that section and distribute the money remitted under Subsection(e)(2) and appropriated to the commission under contracts as provided by Section 771.078(b)(1). Deletes provision regarding fees and associated late penalties. Makes conforming changes.

SECTION 30. Amends Chapter 771D, Health and Safety Code, by adding Section 771.078, as follows:

Sec. 771.078. CONTRACTS FOR SERVICES. Requires the commission to contract with regional planning commissions for the provision of 9-1-1 services, and adopt, by rule, standard provisions for the contracts. Requires the commission to ensure that each regional planning commission receives money for 9-1-1 service in two separately computed amounts derived from fees for emergency service. Requires contracts under this section to make certain provisions. Authorizes not more than 10 percent of the money received by a regional planning commission under Subsection (b) to be used for indirect costs. Defines "indirect costs." Requires the governor to use the federal Office of Management and Budget circulars A-87 and A-122 or use any rules relating to the determination of indirect costs adopted under Chapter 783, Government Code, in administering this section. Authorizes the commission to allocate surcharges under Section 771.072(d) by means of a contract. Requires the commission to provide a regional planning commission with documentation and financial records of the amount collected and allocated to the regional planning commission promptly after receiving a request.

SECTION 31. Amends Chapter 771D, Health and Safety Code, by adding Section 771.079, as follows:

Sec. 771.079. 9-1-1 SERVICES FEE FUND. Provides that the 9-1-1 services fee fund is an account in the general revenue fund. Provides that account consists of fees deposited in the fund and all interest attributable to money held in the account. Authorizes money held in the account to only be appropriated to the commission for improvements in the effectiveness of 9-1-1 service or for contracts with regional planning commissions. Provides that Section 403.095, Government Code, does not apply to the account.

SECTION 32. Amends Section 772.304(a), Health and Safety Code, to provide that this Act only applies to certain counties or to a public agency that withdraws from participation in a regional plan under Section 771.058(d).

SECTION 33. Provides that the terms of the appointed members of the Advisory Commission on State Emergency Communications (advisory commission) expire on the effective date of this Act. Requires the members to until a majority of the successor commission is appointed. Requires the governor, lieutenant governor, and the speaker of the house of representatives to appoint members to the commission. Makes application of this Act prospective.

SECTION 34. Provides that the change in the name of the advisory commission does not affect the validity of any action taken by the advisory commission. Provides that a reference in law to the advisory commission means the commission.

SECTION 35. Requires the commission to implement Phase I of the wireless E-911 enhancements set forth in FCC Docket 94-102 for at least 75 percent of the population provided with 9-1-1 service by the commission.

SECTION 36. Makes application of this Act prospective.

SECTION 37. Effective date: September 1, 1999.

SECTION 38. Emergency clause.