

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1609
By: Lucio
Intergovernmental Relations
4/8/1999
Committee Report (Substituted)

DIGEST

Under the 75th Legislature, Section 775.022, Health and Safety Code, was amended to require a municipality that annexes a portion of an emergency services district (district) to pay the district for a pro-rata share of the debt that is attributable to the annexed area. Since the bill's passage, disputes have risen regarding the date that property values should be determined in order to calculate the pro-rata share. A district is designed to provide health and safety-related services for the properties within its boundaries. C.S.S.B. 1609 would clarify annexation and payment of pro-rata shares of debt, qualifications for district board members, fire code adoption and enforcement, clarification of fees, and fee payment and collection in an emergency services district.

PURPOSE

As proposed, C.S.S.B. 1609 sets forth regulations for emergency services districts.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 775.012(b), Health and Safety Code, to require the name of each county, in a petition for a proposed emergency services district (district), to be inserted in the first blank, and the next available district number to be inserted into the second blank.

SECTION 2. Amends Section 775.014(g), Health and Safety Code, to provide that this section does not apply, if the proposed district contains territory in the unincorporated area of a county with a population of 2.4 million or more. Deletes text regarding a federal decennial census. Makes conforming changes.

SECTION 3. Amends Section 775.018(b), Health and Safety Code, to delete text regarding an election for making a rural fire prevention district into an emergency services district.

SECTION 4. Amends Sections 775.022(a) and (c), Health and Safety Code, to require the board of emergency services commissioners (board), on receipt of a written request of the municipality, to immediately disannex the territory from the district and to cease to provide further services to the residents, if a municipality annexes territory in a district. Requires the municipality to compensate the district in an amount equal to the annexed territory's pro rata share of the district's bonded and other indebtedness based on the unpaid principal balances and the actual property values at the time the territory is annexed, if a municipality annexes a portion of a district.

SECTION 5. Amends Sections 775.031(a) and (b), Health and Safety Code, to authorize a district to borrow money to perform the functions of the district and to provide emergency services. Prohibits a district located in a county with a population of more than 2.4 million from providing fire prevention or fire-fighting services, unless the district was converted under Section 794.100, rather than 775.056. Makes a conforming change.

SECTION 6. Amends Section 775.034(a), Health and Safety Code, to make conforming changes.

SECTION 7. Amends Sections 775.035(b) and (h), Health and Safety Code, to require the county judges of each county in the district to establish a day provided by Section 41.001, Election Code, to conduct an election to elect emergency services commissioners, after a district located in more than one county is

created. Authorizes the board to change the election date from one authorized election date to another authorized election date and to adjust the terms of office to conform to the new election date. Deletes text regarding the date of the general election.

SECTION 8. Amends Section 775.036, Health and Safety Code, by amending Subsection (b) and adding Subsections (e) and (f), to authorize the board to adopt and enforce a fire code. Prohibits the board from enforcing the district's fire code within a municipality that has adopted a fire code. Prohibits the board of a district located wholly within a county with a population of 2.4 million or more from adopting a fire code or a fine for a violation of the district's fire code, unless the commissioners court of the county consents to the adoption of the code or fine. Provides that Chapter 551, Government Code, does not apply to a meeting of a committee of the board, if less than a board quorum attends, or composed of representatives of more than one board, if less than a quorum of any of the boards attends. Requires the board to publish the street address of the district's administrative office in eight-point type in the legal notices section of a newspaper of general circulation in the district, each January. Requires the board to publish the notice no later than the 60th day after the date the initial board is appointed, in a district's first year of operation.

SECTION 9. Amends Section 775.040, Health and Safety Code, to authorize a person authorized by contract on the district's behalf, to charge a reasonable fee for emergency services performed for or on behalf of a person or entity.

SECTION 10. Amends Chapter 775C, Health and Safety Code, by adding Sections 775.041 and 775.042, as follows:

Sec. 775.041. FEE PAYMENT AND COLLECTION. Requires a fee imposed by a district under Section 775.040 to be paid within a reasonable amount of time as established by the district. Authorizes the district to collect the fee by filing a complaint in the appropriate court of jurisdiction in the county in which the district's principal office or meeting place is located, if the fee has not been paid in the amount of time established by the district. Authorizes the district to recover reasonable fees for attorneys, expert witnesses, and other cost incurred by the district in the suit, if the district prevails in any suit to collect the fee. Requires the court to determine the amount of the attorney's fee.

Sec. 775.042. REMOVAL OF BOARD MEMBER. Authorizes the board to remove a member, if certain conditions exist. Authorizes a member to file a written appeal for reinstatement to the commissioners court of the county in which a single-county district is located or, if the district is located in more than one county, the commissioners court of the county where the member resides, no later than the 30th day after the date of a vote to remove a member under Subsection (a). Authorizes the court to reinstate the member, if it finds the removal unwarranted after considering certain factors. Provides that the validity of a board is not affected because it is taken when a ground for removal of a board member exists.

SECTION 11. Amends Section 775.071, Health and Safety Code, to prohibit a district from contracting for an amount of indebtedness in any one year that is in excess of the anticipated revenues for the year, except as provided by Section 775.085, among other sections. Makes conforming and nonsubstantive changes.

SECTION 12. Amends Section 775.0741, Health and Safety Code, to provide that this section applies only to a district located in a county with a population of more than 2.4 million. Requires the board, rather than the commissioners court, to impose an ad valorem tax on all real and personal property located in the district. Prohibits the tax from exceeding six cents on each \$100 of the taxable value of property, if the district was converted under Section 794.100. Deletes text regarding the budget and funds deposited in a county depository. Makes conforming changes.

SECTION 13. Amends Chapter 775E, Health and Safety Code, by adding Section 775.085, as follows:

Sec. 775.085. LOAN FOR EMERGENCY SERVICES EQUIPMENT. Authorizes the board to borrow money and to make financial arrangements to purchase emergency services equipment in the amount and subject to a rate of interest or other conditions the board considers advisable, on the behalf of the district. Authorizes the board to pledge tax revenues or funds on hand that are not otherwise pledged to pay a debt of the district, or the equipment acquired with the borrowed money, to secure a loan under this section. Requires the loan to mature no later than the fifth

anniversary of the date the loan is made, if tax revenues are pledged to pay a loan.

SECTION 14. Repealer: Section 775.074(f), Health and Safety Code (The duties imposed by this section on a board do not apply in a district subject to Section 775.0741).

SECTION 15. (a) Effective date: September 1, 1999.

(b) Makes application of this Act prospective. Provides that this Act does not prohibit a person who is a member of a board on the effective date of this Act from being reappointed to the board, if the person has the qualifications required for a member under Section 775.034, Health and Safety Code, as amended by this Act.

SECTION 16. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

Relating clause.

Amends the relating clause regarding emergency services districts.

SECTION 1.

Adds Section 775.012(b), Health and Safety Code, to require the name of each county to be inserted in the first blank, and the next available district number to be inserted into the second blank.

Redesignates proposed SECTION 1 as SECTION 4.

SECTION 2.

Adds Section 775.014(g), Health and Safety Code, to provide that this section does not apply, if the proposed district contains territory in the unincorporated area of a county with a population of 2.4 million or more. Deletes text regarding the federal decennial census. Makes conforming changes.

Redesignates proposed SECTION 2 as SECTION 6.

SECTION 3.

Adds Section 775.018(b), Health and Safety Code, to delete text regarding an election for making a rural fire prevention district into an emergency services district.

Redesignates proposed SECTION 3 as SECTION 8.

SECTION 4.

Amends Sections 775.022(a) and (c), Health and Safety Code, to require the board, on receipt of a written request of the municipality, to immediately disannex the territory from the district and to cease to provide further services to the residents, if a municipality annexes territory in a district. Requires the municipality to compensate the district in an amount equal to the annexed territory's pro rata share of the district's bonded and other indebtedness based on the unpaid principal balances and the actual property values at the time the territory is annexed, if a municipality annexes a portion of a district.

Redesignates proposed SECTION 4 as SECTION 9.

SECTION 5.

Adds Sections 775.031(a) and (b), Health and Safety Code, to authorize a district to borrow

money to perform the functions of the district and provide emergency services. Prohibits a district located in a county with a population of more than 2.4 million from providing fire prevention or fire-fighting services, unless the district was converted under Section 794.100, rather than Section 775.056.

Redesignates proposed SECTION 5 as SECTION 10.

SECTION 6.

Amends Section 775.034(a), Health and Safety Code, to make conforming changes.

SECTION 7.

Adds Sections 775.035(b) and (h), Health and Safety Code, to require county judges of each county in the district to establish a day provided by Section 41.001, Election Code, to conduct an election to elect emergency services commissioners, after a district located in more than one county is created. Authorizes the board to change the election date from one authorized election date to another authorized election date and to adjust the terms of office to conform to the new election date.

SECTION 8.

Amends Section 775.036(b), Health and Safety Code, and by adding Subsections (e) and (f), to prohibit the board of a district located wholly within a county with a population of 2.4 million or more from adopting a fire code or a fine for a violation of the district's fire code, unless the commissioners court of the county consents to the adoption of the code or fine. Provides that Chapter 551, Government Code, does not apply to a meeting of a committee of the board, if less than a board quorum attend, or composed of representatives of more than one board, if less than a quorum of any of the boards attends. Requires the board to publish the street address of the district's administrative office in eight-point type in the legal notices section of a newspaper of general circulation in the district, each January. Requires the board to publish the notice no later than the 60th day after the date the initial board is appointed, in a district's first year of operation.

SECTION 9.

Amends Section 775.040, Health and Safety Code, to authorize a person authorized by contract on the district's behalf, to charge a reasonable fee for emergency services performed for or on behalf of a person or entity.

SECTION 10.

Adds Section 775.042, Health and Safety Code, to authorize a board to remove a member if certain conditions exist. Authorizes a member to file a written appeal for reinstatement to the commissioners court of the county in which a single-county district is located or, if the district is located in more than one county, the commissioners court of the county where the member resides, no later than the 30th day after the date of a vote to remove a member under Subsection (a). Authorizes the court to reinstate the member, if it finds the removal unwarranted after considering certain factors. Provides that the validity of a board is not affected because it is taken when a ground for removal of a board member exists.

SECTION 11.

Adds Section 775.071, Health and Safety Code, to prohibit a district from contracting for an amount of indebtedness in any one year that is in excess of the anticipated revenues for the year, except as provided by Section 775.085.

SECTION 12.

Amends Section 775.0741, Health and Safety Code, to provide that this section applies only to a district located in a county with a population of more than 2.4 million. Requires the board, rather than the commissioners court, to impose an ad valorem tax on all real and personal property

located in the district. Prohibits the tax from exceeding six cents on each \$100 of the taxable value of property, if the district was converted under Section 794.100.

SECTION 13.

Amends Chapter 775E, Health and Safety Code, by adding Section 775.085, to authorize the board to borrow money and to make financial arrangements to purchase emergency services equipment in the amount and subject to a rate of interest or other conditions the board considers advisable, on the behalf of the district. Authorizes the board to pledge tax revenues or funds on hand that are not otherwise pledged to pay a debt of the district, or the equipment acquired with the borrowed money, to secure a loan under this section. Requires the loan to mature no later than the fifth anniversary of the date the loan is made, if tax revenues are pledged to pay a loan.

SECTION 14.

Repeals Section 775.074(f), Health and Safety Code (The duties imposed by this section on a board do not apply in a district subject to Section 775.0741).

SECTION 15.

Adds effective date of September 1, 1999, rather than upon passage.

SECTION 16.

Redesignates proposed SECTION 7 as SECTION 16 and sets forth the emergency clause.