

## **BILL ANALYSIS**

Senate Research Center  
77R1129 JAT-D

S.B. 578  
By: Madla  
Business & Commerce  
3/12/2001  
As Filed

### **DIGEST AND PURPOSE**

The provision of emergency communications service, or 9-1-1 service, is necessary for the protection of citizens of Texas. Currently, 9-1-1 service can be provided by the state, an emergency communication district, or a home-rule municipality. These entities are governed by different requirements for the provision of this service. As proposed, S.B. 578 gives greater authority to the Commission on State Emergency Communications; eliminates the Councils of Government from the administration of database service for local 9-1-1; requires home-rule municipalities to form emergency communication districts; eliminates the ability of an entity to withdraw from the state plan; gives the Public Utility Commission authority to penalize telecommunications providers; and creates an emergency call box program.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the board of managers of an emergency communications district in SECTION 19 (Section 772.505, Health and Safety Code), the governing body of a municipality in SECTION 19 (Section 772.518, Health and Safety Code), and the secretary of state in SECTION 25 of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 771.001(3), Health and Safety Code, by defining “emergency communication district.”

SECTION 2. Amends Section 771.031(d), Health and Safety Code, to require one member of the Advisory Commission on State Emergency Communications to be a member of the governing body of an emergency communications district formed under Section 772G, Health and Safety Code. Deletes text that states that a home-rule municipality that operates a 9-1-1 system is independent of the state’s system.

SECTION 3. Amends Section 771.051(a), Health and Safety Code, to provide that the Commission on State Emergency Communications (commission) is the state’s authority on emergency communications, and the commission is required to perform certain duties.

SECTION 4. Amends Section 771.055(e), Health and Safety Code, to make a conforming change.

SECTION 5. Amends Chapter 771C, Health and Safety Code, by adding Section 771.0585, as follows:

Sec. 771.0585. HOME-RULE MUNICIPALITIES. Requires a home-rule municipality that operates a 9-1-1 service, notwithstanding Section 771.058, to participate in the state administration of emergency communications under this subchapter; become part of an emergency communication district under Section 772.205 or 772.305; or elect to form an emergency communication district under Subchapter G, Chapter 772.

SECTION 6. Amends Sections 771.062(c) and (d), Health and Safety Code, to require, rather than authorize voluntarily, an emergency communication district, rather than an emergency communication district or home-rule municipality, that operates a 9-1-1 system independent of the state system to submit strategic planning information to the commission for use in preparing the strategic plan for statewide 9-1-1 service. Requires, rather than authorizes, this information as determined by the commission to include certain information. Makes a conforming change.

SECTION 7. Amends Chapter 771C, Health and Safety Code, by adding Section 771.064, as follows:

Sec. 771.064. WITHDRAWAL FROM REGIONAL PLAN. Prohibits a public agency that participates in a regional plan from withdrawing without the consent of the commission, except as provided by Section 771.058(d).

SECTION 8. Amends Section 771.0711(g), Health and Safety Code, to delete language requiring an emergency services district of a home-rule municipality to reimburse the wireless service provider for services rendered.

SECTION 9. Amends Section 771.074, Health and Safety Code, to make a conforming change.

SECTION 10. Amends Section 771.075, Health and Safety Code, to authorize fees and surcharges, except as provided by Section 771.072(e), 771.072(f), or 771.073(e) collected under this subchapter to be used, as approved by the commission, for planning, designing, developing, and providing 9-1-1 service, enhancing the effectiveness of 9-1-1 service, and providing facilities, equipment, and personnel necessary to establish and operate a public safety answering point and 9-1-1 system.

SECTION 11. Amends Chapter 771, Health and Safety Code, by adding Subchapter E, as follows:

#### SUBCHAPTER E. EMERGENCY HIGHWAY TELEPHONE CALL BOX SYSTEM

Sec. 771.101. EMERGENCY HIGHWAY TELEPHONE CALL BOX SYSTEM. Requires the commission, in cooperation with the Texas Department of Transportation (TXDOT), to establish a program to install, operate, and maintain a system of telephone emergency call boxes along those highways in this state that are numbered United States highways, part of the national system of interstate and defense highways, or numbered state highways, that is designed to enable users of those highways to communicate with providers of emergency services. Authorizes the commission to take any action to implement the emergency call box program (program) that the commission determines to be necessary or advisable and to contract for any equipment or service that is required to implement the communication system under the program.

Sec. 771.102. SELECTION AND PLACEMENT. Requires the commission, in cooperation with TXDOT, to select or approve the telephone call boxes and other equipment and the communication provider services that are necessary for the system. Requires the commission to determine the placement and spacing of the telephone call boxes, which are to be no more than two miles apart from one another.

Sec. 771.103. COOPERATION. Requires each other agency of this state and each county and municipality in this state to cooperate with the commission in the establishment, operation, and maintenance of the program.

Sec. 771.104. REPORTS. Requires the commission, not later than November 1 of each year, to file with the lieutenant governor, the speaker of the house of representatives, and the Legislative Budget Board a report on the commission's activities under this subchapter during the preceding fiscal year.

SECTION 12. Amends Section 772.110(d), Health and Safety Code, to require a district to recommend minimum standards at least as stringent as commission standards for a 9-1-1 system.

SECTION 13. Amends Section 772.117, Health and Safety Code, to provide allowable operating expenses of a district including all costs attributable to planning, designing, developing, and providing 9-1-1 services, enhancing the effectiveness of a 9-1-1 system, and providing all facilities, equipment, and personnel necessary to establish and operate a public safety answering point and other related answering points. Deletes text referring to what answering points the board considers necessary.

SECTION 14. Amends Section 772.210(d), Health and Safety Code, to make a conforming change.

SECTION 15. Amends Section 772.217, Health and Safety Code, to make a conforming change.

SECTION 16. Amends Section 772.310(d), Health and Safety Code, to make a conforming change.

SECTION 17. Amends Section 772.317, Health and Safety Code, to make conforming changes.

SECTION 18. Amends Section 772.403(c), Health and Safety Code, to make conforming changes.

SECTION 19. Amends Section 772, Health and Safety Code, by adding Subchapter G, as follows:

SUBCHAPTER G. EMERGENCY COMMUNICATION DISTRICTS:  
HOME-RULE MUNICIPALITIES

Sec. 772.501. FORMATION OF DISTRICT. Authorizes a home-rule municipality to elect to form a district under this subchapter by a resolution of its governing body or by adoption of an ordinance.

Sec. 772.502. DEFINITIONS. Defines “board” and “district.”

Sec. 772.503. TERRITORY OF DISTRICT. Provides that the territory of a district consists of the territory of the municipality for which the district is established. Provides that if the municipality that forms the district annexes territory that is not part of the district, the annexed territory becomes part of the district.

Sec. 772.504. BOARD OF MANAGERS. Provides that the district is governed by a board of managers. Provides for the composition of the board and for the terms, compensation, removal, and replacement of board members. Provides that a majority of the voting members of the board constitutes a quorum and that the board may meet in executive session.

Sec. 772.505. POWERS AND DUTIES OF BOARD. Requires the board to name, control, and manage the district. Authorizes the board to adopt rules for the operation of the district. Authorizes the board to contract with any public or private entity to carry out the purposes of this subchapter, including the operation of a 9-1-1 system.

Sec. 772.506. DIRECTOR OF DISTRICT. Requires the board to appoint a director for the district (director) and to establish the director’s compensation. Requires the director to be qualified by training and experience for the position. Authorizes the board to remove the director at any time. Authorizes the director, with the board’s approval, to employ any experts, employees, or consultants that the board considers necessary to carry out the purposes of this chapter. Requires the director to perform all duties that the board requires and to supervise as general manager the operations of the district subject to any limitations prescribed by the board.

Sec. 772.507. BUDGET; ANNUAL REPORT; AUDIT. Requires the director to prepare, under the direction of the board, an annual budget for the district. Requires the budget, in order to be effective, to be approved by the board and presented to and approved by the governing

body of the municipality. Requires a revision of the budget to be approved by the same entities in the same manner as the budget. Requires the director, as soon as practicable after the end of each district fiscal year, to prepare and present to the board and to all participating public agencies in writing a sworn statement of all money received by the district and how the money was disbursed or otherwise disposed of during the preceding fiscal year. Requires the report to show in detail the operations of the district for the period covered by the report. Requires the board to perform an independent financial audit of the district annually.

Sec. 772.508. ESTABLISHMENT OF 9-1-1 SERVICE. Requires a district to provide 9-1-1 service to the municipality through one or a combination of certain methods and features or equivalent state-of-the-art technology. Requires the district to design, implement, and operate a 9-1-1 system for the municipality. Requires the district to recommend minimum standards at least as stringent as commission standards for a 9-1-1 system. Requires a 9-1-1 system in a district to be computerized. Provides that 9-1-1 service is mandatory for each individual telephone subscriber in the district and is not an optional service under any definitions of terms relating to telephone service. Provides that a service supplier, manufacturer of equipment, or an officer or employee of a service supplier involved in providing 9-1-1 service is not liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission constitutes gross negligence, recklessness, or intentional misconduct.

Sec. 772.509. PRIMARY EMERGENCY TELEPHONE NUMBER. Authorizes a public safety agency whose services are available through a 9-1-1 system, which are the primary emergency telephone number in a district, to maintain a separate number or numbers for emergencies and requires it to maintain a separate number or numbers for nonemergency telephone calls.

Sec. 772.510. TRANSMITTING REQUESTS FOR EMERGENCY AID. Requires a 9-1-1 system established to be capable of transmitting requests for fire-fighting, law enforcement, ambulance, and medical services to a public safety agency or agencies that provide the requested service at the place from which the call originates and authorizes the system to provide for transmitting requests for other emergency services such as poison control, suicide prevention, and civil defense. Authorizes a public safety answering point to transmit emergency response requests to private safety entities. Authorizes a privately owned automatic intrusion alarm or alerting device to be installed to call the 9-1-1 service for emergency services, with the board's consent.

Sec. 772.511. POWERS OF DISTRICT. Provides that the district is a public body corporate and politic, exercising public and essential governmental functions and having all the powers necessary or convenient to carry out the purposes and provisions of this subchapter, including the capacity to sue or be sued. Authorizes the district to receive federal, state, county, or municipal funds and private funds, and authorizes those funds to be spent for the purpose of this subchapter. Requires the board to determine the method and sources of funding for the district.

Sec. 772.512. 9-1-1 EMERGENCY SERVICE FEE. Authorizes the board to impose a 9-1-1 emergency service fee on service users in the district. Sets forth guidelines for imposing service fees. Requires the fee to have uniform application. Prohibits the fee from exceeding three percent of the monthly base rate charged a service user by the principal service supplier in the municipality. Requires the board to set the amount of the fee each year as part of the annual budget and 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. Requires the board, in imposing the fee, to attempt to match the district's revenues to its operating expenditures and to provide reasonable reserves for contingencies and for the purchase and installation of 9-1-1 emergency service equipment. Requires the board by resolution to reduce the rate of the fee to an amount adequate to fund the district as required by this subsection or suspend the imposition of the fee,

if the revenue received from the fee exceeds the amount of money needed to fund the district. Authorizes the board by resolution to reinstitute a suspended fee if money received by the district is not adequate to fund the district. Provides that the fee authorized to be charged in a district applies to new territory added to the district under Section 772.503(b) when the territory becomes part of the district.

Sec. 772.513. COLLECTION OF FEE. (a) Provides that each billed service user is liable for the fee imposed under Section 772.512 until the fee is paid to the service supplier. Sets forth guidelines for collecting fees.

(b) Provides that the amount collected by a service supplier from the fee is due monthly. Requires the service supplier to remit the amount collected in a calendar month to the district not later than the 60th day after the last day of the calendar month. Requires the service supplier, with each payment, to file a return in a form prescribed by the board.

(c) Requires both a service supplier and a business service user under Subsection (a) to maintain records of the amount of fees it collects for at least two years after the date of collection. Authorizes the board to require, at the board's expense, an annual audit of a service supplier's books and records or the books and records of a business service user described by Subsection (a) 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) Provides that a service supplier is entitled to retain an administrative fee of two percent from the amount of fees it collects.

(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. Provides that an account is delinquent if the fee is not paid before the 31st day after the payment due date stated on the user's bill from the service supplier.

(g) Authorizes the district to institute legal proceedings to collect fees not paid and to establish internal collection procedures and recover the cost of collection from the nonpaying service user. Authorizes the court, if legal proceedings are established, to award the district court costs, attorney's fees, and interest (paid at 12% beginning on payment due date) to be paid by the nonpaying service user.

Sec. 772.514. DISTRICT DEPOSITORY. Requires the board to select a depository for the district in the manner provided by law for the selection of a municipal depository. Provides that a depository selected by the board is the district's depository for two years after the date of its selection and until a successor depository is selected and qualified.

Sec. 772.515. ALLOWABLE EXPENSES. Sets forth allowable operating expenses of a district.

Sec. 772.516. NUMBER AND LOCATION IDENTIFICATION. (a) Requires a service supplier to furnish for each call the telephone number of the subscribers and the address associated with the number, as part of computerized 9-1-1 service.

(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) Provides that a service supplier or a business service user under Subsection (b) is not 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 Subsection (a) and (b).

Sec. 772.517. PUBLIC REVIEW. (a) Requires the board, periodically, to solicit public comments and hold a public review hearing on the continuation of the district and the 9-1-1 emergency service fee. Requires the first hearing to be held three years after the date the order certifying the creation of the district is filed with the county clerk. Requires subsequent hearings to be held three years after the date each order required by Subsection (d) is adopted.

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

(c) Requires the board, at the hearing, to also solicit comments on the participation of the district in the applicable regional plan for 9-1-1 service under Chapter 771. Authorizes the board, after the hearing, to choose to participate in the regional plan as provided by that chapter.

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

Sec. 772.518. DISSOLUTION PROCEDURES. (a) Requires 9-1-1 service to be discontinued on the date of the dissolution, if a district is dissolved. Requires the governing body of the municipality to assume the assets of the district and pay the district's debts. Requires the governing body of the municipality to continue to impose the 9-1-1 service fee, and each service supplier is required to continue to collect the fee to retire outstanding debts, if the district's assets are insufficient to retire all existing debts of the district on the date of dissolution.

(b) Requires the governing body of the municipality 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 orders and resolutions authorizing creation of the debts.

(c) Requires the municipality to participate in another emergency communications entity if the district is dissolved.

(d) Authorizes the governing body of the municipality, by order, to adopt the rules necessary to administer this section.

Sec. 772.519. ISSUANCE OF BONDS. Authorizes the board to issue and sell bonds in the

name of the district to finance certain equipment and its installation.

Sec. 772.520. REPAYMENT OF BONDS. Authorizes the board to provide for the payment of principal of and interest on the bonds by pledging all or any part of the district's revenues from the 9-1-1 emergency service fee or from other sources.

Sec. 772.521. ADDITIONAL SECURITY FOR BONDS. (a) Authorizes the bonds to be additionally secured by a deed of trust or mortgage lien on part or all of the physical properties of the district and rights appurtenant to those properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate the properties, and all other powers necessary for the further security of the bonds.

(b) Authorizes the trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, to contain provisions prescribed by the board for the security of the bonds and the preservation of the trust estate, make provisions for amendment or modification, and make provisions for investment of funds of the district.

(c) Provides that a purchaser under a sale under the deed of trust or mortgage lien is the absolute owner of the properties and rights purchased and is authorized to maintain and operate them.

Sec. 772.522. TAX STATUS OF BONDS. Provides that bonds issued by the district, any transaction relating to the bonds, and profits made in the sale of the bonds are exempt from taxation by the state or by any municipality, county, special district, or other political subdivision of the state, because a district created under this subchapter is a public entity performing an essential public function.

SECTION 20. Amends Chapter 502D, Transportation Code, by adding Section 502.1706, as follows:

Sec. 502.1706. ADDITIONAL FEE FOR EMERGENCY HIGHWAY TELEPHONE CALL BOX SYSTEM. (a) Requires a fee of \$1 to be collected, in addition to other fees collected under this chapter, for a license plate or set of license plates, or other device used as a registration insignia, except as provided by Subsection (b).

(b) Provides that Subsection (a) does not apply to a vehicle that is owned by and used exclusively in the service of the United States, this state, or a county or municipality of this state.

(c) Requires the county tax collector to send each fee collected under this section to the comptroller before the 30th day after the date it is collected.

(d) Requires money collected under this section to be deposited to the credit of the emergency highway telephone call box account. Provides that the emergency highway telephone call box account is an account in the general revenue fund that is authorized to be appropriated only for the purpose of implementing or administering the emergency telephone call box program established by the Commission on State Emergency Communications under Chapter 771E, Health and Safety Code.

SECTION 21. Repealer: Chapter 226, Transportation Code (Emergency Highway Call Box System).

SECTION 22. Amends Chapter 52A, Utilities Code, by adding section 52.007, as follows:

Sec. 52.007. AUTHORITY TO ENSURE RELIABILITY OF EMERGENCY

COMMUNICATIONS SERVICES. Authorizes the Public Utility Commission of Texas to impose administrative penalties in accordance with Chapter 15 on a telecommunications provider that does not comply with certain requirements and to review or investigate 9-1-1 implementation or interoperability disputes between telecommunications providers or between telecommunications providers and local or state 9-1-1 authorities operating under Chapter 771 or Chapter 772, Health and Safety Code, alleging noncompliance with certain requirements.

SECTION 23. Requires a home-rule municipality, not later than January 1, 2002, to enter into a memorandum of understanding with the Commission on State Emergency Communications (CSEC) detailing the municipality's plan to comply with Section 771.0585, Health and Safety, as added by this Act. Requires a home-rule municipality, not later than January 1, 2003, to comply with Section 771.0585, Health and Safety Code, as added by this Act by completing certain tasks.

SECTION 24. Requires CSEC, not later than September 1, 2007, to implement wireless Phase II service to comply with Section 771.051(a) (15), Health and Safety Code, as added by this Act.

SECTION 25. (a) Provides that on September 1, 2001, all of the rights, powers duties, functions, program, and activities assigned to the Texas Department of Transportation (department) or to the department's officers or employees by Chapter 226, Transportation Code, are transferred to CSEC; and all funds, obligations, contracts property, and records of the department relating to the emergency call box system under Chapter 226, Transportation Code, are transferred to the commission.

(b) Provides that a rule or form adopted by the department that relates to the emergency call box system under Chapter 226, Transportation Code, is a rule or form of the CSEC and remains in effect until altered by the CSEC. Authorizes the secretary of state to adopt rules as necessary to expedite the implementation of this subsection.

(c) Provides that a reference in law to the Texas Department of Transportation that relates to the emergency call box system means the Commission on State Emergency Communications.

SECTION 26. Makes application of this Act prospective.

SECTION 27. Effective date: September 1, 2001, except that Sections 2, 4, 8, and 9 of this Act take effect January 1, 2003.