

BILL ANALYSIS

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S.B. 628
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Twenty-four emergency communication districts (ECD) and 26 municipal emergency communication districts (MECD) serve various communities around the state. In the rest of the state, the 9-1-1 systems are run by councils of governments under a one-size-fits-all Commission for State Emergency Communication (CSEC).

S.B. 628 authorizes the creation of regional emergency communication districts in regions with a population of more than 1.5 million where the regional planning commission operates the 9-1-1 system. The regional emergency communication district will be a hybrid of ECD and council of government run programs, providing the flexibility needed to serve a more populous area as an independent district managed by the local governments which it serves.

The bill defines and specifies procedures related to the powers and duties of the district and the board; the budget and annual report; the provision of 9-1-1 services; the imposition of emergency service fees; issuance and repayment of bonds; and the transfer of assets.

The bill requires a district to submit any bonds, including refunded bonds, to the attorney general for examination and requires the attorney general to approve bonds that comply with the law. Upon approval of bonds by the attorney general, the comptroller of public accounts of the State of Texas will be required to register the bonds regardless of whether the bonds are refunded. Bonds issued and profits made in the sale or redemption of bonds will be exempted from taxation by the state or any local governmental entity of the state.

As proposed, S.B. 628 amends current law relating to the creation of regional emergency communications districts, authorizes the issuance of bonds, and authorizes a fee.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 772, Health and Safety Code, by adding Subchapter G, as follows:

SUBCHAPTER G. REGIONAL EMERGENCY COMMUNICATIONS DISTRICTS: STATE PLANNING REGION WITH POPULATION OVER 1.5 MILLION

Sec. 772.501. SHORT TITLE. Authorizes this subchapter to be cited as the Regional Emergency Communications District Act.

Sec. 772.502. DEFINITIONS. Defines "board," "district," "participating jurisdiction," "principal municipality," "region," and "regional planning commission."

Sec. 772.503. APPLICATION OF SUBCHAPTER. Provides that this subchapter applies to a region:

- (1) with a population of more than 1.5 million;
- (2) composed of counties and municipalities that operate a 9-1-1 system through a regional planning commission; and
- (3) in which the governing bodies of each county and the principal municipality in the region adopt a resolution under Section 772.504 to participate in the district.

Sec. 772.504. CREATION OF DISTRICT. (a) Creates a regional emergency communications district created under this subchapter (district) when the governing bodies of each county and the principal municipality in a region adopt a resolution approving the district's creation and the county's or municipality's participation in the district. Provides that the district's creation is effective on the date the last county or municipal governing body in the region adopts the resolution.

- (b) Requires the district to file with the county clerk of each county in which the district is located a certificate declaring the creation of the district.

Sec. 772.505. POLITICAL SUBDIVISION; DISTRICT POWERS. (a) Provides that a district is a political subdivision of this state created to carry out essential governmental functions.

- (b) Authorizes a district to exercise all powers necessary or convenient to carry out the purposes and provisions of this subchapter.

Sec. 772.506. TERRITORY OF DISTRICT. (a) Provides that the territory of a district consists of:

- (1) the territory of the region in which the district is established; and
- (2) for each municipality partially located in the region, the territory of that municipality located in another region.

- (b) Provides that, if a municipality in the district annexes territory that is outside the boundaries of the district, the annexed territory becomes part of the district.

Sec. 772.507. BOARD. (a) Provides that a district is governed by a board of managers (board) composed of the members of the governing body of the regional planning commission for the region in which the district is established. Provides that service on the board by a member of the governing body is an additional duty of the member's office or employment.

- (b) Provides that a board member serves without compensation. Requires the district to pay all reasonable expenses necessarily incurred by the board member in performing the board's functions under this subchapter.

- (c) Provides that a majority of the voting members of the board constitutes a quorum.

Sec. 772.508. POWERS AND DUTIES OF BOARD. (a) Requires the board to name, control, and manage the district.

- (b) Authorizes the board to adopt orders, rules, and policies governing the operations of the board and the district.

- (c) Authorizes the board to contract with any person to carry out the purposes of this subchapter.

(d) Requires the board to determine the nature and sources of funding for the district. Authorizes the board to accept grants or other funding from the federal or state government, a county, a municipality, or a private person.

(e) Authorizes the board to sue in the district's name.

Sec. 772.509. **ADVISORY COMMITTEE.** (a) Requires the board to appoint an advisory committee consisting of representatives of the participating jurisdictions. Requires the advisory committee to review, advise, and provide recommendations to the board on district issues, including equipment, training, budget, and general operational issues.

(b) Requires an advisory committee member to have the training and experience necessary to perform the duties assigned by the board.

(c) Provides that Chapter 2110 (State Agency Advisory Committees), Government Code, does not apply to the advisory committee.

Sec. 772.510. **DIRECTOR OF DISTRICT; STAFF.** (a) Provides that the executive director of the regional planning commission in the district's region (director) serves as director of the district.

(b) Requires the director to:

(1) perform all duties required by the board;

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

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

(c) Authorizes the director to use district money to compensate an employee assigned duties under this subchapter and the director.

(d) Provides that the director and an employee assigned duties under this subchapter are employees of the regional planning commission for all purposes.

Sec. 772.511. **BUDGET; ANNUAL REPORT; AUDIT.** (a) Requires the director to prepare, under the direction of the board, an annual budget for the district. Requires that the budget and any revision of the budget be approved by the board.

(b) Requires the director, as soon as practicable after the end of each district fiscal year, to prepare and present to the board a written report of all money received by the district and how the money was spent during the preceding fiscal year. Requires that the report show, in detail, the operations of the district for the period covered by the report.

(c) Requires the board annually to have an independent financial audit made of the district.

Sec. 772.512. **PROVISION OF 9-1-1 SERVICE.** (a) Requires a district to provide 9-1-1 service to each participating jurisdiction through one or a combination of the following methods and features or equivalent state-of-the-art technology:

(1) the transfer method;

(2) the relay method;

- (3) the dispatch method;
- (4) automatic number identification;
- (5) automatic location identification; or
- (6) selective routing.

(b) Requires the district to recommend minimum standards for a 9-1-1 system. Requires that the 9-1-1 system be computerized.

(c) Provides that, for each individual telephone subscriber in the district, 9-1-1 service is mandatory and is not an optional service under any definition of terms relating to telephone service.

Sec. 772.513. **LIABILITY.** Prohibits a service supplier involved in providing 9-1-1 service, a manufacturer of equipment used in providing 9-1-1 service, or an officer or employee of a service supplier involved in providing 9-1-1 service from being held liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

Sec. 772.514. **PRIMARY EMERGENCY TELEPHONE NUMBER.** Provides that the digits 9-1-1 are the primary emergency telephone number in a district. Provides that a public safety agency whose services are available through a 9-1-1 system:

- (1) is authorized to maintain a separate number for an emergency telephone call; and
- (2) is required to maintain a separate number for a nonemergency telephone call.

Sec. 772.515. **TRANSMITTING REQUESTS FOR EMERGENCY AID.** (a) Requires that a 9-1-1 system established under this subchapter be capable of transmitting requests for firefighting, law enforcement, ambulance, and medical services to a public safety agency that provides the requested service at the location from which the call originates. Authorizes a 9-1-1 system to provide for transmitting requests for other emergency services, including poison control, suicide prevention, and civil defense.

(b) Authorizes a public safety answering point to transmit emergency response requests to private safety entities.

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

Sec. 772.516. **9-1-1 EMERGENCY SERVICE FEE.** (a) Authorizes the board to impose a 9-1-1 emergency service fee on service users in the district.

(b) Authorizes the fee to be imposed only on the base rate charge or the charge's equivalent, excluding charges for coin-operated telephone equipment. Prohibits the fee from being imposed on:

- (1) more than 100 local exchange access lines or the lines' equivalent for a single business entity at a single location, unless the lines are used by residents of the location; or
- (2) any line that the Commission on State Emergency Communications has excluded from the definition of a local exchange access line or

equivalent local exchange access line under Section 771.063 (Definition of Local Exchange Access Line and Equivalent Local Exchange Access Line).

(c) Requires that each line that terminates at a residential unit and is a communication link equivalent to a residential local exchange access line, if a business service user provides residential facilities, be charged the 9-1-1 emergency service fee. Requires that the fee have uniform application throughout the district and be imposed in each participating jurisdiction in the district.

(d) Prohibits the rate of the fee from exceeding six percent of the monthly base rate the principal service supplier in the participating jurisdiction charges a service user.

(e) Requires the board to set the amount of the fee each year as part of the annual budget. Requires the board to 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.

(f) Requires the board, in imposing the fee, to attempt to match the district's revenues to the district's 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, if the revenue received from the fee exceeds the amount of money needed to fund the district, 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. Authorizes the board, if the board suspends the imposition of the fee, by resolution to reinstitute the fee if money received by the district is not adequate to fund the district.

(g) Provides that, for a county or municipality whose governing body at a later date votes to receive 9-1-1 service from the district, the fee is imposed beginning on the date specified by the board. Authorizes the board to charge the incoming county or municipality an additional amount of money to cover the initial cost of providing 9-1-1 service to that county or municipality. Provides that the fee authorized to be charged in a district applies to new territory added to the district under Section 772.506(b) when the territory becomes part of the district.

Sec. 772.517. COLLECTION OF FEE. (a) Provides that each billed service user is liable for the fee imposed under Section 772.516 until the fee is paid to the service supplier. Requires that the fee be added to and stated separately in the service user's bill from the service supplier. Requires the service supplier to collect the fee at the same time as the service charge to the service user in accordance with the service supplier's regular billing practice. 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 collect the 9-1-1 emergency service fee and transmit the fees monthly to the district.

(b) Provides that the amount collected by a service supplier from the fee is due quarterly. Requires the service supplier to remit the amount collected in a calendar quarter to the district not later than the 60th day after the last day of the calendar quarter. 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 the service supplier or business service user collects until at least the second anniversary of the date of collection. Authorizes the board to require, at the board's expense, an annual audit of the service supplier's or business service user's books and records 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) Authorizes a service supplier to retain an administrative fee of two percent of the amount of fees the service supplier collects under this section.

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

(g) Authorizes the district to file legal proceedings against a service user to collect fees not paid by the service user and to establish internal collection procedures and recover the cost of collection from the nonpaying service user. Authorizes the court, if legal proceedings are filed by the district, to award costs, attorney's fees, and interest to be paid by the nonpaying service user. Provides that a delinquent fee accrues interest at the legal rate beginning on the date the payment becomes due.

Sec. 772.518. DISTRICT DEPOSITORY. (a) Requires the board to select a depository for the district in the manner provided by law for the selection of a county depository.

(b) Provides that a depository selected by the board is the district's depository until the second anniversary of the date of selection and until a successor depository is selected and qualified.

Sec. 772.519. ALLOWABLE EXPENSES. Provides that a district's allowable operating expenses include all costs attributable to designing a 9-1-1 system and all equipment and personnel necessary to establish and operate a public safety answering point and other related operations that the board considers necessary.

Sec. 772.520. NUMBER AND LOCATION IDENTIFICATION. (a) Requires a service supplier, as part of computerized 9-1-1 service, to furnish, for each call, the telephone number of the subscriber and the address associated with the number.

(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) Prohibits a service supplier or business service user under Subsection (b) from being held 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 Subsections (a) and (b).

Sec. 772.521. 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 that the first hearing be held on or before the third

anniversary of the date of the district's creation. Requires that subsequent hearings be held on or before the third anniversary of the date each resolution required by Subsection (c) is adopted.

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

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

Sec. 772.522. DISSOLUTION PROCEDURES. (a) Requires that 9-1-1 service be discontinued if a district is dissolved. Requires the regional planning commission for the district's region to assume the district's assets, to provide 9-1-1 service, and to pay the district's debts. Requires the regional planning commission, if the district's assets are insufficient to retire all existing debts of the district on the date of dissolution, to continue to impose the 9-1-1 service fee, and requires each service supplier to continue to collect the fee for the regional planning commission. Authorizes proceeds from the imposition of the fee by the regional planning commission after dissolution of the district to be used only to retire the outstanding debts of the district.

(b) Requires the regional planning commission 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 resolutions authorizing creation of the debts.

(c) Authorizes the governing body of the regional planning commission for the district's region to adopt rules necessary to administer this section.

Sec. 772.523. ISSUANCE OF BONDS. Authorizes the board to issue bonds in the name of the district to finance:

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

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

Sec. 772.524. REPAYMENT OF BONDS. Authorizes the board to provide for the payment of principal of and interest on district bonds by pledging all or part of the district's revenues from the 9-1-1 emergency service fee or from other sources.

Sec. 772.525. ADDITIONAL SECURITY FOR BONDS. (a) Authorizes district bonds to be additionally secured by a deed of trust or mortgage lien on all or part of the district's physical properties and rights appurtenant to the properties, vesting in the trustee power to sell the properties for payment of the indebtedness, power to operate the properties, and any other power necessary for the further security of the bonds.

(b) Authorizes the bond trust indenture, regardless of the existence of a deed of trust or mortgage lien on the properties, to:

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

(2) make provisions for amendment or modification, and investment of district funds.

(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 the properties.

Sec. 772.526. FORM OF BONDS. (a) Authorizes a district to issue bonds in various series or issues.

(b) Authorizes bonds to mature serially or otherwise not more than 25 years after the bonds' date of issuance. Requires that bonds bear interest at any rate permitted by state law.

(c) Provides that a district's bonds and interest coupons:

(1) are investment securities under Chapter 8 (Investment Securities), Business & Commerce Code;

(2) are authorized to be issued registrable as to principal or to both principal and interest; and

(3) are authorized to be made redeemable before maturity or contain a mandatory redemption provision at the option of the district.

(d) Authorizes a district to issue bonds in the form, denomination, and manner and under the terms and conditions provided by the board in the resolution authorizing the bonds' issuance. Requires that the bonds be signed and executed as provided by the board in the resolution.

Sec. 772.527. PROVISIONS OF BONDS. (a) Defines "resolution" in this section.

(b) Authorizes the board, in a resolution, to:

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

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

(c) Authorizes a resolution to:

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

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

(d) Authorizes a resolution to contain other provisions and covenants determined by the board.

(e) Authorizes the board to adopt and have executed any other proceedings or instruments necessary or convenient for issuance of bonds.

Sec. 772.528. APPROVAL AND REGISTRATION OF BONDS. (a) Requires that bonds issued by a district be submitted to the attorney general for examination.

(b) Requires the attorney general, if the attorney general finds that the bonds have been authorized in accordance with law, to approve the bonds. Requires the comptroller of public accounts of the State of Texas (comptroller), on approval by the attorney general, to register the bonds.

(c) Provides that, after approval and registration, the bonds are incontestable in any court or other forum for any reason and are valid and binding obligations in accordance with the bonds' terms for all purposes.

Sec. 772.529. REFUNDING BONDS. (a) Authorizes a district to issue bonds to refund all or any part of the district's outstanding bonds, including matured and unpaid interest coupons.

(b) Requires that refunding bonds mature serially or otherwise, as determined by the board, not more than 25 years after the bonds' date of issuance. Requires that bonds bear interest at any rate permitted by state law.

(c) Authorizes refunding bonds to be payable from the same source as the bonds being refunded or from other sources.

(d) Requires that refunding bonds be approved by the attorney general in the same manner as the district's other bonds. Requires the comptroller to register the refunding bonds on the surrender and cancellation of the bonds being refunded.

(e) Authorizes a resolution authorizing the issuance of refunding bonds to provide that the bonds be sold and the proceeds deposited in a place at which the bonds being refunded are payable, in which case the refunding bonds are authorized to be issued before the cancellation of the bonds being refunded. Requires that an amount sufficient to pay the principal of the bonds being refunded and interest on those bonds accruing to the bonds' maturity dates or option dates, if refunding bonds are issued before cancellation of the other bonds, if the bonds have been duly called for payment before maturity according to the bonds' terms, be deposited in the place at which the bonds being refunded are payable. Requires the comptroller to register the refunding bonds without the surrender and cancellation of the bonds being refunded.

(f) Authorizes a refunding to be accomplished in one or more installment deliveries. Provides that refunding bonds and the bonds' interest coupons are investment securities under Chapter 8, Business & Commerce Code.

(g) Authorizes a district, instead of the method set forth in Subsections (a)-(f), to refund bonds, notes, or other obligations as provided by the general laws of this state.

Sec. 772.530. BONDS AS INVESTMENTS AND SECURITY FOR DEPOSITS. (a) Provides that district bonds are legal and authorized investments for:

- (1) a bank;
- (2) a savings bank;
- (3) a trust company;
- (4) a savings and loan association;
- (5) an insurance company;
- (6) a fiduciary;
- (7) a trustee;
- (8) a guardian; and

(9) a sinking fund of a municipality, county, school district, special district, and other political subdivision of this state and other public funds of this state and state agencies, including the permanent school fund.

(b) Authorizes district bonds to secure deposits of public funds of the state or a municipality, county, school district, or other political subdivision of this state. Provides that the bonds are lawful and sufficient security for deposits to the extent of the bonds' value if accompanied by all unmatured coupons.

(c) Provides that district bonds are authorized investments under Chapter 2256 (Public Funds Investment), Government Code.

Sec. 772.531. EXEMPTION FROM TAXATION. Provides that a bond issued by the district under this subchapter, any transaction relating to the bond, and profits made in the sale or redemption of the bond are exempt from taxation by the state or by any municipality, county, special district, or other political subdivision of this state.

Sec. 772.532. TRANSFER OF ASSETS. Authorizes the regional planning commission for the region in which the district is established, if a regional emergency communications district is established under this subchapter, to transfer to the district any land, buildings, improvements, equipment, and other assets acquired by the regional planning commission in relation to the provision of 9-1-1 service.

SECTION 2. Effective date: September 1, 2013.