

SUBJECT: Overlapping rural fire prevention and emergency service districts

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 7 ayes — Ramsay, G. Lewis, Brown, Chisum, Krusee, Salinas, Shields

0 nays

2 absent — Farabee, Hilderbran

WITNESSES: For — Ken Campbell, Safe-D and Travis County ESDs #3, #9, and #10; John J. Carlton, Texas State Association of Fire and Emergency Districts; Michael Chessmore, Northwest Hays County RFPD #4 and North Hays County VFD; Fred Windisch

Against — None

BACKGROUND: Art. 3, sec. 48-d of the Texas Constitution, adopted in 1949, establishes rural fire protection districts (RFPDs) and authorizes voters to assess a property tax of up to 3 cents per \$100 valuation to support these districts. In 1987, Texas voters amended the Constitution to allow creation of emergency services districts (ESDs) to provide emergency medical, ambulance, rural fire prevention and control, and other services (Art. 3, sec. 48-e). Voters in ESDs may assess a property tax of up to 10 cents per \$100 valuation to support district operations.

Under Health and Safety Code, sec. 775.020, if the territory of one or more ESDs overlaps, the commissioners court of the county in which the most recently created district is located must exclude the overlapping territory from that district.

In 1989, the 71st Legislature added Health and Safety Code, sec. 775.0752, allowing an ESD to call an election to impose a sales and use tax of between 0.5 and 2 percent. ESDs also may assess reasonable fees for ambulance and emergency medical service. The 71st Legislature also added Health and Safety Code, chapter 776, allowing creation of ESDs in counties with

populations of 125,000 or less. Voters in these ESDs also may impose a property tax or sales and use tax up to the limits for other ESDs.

Health and Safety Code, chapter 794 governs the creation, organization, powers, duties, and financing of RFPDs. In 1997, Texas voters amended the Constitution to allow voters in Harris County to authorize a property tax of up to 5 cents per \$100 valuation for RFPDs in that county (Art. 3, sec. 48-d).

According to 1998 data from the Comptroller's Office, Texas has 126 RFPDs and 54 ESDs in 63 of the state's 254 counties.

During the interim between the 76th and 77th legislative sessions, the House Urban Affairs Committee studied volunteer fire departments and found that more than 37,000 Texans serve as volunteer firefighters, more than double the number of paid firefighters in the state. The committee recommended revising the statutes authorizing the creation and dissolution of RFPDs and ESDs and allowing the districts to adjust their service territories.

DIGEST:

CSHB 2746 would allow the creation of an ESD that would overlap the territory of an existing ESD, RFPD, or an ESD created for a county with a population of less than 125,000 as long as the new ESD did not duplicate services provided by the existing ESD or RFPD. If the territory in more than two districts overlapped, the commissioners court of the county in which the most recently created district was located would have to exclude the overlapping territory from that district. The bill would establish the election date as the beginning date of the new district and would uphold the validity of the new and existing districts.

CSHB 2746 would change the existing petition process for creating a new ESD by requiring the petitioners to specify what kind of services the new district would provide. These procedures also would apply to ESDs in a county located on an international border with a population of more than 375,000 and with at least seven municipalities that each have a population of more than 12,000 (currently only Hidalgo County).

The bill's changes would not apply to a district located wholly in a county with a population of more than 3 million (currently only Harris County).

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.

**SUPPORTERS
SAY:**

CSHB 2746 would give ESDs and RFPDs flexibility to provide vitally needed fire and emergency medical services efficiently. The most likely scenario would be for an ESD to expand into the territory of an RFPD where emergency medical and ambulance service may not be readily available. Existing law provides ESDs with more financial resources than it does to RFPDs to provide emergency medical and ambulance services. This bill, however, expressly would prohibit the duplication of services such as emergency medical and ambulance service in the new districts and would prevent inefficient use of taxpayer money. Voters would decide whether to create and fund these new overlapping districts.

Much of the service provided by volunteer firefighters and emergency service personnel now aids rapidly urbanizing counties such as Travis, Medina, El Paso, and Parker counties, rather than rural areas. Haphazard intrusion by municipalities into rural areas has splintered service areas and may require the creation of "super districts" to provide fire and emergency medical protection in unincorporated areas in a more efficient manner. CSHB 2746 would provide the flexibility to create smaller districts to address service in isolated areas. Because of urban growth, some district volunteers must travel miles through municipalities or other districts to serve essentially one house located on a cul-de-sac.

CSHB 2746 represents only one piece of an overall effort to provide for an efficient, effective, and well-funded system of providing fire protection and emergency medical services in areas not completely served by a paid fire and emergency services department. It would provide some relief as a stand-alone bill, but the Legislature also should enact other legislation filed this session to provide for easier adjustments of service areas among districts. Also, the Constitution should be amended to raise the cap on property taxes to support RFPDs and ESDs and to allow these districts to pool their financial resources.

Volunteer fire departments and emergency service providers have a long history of cooperating to stretch limited resources to serve the public in a

more efficient manner. CSHB 2647 would provide a statutory basis for implementing these existing informal arrangements.

OPPONENTS
SAY:

CSHB 2746 would fail to integrate a fragmented system of providing voluntary fire protection and emergency medical services in rural and unincorporated areas of urbanizing counties. It would maintain three different types of districts that could provide the same kinds of service, and it would exclude Harris County entirely from the change. The bill would not necessarily provide for efficient use of limited resources and could promote unneeded turf wars.

NOTES:

The committee substitute would not authorize an election to raise the tax rate, as provided in the filed version.

HJR 87 by Carter, which would propose a constitutional amendment allowing voters to approve an increase in the tax rates for RFPDs and ESDs, and HB 2744 by Carter, which would serve as enabling legislation for HJR 87 and provide for transfer of territory among districts, were reported favorably by the House County Affairs Committee on March 28.