

- SUBJECT:** Commissioners court oversight of certain emergency services districts
- COMMITTEE:** County Affairs — committee substitute recommended
- VOTE:** 5 ayes — Farias, Hernandez Luna, Hunter, Kolkhorst, Stickland  
0 nays  
4 absent — Coleman, M. González, Krause, Simpson
- WITNESSES:** For — Jo Anne Bernal, Veronica Escobar, and Vincent Perez, El Paso County; (*Registered, but did not testify:* Steve Bresnen, El Paso County)  
  
Against — John Carlton, Texas State Association of Fire and Emergency Districts, El Paso County Emergency Services District No. 2)  
  
On — Don Wilson (Texas Commission on Fire Protection)
- BACKGROUND:** Emergency services districts (ESDs) are governed by Health and Safety Code, ch. 775 and provide emergency medical and ambulance services, emergency rural fire prevention and control services, or other emergency services authorized by the Legislature. Each ESD is led by a five-member board appointed by a county commissioners court. The board may set a tax rate, administer services, and approve a budget and major purchases. The ESD may acquire, purchase, hold, lease, manage, occupy, and sell real and personal property or an interest in property. It may enter into contracts and lease, own, maintain, operate, and provide emergency services vehicles, equipment, and machinery to provide emergency services.  
  
Chapter 775 also requires an ESD’s board, upon request by December 31 from the commissioners court, to submit a written report by February 1 of the following year about its budget, tax rate, and debts for the preceding fiscal year. The ESD must allow the county auditor access to its books, records, officials, and assets. By June 1 of each year, it must file an audit report of its fiscal accounts and records.
- DIGEST:** CSHB 685 would amend the Health and Safety Code, ch. 775 to give the commissioners court of a county government that borders Mexico and has

a population of more than 800,000 residents (El Paso County) certain authority with respect to the tax rates, budgets, and business operations of emergency services districts (ESDs) in the county. It would increase the requirements for an ESD to report to the county commissioners court its performance and fiscal status and would require an ESD to encourage and promote participation of all sectors of the business community, including small businesses and businesses owned by minorities or women.

**Powers.** The bill would allow the county commissioners court to establish policies and procedures with which the board of the ESDs had to comply when dealing with property, equipment, goods, services, facilities or systems to maintain a facility or provide service to a district. This would include how services were provided and public funds were used for a volunteer fire department or emergency service provider.

The policies and procedures would have to:

- set purchasing price thresholds for the district that would determine when permission from the county commissioners court was required for certain purchases; and
- designate a person from the county who would serve as the district liaison between the commissioners court and the board.

The policies and procedures could require the district's board to submit to the county commissioners court periodic reports on the district's compliance and could not be established until the commissioners court consulted with the board.

**Delegation and waiver of duties and requirements.** The commissioners court could delegate a duty to an ESD board or waive a requirement of the court to approve an action of the district and could terminate this delegation of a duty or waiver.

**Budget.** The county commissioners court would have to establish a schedule for ESDs to prepare an annual budget, tax rate calculations and notices, and a proposed tax rate, which the district would submit to the commissioners court for final approval. The submission to the commissioners court would require a reasonable time for review. The district also would be required to submit its tax rate calculations and notices and a proposed tax rate to the county auditor.

If the county commissioners court did not approve or deny the budget or proposed tax rate submitted by the district within 31 days after each was submitted, the court would be considered to have approved the budget or proposed tax rate.

**Business participation.** The bill would require a district's board to develop a plan for the district to identify and remove barriers that unfairly discriminated against small businesses and businesses owned by minorities or women.

The budgetary and tax rate provisions of the bill would take effect January 1, 2014.

The bill would take effect September 1, 2013.

**SUPPORTERS  
SAY:**

CSHB 685 would give El Paso County government the necessary authority to prevent poor business management and the misuse of public funds at an emergency services district (ESD). It would add a layer of transparency at the district that would honor taxpayers and provide El Paso County government with reasonable authority that would not impede ESDs from performing their duties.

CSHB 685 would help deter the misuse of tax revenue at the ESDs in El Paso by increasing the county government's fiscal and operational oversight of these publicly supported entities. A recent county audit showed poor financial management at one of El Paso's two ESDs, as well as failures in reporting financial decisions, which this bill would address. County government control over districts' purchasing, budgetary, and taxing processes would safeguard public funds and shed light on the financial decisions made by the districts' unelected board members and officials.

The bill would provide El Paso with a proactive approach to local taxing entities that would yield accountability and transparency. CSHB 685 would create the same kind of oversight that has made the El Paso County Hospital District a streamlined and money-making taxing entity. Although the county commissioners court can already remove board members from an ESD, it has no recourse for taking action against employees or volunteers of the district who may be responsible for poor financial or

managerial decisions. CSHB 685 would allow the commissioners court to not have to wait for a crisis before taking action. It also would allow the commissioners court to transfer duties back to the district and waive requirements for approval.

OPPONENTS  
SAY:

CSHB 685 would be unnecessary because county governments already have fairly comprehensive oversight of ESDs and ceding more authority to a county commissioners court would be invasive for day-to-day ESD operations. Seeking approval from the county commissioners court for every budget, as the bill would require, would be cumbersome for ESDs. As it stands, all of the board members who direct the ESDs in El Paso are appointed by the commissioners court so there already is adequate county government accountability. Also, state statutes stipulate that ESDs, upon request, provide the county commissioners court with a financial report each year, and county auditors already have access annually to financial records of a district.

NOTES:

The companion bill, SB 332 by Rodriguez, was passed by the Senate by a vote of 31-0 on April 11.

The committee substitute differs from the bill as filed by:

- applying to a district that is wholly located in the county, rather than wholly or partly;
- adding appointment of the board of emergency services commissioners by the commissioners court to define affected county;
- stipulating that the county commissioners court could delegate or waive duties and approval requirements;
- allowing the county commissioners court to establish policies and procedures for the board;
- removing leasing guidelines for the district;
- adding authority and requirements for policies and procedures established by the commissioners court;
- deleting a section in the original regarding board authority to contract with approval of the commissioners court;
- deleting the county authority to sell, lease, and purchase facilities for district purposes;
- requiring the district to establish a schedule for presenting certain information to the county commissioners court and adding to the

items that would be presented;

- requiring a reasonable time to review the district's budget and tax rate proposals;
- stipulating that the district would submit its budget and tax rate proposal for approval by the commissioners court and submit its proposed tax rate to the county auditor;
- stipulating that the budget and tax rate would be approved if the commissioners court did not approve the budget or tax rate before the 31st day they were submitted for review;
- deleting a provision addressing commissioners court authority with respect to an ad valorem tax;
- adding that the budgetary and tax rate provisions of the bill would take effect January 1, 2014.