

## **BILL ANALYSIS**

Senate Research Center  
78R17023 DRH-F

C.S.H.B. 1108  
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Intergovernmental Relations  
5/20/2003  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

C.S.H.B. 1108 sets forth provisions relating to emergency services districts.

### **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. Reenacts and amends Section 775.013(a), Health and Safety Code, as amended by Chapters 886 and 1333, Acts of the 77th Legislature, Regular Session, 2001, to make a conforming change. Redesignates Subdivision (6) as (7).

SECTION 2. Amends Section 775.022, Health and Safety Code, by amending Subsections (a), (b), and (c) and adding Subsections (e) and (f), as follows:

- (a) Requires the municipality, if a municipality completes all other procedures necessary to annex territory in a district and if the municipality intends to provide emergency services to the territory by the use of municipal personnel or by some method other than by use of the district, to send written notice of that fact to the Board of Emergency Services Commissioners (board). Requires the municipality to send the notice to the secretary of the board by certified mail, return receipt requested. Provides that the territory remains part of the emergency services district (district) and does not become part of the municipality until the secretary of the board receives the notice. Requires the board, on receipt of the notice, to immediately change its record to show that the territory has been disannexed from the district.
- (b) Adds loans and lease-purchase agreements to existing text relating to obligations of the district.
- (c) Requires the municipality, if a municipality annexes territory in, rather than a portion of, a district, to compensate the district immediately after disannexation of the territory under Subsection (a) as computed according to the formula in Subsection (e), rather than based on the unpaid principal balances and the actual property values at the time the territory is annexed.
- (e) Requires the amount of compensation under Subsection (c) to be determined by multiplying the district's total indebtedness at the time of the annexation by a fraction the numerator of which is the assessed value of the property to be annexed based on the most recent certified county property tax rolls at the time of annexation and the denominator of which is the total assessed value of the property of the district based on the most recent certified county property tax rolls at the time of annexation.
- (f) Provides that for the purposes of this section, total indebtedness includes loans and lease-purchase agreements but does not include certain loans, lease-purchase agreements or indebtedness.

SECTION 3. Amends Subchapter B, Chapter 775, Health and Safety Code, by adding Section 775.0221, as follows:

Sec. 775.0221. ARBITRATION REGARDING REMOVED TERRITORY. (a) Requires the municipality and the district to negotiate an agreement on the amount of compensation required under Section 775.022. Requires the municipality and the district, if the municipality and the district cannot reach an agreement, to resolve the dispute using binding arbitration.

(b) Requires a request for binding arbitration to be in writing and prohibits it from being made before the 60th day after the date the municipality receives notice from the district regarding the amount of compensation required under Section 775.022.

(c) Requires the municipality and the district to agree on the arbitrator. Requires the mayor of the municipality, if the parties cannot agree on the appointment of an arbitrator before the 11th business day after the date arbitration is requested, to immediately request a list of seven neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service or their successors in function. Requires an arbitrator included in the list to be a resident of this state and prohibits the arbitrator from being a resident of a county in which any part of the municipality or any part of the district is located. Requires the municipality and the district to agree on the appointment of an arbitrator included in the list. Authorizes each party or the party's designee, if the municipality and the party cannot agree on the arbitrator before the 11th business day after the date the list is provided to the parties, to alternately strike a name from the list. Requires the remaining person on the list to be appointed as arbitrator. Defines "business day."

(d) Requires the arbitrator to perform certain tasks.

(e) Authorizes the arbitrator to perform certain tasks.

(f) Requires the arbitrator, unless the parties to the dispute agree otherwise, to complete the hearing within two consecutive days. Requires the arbitrator to permit each party one day to present evidence and other information. Authorizes the arbitrator, for good cause shown, to schedule an additional hearing to be held not later than the seventh day after the date of the first hearing. Requires the arbitrator, unless otherwise agreed to by the parties, to issue a decision in writing and deliver a copy of the decision to the parties not later than the 14th day after the date of the final hearing.

(g) Requires the municipality and the district to share the cost of arbitration.

SECTION 4. Amends Section 775.031(c), Health and Safety Code, to authorize a district to contract with the state or a political subdivision for law enforcement services or for enforcement of the district's fire code. Authorizes, rather than prohibits, a district to commission a peace officer or employ a person who holds a permanent peace officer license issued under Section 1701.307, Occupations Code, as a peace officer.

SECTION 5. Amends Section 775.034, Health and Safety Code, by adding Subsections (f) and (g), as follows:

(f) Authorizes a member of the board who, because of municipal annexation, is no longer a qualified voter of an area served by the district or no longer owns land subject to taxation by the district to continue to serve until the expiration of the member's term.

(g) Requires the commissioners court to consider relevant factors in determining the individuals to appoint as emergency services commissioners, including whether the

individuals have knowledge that relates to fire prevention or emergency medical services and that is relevant to the common policies and practices of the board.

SECTION 6. Amends Section 775.036, Health and Safety Code, by amending Subsection (b) and adding Subsections (b-1) and (g), as follows:

(b) Requires the fire code to be similar to standards adopted by nationally recognized standards-making association. Prohibits the board from enforcing the district's fire code within the boundaries of a municipality that has adopted a fire code, except for an area that has been annexed only for limited purposes in which the municipality does not enforce a fire code.

(b-1) Authorizes the board, if a county that contains within its boundaries any portion of the land contained in the district adopts a fire code after the district adopts a code under Subsection (b), to continue to enforce its fire code in the area subject to the county fire code. Provides that to the extent of any conflict between the county's code and the district's code, the more stringent provision prevails.

(g) Authorizes the board to commission a peace officer or employ a person who holds a permanent peace officer license issued under Section 1701.307, Occupations Code, to inspect for fire hazards any structure, appurtenance, fixture, or other real property located in the district. Authorizes the board to adopt procedures to order the owner or occupant of the property that fails an inspection to correct the hazardous situation.

SECTION 7. Amends Section 775.0751(a), Health and Safety Code, to authorize the district to impose the tax at a rate from one-eighth of one percent to two percent in increments of one-eighth of one percent, rather than of one-half percent, on percent, and one and one-half percent.

SECTION 8. Amends Section 775.076(a), Health and Safety Code, to add "authorized by this section" relating to issuance of bonds or notes.

SECTION 9. Amends Section 775.083, Health and Safety Code, as follows:

(a) Replaces the "secretary of state" with the "Office of Rural Community Affairs" (ORCA).

(b) Makes a conforming change.

(c) Requires ORCA to develop and maintain an Internet-based system that enables certain entities and individuals to perform various tasks.

(d) Requires the district, if the information included in a district's annual report changes, to update the district's information using the Internet-based system before the end of the calendar quarter in which the district's information changes.

SECTION 10. Amends Section 775.084(k), Health and Safety Code, to make a nonsubstantive and conforming change.

SECTION 11. Amends Sections 775.085(a) and (b), Health and Safety Code, as follows:

(a) Authorizes the board, on behalf of the district, to construct emergency services facilities.

(b) Authorizes the board, to secure a loan under this section, to pledge the real property acquired or improved.

SECTION 12. Amends Section 776.033, Health and Safety Code, by adding Subsection (e) to require the commissioners court to consider relevant factors in determining the individuals to appoint as emergency services commissioners, including whether the individuals have

knowledge that relates to fire prevention or emergency medical services and that is relevant to the common policies and practices of the board of emergency commissioners (board).

SECTION 13. Amends Section 776.052, Health and Safety Code, by amending Subsection (c) and adding Subsections (d) through (g), as follows:

(c) Requires the governing body of the municipality, if a municipality that is not in the district completes all other procedures necessary to annex, rather than annexes, territory that is included in a district and if the municipality intends to provide emergency services to the territory by the use of municipal personnel or by some method other than by use of the district, to send written notice of that fact to the board. Requires the municipality to send notice to, rather than notify, the secretary of the board by certified mail, return receipt requested. Provides that the territory remains part of the district and does not become part of the municipality until the secretary of the board receives the notice. Requires the board, on receipt of the notice, to immediately change its records to show that the territory has been disannexed from the district and to cease to provide further services to the residents of that territory. Deletes text relating to notifying the secretary of the board in writing that the annexed territory is excluded from the district's territory.

(d) Requires the municipality, if a municipality removes territory from a district under Subsection (a) or (c), to compensate the district in an amount equal to the removed territory's pro rata share of the district's bonded and other indebtedness as computed according to the formula in Subsection (e). Requires the district to apply compensation received from a municipality under this subsection exclusively for the payment of the removed territory's pro rata share of the district's bonded and other indebtedness.

(e) Requires the amount of compensation under Subsection (d) to be determined by multiplying the district's total indebtedness at the time the territory is removed by a certain fraction.

(f) Requires a municipality, on the district's request, to purchase from the district at fair market value any real or personal property used to provide emergency services in territory disannexed under this section. Provides that if any part of the indebtedness for which the district receives compensation under Subsection (d) was for the purchase of the real or personal property that the municipality purchases under this subsection, the fair market value of that property for the purpose of this subsection is reduced by a certain percentage.

(g) Provides that for purposes of this section, total indebtedness includes loans and lease-purchase agreements but does not include certain other loan and lease-purchase agreements or indebtedness.

SECTION 14. Amends Subchapter D, Chapter 776, Health and Safety Code, by adding Section 776.0521, as follows:

Sec. 776.0521. **ARBITRATION REGARDING REMOVED TERRITORY.** (a) Requires the municipality and the district to negotiate an agreement on the amount of compensation required under Section 776.052. Requires the municipality and the district, if the municipality and the district cannot reach an agreement, to resolve the dispute using binding arbitration.

(b) Requires a request for binding arbitration to be in writing and prohibits it from being made before the 60th day after the date the municipality receives notice from the district regarding the amount of compensation required under Section 776.025.

(c) Requires the municipality and the district to agree on an arbitrator. Requires the mayor of the municipality, if the parties cannot agree on the appointment of an arbitrator before the 11th business day after the date arbitration is requested, to

immediately request a list of seven neutral arbitrators from the American Arbitrators Association or the Federal Mediation and Conciliation Services or their successors in function. Requires an arbitrator included in the list to be a resident of this state and prohibits an arbitrator including in the list from being a resident of a county in which any part of the municipality or any part of the district is located. Requires the municipality and the district to agree on the appointment of an arbitrator included in the list. Authorizes each party or the party's designee, if the municipality and the district cannot agree on the arbitrator before the 11th business day after the date the list is provided to the parties, to alternately strike a name from the list. Requires the remaining name on the list to be appointed as the arbitrator. Defines "business day."

(d) Requires the arbitrator to take certain actions.

(e) Authorizes the arbitrator to take certain actions.

(f) Requires the arbitrator, unless the parties to the dispute agree otherwise, to complete the hearing within two consecutive days. Requires the arbitrator to permit each party one day to present evidence and other information. Authorizes the arbitrator, for good cause shown, to schedule an additional hearing to be held not later than the seventh day after the date of the first hearing. Requires the arbitrator, unless otherwise agreed to by the parties, to issue a decision in writing and deliver a copy of the decision to the parties not later than the 14th day after the date of the final hearing.

(g) Requires the municipality and the district to share the cost of arbitration.

SECTION 15. Amends Subchapter E, Chapter 776, Health and Safety Code, by adding Section 776.083, as follows:

Sec. 776.083. ANNUAL REPORT. (a) Requires the district, on or before January 1 of each year, to file with ORCA an annual report that includes certain information.

(b) Prohibits ORCA from charging a fee for filing the report.

(c) Requires ORCA to develop and maintain an Internet-based system that enables the district to securely file the report and update reports files by districts under this section and the public to view, in a searchable format, the reports filed by districts under this section.

(d) Requires the district, if the information included in a district's annual report changes, to update the district's information using the Internet-based system before the end of the calender quarter in which the district's information changes.

SECTION 16. Amends Article 2.12, Code of Criminal Procedure, to provide that certain individuals are peace officers.

SECTION 17. (a) Effective date: September 1, 2003.

(b) Requires ORCA to develop an Internet-based system as required by Section 775.083(c) and Section 776.083(c), Health and Safety Code, as added by this Act, before January 1, 2004.

(c) Makes the application of Sections 2, 3, 13, and 14 of this Act prospective.