

AN ACT

relating to emergency services districts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 775.013(a), Health and Safety Code, as amended by Chapters 886 and 1333, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(a) The petition prescribed by Section 775.011 or 775.012 must show:

(1) that the district is to be created and is to operate under Article III, Section 48-e, Texas Constitution, and Chapter 775;

(2) the name of the proposed district;

(3) the proposed district's boundaries as designated by metes and bounds or other sufficient legal description;

(4) the services that the proposed district will provide;

(5) that the creation of the proposed district complies with Sections 775.020 and 775.0205; ~~and~~

(6) the mailing address of each petitioner; and

(7) ~~(6)~~ the name of each municipality whose consent must be obtained under Section 775.014.

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

1 (a) If a municipality completes all other procedures  
2 necessary to annex [~~annexes~~] territory in a district and if the  
3 municipality intends to provide emergency services to the territory  
4 by the use of municipal personnel or by some method other than by  
5 use of the district, the municipality shall send written notice of  
6 that fact to the board. The municipality must send the notice to  
7 the secretary of the board by certified mail, return receipt  
8 requested. The territory remains part of the district and does not  
9 become part of the municipality until the secretary of the board  
10 receives the notice. On[, ~~the board shall, on~~] receipt of the  
11 notice, the board shall [~~a written request of the municipality,~~]  
12 immediately change its records to show that [~~disannex~~] the  
13 territory has been disannexed from the district and shall cease to  
14 provide further services to the residents of that territory.

15 (b) The disannexation of territory under this section does  
16 not diminish or impair the rights of the holders of any outstanding  
17 and unpaid bonds, warrants, or other obligations of the district  
18 including loans and lease-purchase agreements.

19 (c) If a municipality annexes territory in [~~a portion of~~] a  
20 district, the municipality shall compensate the district  
21 immediately after disannexation of the territory under Subsection  
22 (a) in an amount equal to the annexed territory's pro rata share of  
23 the district's bonded and other indebtedness as computed according  
24 to the formula in Subsection (e) [~~based on the unpaid principal~~  
25 ~~balances and the actual property values at the time the territory is~~  
26 ~~annexed~~]. The district shall apply compensation received from a  
27 municipality under this subsection exclusively to the payment of

1 the annexed territory's pro rata share of the district's bonded and  
2 other indebtedness.

3 (e) The amount of compensation under Subsection (c) shall be  
4 determined by multiplying the district's total indebtedness at the  
5 time of the annexation by a fraction the numerator of which is the  
6 assessed value of the property to be annexed based on the most  
7 recent certified county property tax rolls at the time of  
8 annexation and the denominator of which is the total assessed value  
9 of the property of the district based on the most recent certified  
10 county property tax rolls at the time of annexation.

11 (f) For purposes of this section, total indebtedness  
12 includes loans and lease-purchase agreements but does not include:

13 (1) a loan or lease-purchase agreement the district  
14 enters into after the district receives notice of the  
15 municipality's intent to annex district territory; or

16 (2) any indebtedness attributed to any real or  
17 personal property that the district requires a municipality to  
18 purchase under Subsection (d).

19 SECTION 3. Subchapter B, Chapter 775, Health and Safety  
20 Code, is amended by adding Section 775.0221 to read as follows:

21 Sec. 775.0221. ARBITRATION REGARDING REMOVED TERRITORY.

22 (a) The municipality and the district shall negotiate an agreement  
23 on the amount of compensation required under Section 775.022. If  
24 the municipality and the district cannot reach an agreement, the  
25 municipality and the district shall resolve the dispute using  
26 binding arbitration.

27 (b) A request for binding arbitration must be in writing and

1 may not be made before the 60th day after the date the municipality  
2 receives notice from the district regarding the amount of  
3 compensation required under Section 775.022.

4 (c) The municipality and the district must agree on the  
5 arbitrator. If the parties cannot agree on the appointment of an  
6 arbitrator before the 11th business day after the date arbitration  
7 is requested, the mayor of the municipality shall immediately  
8 request a list of seven neutral arbitrators from the American  
9 Arbitration Association or the Federal Mediation and Conciliation  
10 Service or their successors in function. An arbitrator included in  
11 the list must be a resident of this state and may not be a resident  
12 of a county in which any part of the municipality or any part of the  
13 district is located. The municipality and the district must agree  
14 on the appointment of an arbitrator included in the list. If the  
15 municipality and the district cannot agree on the arbitrator before  
16 the 11th business day after the date the list is provided to the  
17 parties, each party or the party's designee may alternately strike  
18 a name from the list. The remaining person on the list shall be  
19 appointed as the arbitrator. In this subsection, "business day"  
20 means a day other than a Saturday, Sunday, or state or national  
21 holiday.

22 (d) The arbitrator shall:

23 (1) set a hearing to be held not later than the 10th  
24 day after the date the arbitrator is appointed; and

25 (2) notify the parties to the arbitration in writing  
26 of the time and place of the hearing not later than the eighth day  
27 before the date of the hearing.

1           (e) The arbitrator may:

2                   (1) receive in evidence any documentary evidence or  
3 other information the arbitrator considers relevant;

4                   (2) administer oaths; and

5                   (3) issue subpoenas to require:

6                           (A) the attendance and testimony of witnesses;  
7 and

8                           (B) the production of books, records, and other  
9 evidence relevant to an issue presented to the arbitrator for  
10 determination.

11           (f) Unless the parties to the dispute agree otherwise, the  
12 arbitrator shall complete the hearing within two consecutive days.  
13 The arbitrator shall permit each party one day to present evidence  
14 and other information. The arbitrator, for good cause shown, may  
15 schedule an additional hearing to be held not later than the seventh  
16 day after the date of the first hearing. Unless otherwise agreed to  
17 by the parties, the arbitrator must issue a decision in writing and  
18 deliver a copy of the decision to the parties not later than the  
19 14th day after the date of the final hearing.

20           (g) The municipality and the district shall share the cost  
21 of arbitration.

22           SECTION 4. Subsection (c), Section 775.031, Health and  
23 Safety Code, is amended to read as follows:

24           (c) A district may contract with the state or a political  
25 subdivision for law enforcement services or for enforcement of the  
26 district's fire code. A [~~Except as provided by Subchapter F, a~~]  
27 district may [~~not~~] commission a peace officer or employ a person who

1 holds a permanent peace officer license issued under Section  
2 1701.307, Occupations Code, as a peace officer.

3 SECTION 5. Section 775.034, Health and Safety Code, is  
4 amended by adding Subsections (f) and (g) to read as follows:

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

9 (g) The commissioners court shall consider relevant factors  
10 in determining the individuals to appoint as emergency services  
11 commissioners, including whether the individuals have knowledge  
12 that relates to fire prevention or emergency medical services and  
13 that is relevant to the common policies and practices of the board.

14 SECTION 6. Section 775.036, Health and Safety Code, is  
15 amended by amending Subsection (b) and adding Subsections (b-1) and  
16 (g) to read as follows:

17 (b) The board may adopt and enforce a fire code, including  
18 fines for any violations, that does not conflict with a fire code  
19 adopted by any county that also contains within its boundaries any  
20 portion of the land contained in the district and may require  
21 inspections in the district relating to the causes and prevention  
22 of fires and medical emergencies, except as provided by Section  
23 775.031(b). The fire code must be similar to standards adopted by a  
24 nationally recognized standards-making association. The board may  
25 not enforce the district's fire code within the boundaries of a  
26 municipality that has adopted a fire code, except for an area that  
27 has been annexed only for limited purposes in which the

1 municipality does not enforce a fire code. The board of a district  
2 located wholly within a county with a population of three million or  
3 more may not adopt a fire code or a fine for a violation of the  
4 district's fire code unless the commissioners court of the county  
5 consents to the adoption of the code or fine.

6 (b-1) If a county that contains within its boundaries any  
7 portion of the land contained in the district adopts a fire code  
8 after the district adopts a code under Subsection (b), the board may  
9 continue to enforce its fire code in the area subject to the county  
10 fire code. To the extent of any conflict between the county's code  
11 and the district's code, the more stringent provision prevails.

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

19 SECTION 7. Subsection (a), Section 775.0751, Health and  
20 Safety Code, is amended to read as follows:

21 (a) A district may adopt a sales and use tax, change the rate  
22 of its sales and use tax, or abolish its sales and use tax at an  
23 election held as provided by Section 775.0752. The district may  
24 impose the tax at a rate from one-eighth of one percent to ~~[of~~  
25 ~~one-half percent, one percent, one and one-half percent, or]~~ two  
26 percent in increments of one-eighth of one percent. Revenue from  
27 the tax may be used for any purpose for which ad valorem tax revenue

1 of the district may be used.

2 SECTION 8. Subsection (a), Section 775.076, Health and  
3 Safety Code, is amended to read as follows:

4 (a) The board may issue bonds and notes as prescribed by  
5 this chapter to perform any of its powers. Before the board may  
6 issue bonds or notes authorized by this section, the commissioners  
7 court of each county in which the district is located must approve  
8 the issuance of the bonds or notes by a majority vote.

9 SECTION 9. Section 775.083, Health and Safety Code, is  
10 amended to read as follows:

11 Sec. 775.083. ANNUAL REPORT. (a) On or before January 1 of  
12 each year, a district shall file with the Office of Rural Community  
13 Affairs [~~secretary of state~~] an annual report that includes the  
14 following:

- 15 (1) the district's name;
- 16 (2) the name of each county in which the district is  
17 located;
- 18 (3) the district's business address;
- 19 (4) the name, mailing address, and term of office of  
20 each commissioner;
- 21 (5) the name, mailing address, and term of office of  
22 the district's general manager, executive director, and fire chief;
- 23 (6) the name of each legal counsel or other consultant  
24 for the district; and
- 25 (7) the district's annual budget and tax rate for the  
26 preceding fiscal year.

27 (b) The Office of Rural Community Affairs [~~secretary of~~

1 ~~state~~] may not charge a fee for filing the report.

2 (c) The Office of Rural Community Affairs shall develop and  
3 maintain an Internet-based system that enables:

4 (1) a district to securely file the report and update  
5 the district's information; and

6 (2) the public to view, in a searchable format, the  
7 reports filed by districts under this section.

8 (d) If the information included in a district's annual  
9 report changes, the district shall update the district's  
10 information using the Internet-based system before the end of the  
11 calendar quarter in which the district's information changes.

12 SECTION 10. Subsection (k), Section 775.084, Health and  
13 Safety Code, is amended to read as follows:

14 (k) A contract for a public works project must be  
15 administered in the manner provided by [~~accordance with~~] Subchapter  
16 B or H, Chapter 271, Local Government Code, except as provided by  
17 this section.

18 SECTION 11. Subsections (a) and (b), Section 775.085,  
19 Health and Safety Code, are amended to read as follows:

20 (a) The board, on the behalf of the district, may borrow  
21 money and make other financial arrangements to purchase real  
22 property or emergency services equipment or construct emergency  
23 services facilities in the amount and subject to a rate of interest  
24 or other conditions the board considers advisable.

25 (b) To secure a loan under this section, the board may  
26 pledge:

27 (1) tax revenues or funds on hand that are not

1 otherwise pledged to pay a debt of the district; or

2 (2) the real property acquired or improved or  
3 equipment acquired with the borrowed money.

4 SECTION 12. Section 776.033, Health and Safety Code, is  
5 amended by adding Subsection (e) to read as follows:

6 (e) The commissioners court shall consider relevant factors  
7 in determining the individuals to appoint as emergency services  
8 commissioners, including whether the individuals have knowledge  
9 that relates to fire prevention or emergency medical services and  
10 that is relevant to the common policies and practices of the board.

11 SECTION 13. Section 776.052, Health and Safety Code, is  
12 amended by amending Subsection (c) and adding Subsections (d)  
13 through (g) to read as follows:

14 (c) If a municipality that is not in the district completes  
15 all other procedures necessary to annex [~~annexes~~] territory that is  
16 included in a district and if the municipality intends to provide  
17 emergency services to the territory by the use of municipal  
18 personnel or by some method other than by use of the district, the  
19 governing body of the municipality shall send written notice of  
20 that fact to the board. The municipality must send the notice to  
21 [~~notify~~] the secretary of the board by certified mail, return  
22 receipt requested. The territory remains part of the district and  
23 does not become part of the municipality until the secretary of the  
24 board receives the notice. On receipt of the notice, the board  
25 shall immediately change its records to show that the territory has  
26 been disannexed from the district and shall cease to provide  
27 further services to the residents of that [~~in writing that the~~

1 ~~annexed territory is excluded from the district's]~~ territory.

2 (d) If a municipality removes territory from a district  
3 under Subsection (a) or (c), the municipality shall compensate the  
4 district in an amount equal to the removed territory's pro rata  
5 share of the district's bonded and other indebtedness as computed  
6 according to the formula in Subsection (e). The district shall  
7 apply compensation received from a municipality under this  
8 subsection exclusively to the payment of the removed territory's  
9 pro rata share of the district's bonded and other indebtedness.

10 (e) The amount of compensation under Subsection (d) shall be  
11 determined by multiplying the district's total indebtedness at the  
12 time the territory is removed by a fraction the numerator of which  
13 is the assessed value of the property to be removed based on the  
14 most recent certified county property tax rolls at the time of  
15 removal and the denominator of which is the total assessed value of  
16 the property of the district based on the most recent certified  
17 county property tax rolls at the time of removal.

18 (f) On the district's request, a municipality shall  
19 purchase from the district at fair market value any real or personal  
20 property used to provide emergency services in territory disannexed  
21 under this section. If any part of the indebtedness for which the  
22 district receives compensation under Subsection (d) was for the  
23 purchase of the real or personal property that the municipality  
24 purchases under this subsection, the fair market value of that  
25 property for the purpose of this subsection is reduced by a  
26 percentage equal to the disannexed territory's pro rata share under  
27 Subsection (d).

1           (g) For purposes of this section, total indebtedness  
2 includes loans and lease-purchase agreements but does not include:

3           (1) a loan or lease-purchase agreement the district  
4 enters into after the district receives notice about the  
5 municipality's intent to remove district territory; or

6           (2) any indebtedness attributed to any real or  
7 personal property that the district requires a municipality to  
8 purchase under Subsection (f).

9           SECTION 14. Subchapter D, Chapter 776, Health and Safety  
10 Code, is amended by adding Section 776.0521 to read as follows:

11           Sec. 776.0521. ARBITRATION REGARDING REMOVED TERRITORY.

12 (a) The municipality and the district shall negotiate an agreement  
13 on the amount of compensation required under Section 776.052. If  
14 the municipality and the district cannot reach an agreement, the  
15 municipality and the district shall resolve the dispute using  
16 binding arbitration.

17           (b) A request for binding arbitration must be in writing and  
18 may not be made before the 60th day after the date the municipality  
19 receives notice from the district regarding the amount of  
20 compensation required under Section 776.052.

21           (c) The municipality and the district must agree on the  
22 arbitrator. If the parties cannot agree on the appointment of an  
23 arbitrator before the 11th business day after the date arbitration  
24 is requested, the mayor of the municipality shall immediately  
25 request a list of seven neutral arbitrators from the American  
26 Arbitration Association or the Federal Mediation and Conciliation  
27 Service or their successors in function. An arbitrator included in

1 the list must be a resident of this state and may not be a resident  
2 of a county in which any part of the municipality or any part of the  
3 district is located. The municipality and the district must agree  
4 on the appointment of an arbitrator included in the list. If the  
5 municipality and the district cannot agree on the arbitrator before  
6 the 11th business day after the date the list is provided to the  
7 parties, each party or the party's designee may alternately strike  
8 a name from the list. The remaining person on the list shall be  
9 appointed as the arbitrator. In this subsection, "business day"  
10 means a day other than a Saturday, Sunday, or state or national  
11 holiday.

12 (d) The arbitrator shall:

13 (1) set a hearing to be held not later than the 10th  
14 day after the date the arbitrator is appointed; and

15 (2) notify the parties to the arbitration in writing  
16 of the time and place of the hearing not later than the eighth day  
17 before the date of the hearing.

18 (e) The arbitrator may:

19 (1) receive in evidence any documentary evidence or  
20 other information the arbitrator considers relevant;

21 (2) administer oaths; and

22 (3) issue subpoenas to require:

23 (A) the attendance and testimony of witnesses;

24 and

25 (B) the production of books, records, and other  
26 evidence relevant to an issue presented to the arbitrator for  
27 determination.

1           (f) Unless the parties to the dispute agree otherwise, the  
2 arbitrator shall complete the hearing within two consecutive days.  
3 The arbitrator shall permit each party one day to present evidence  
4 and other information. The arbitrator, for good cause shown, may  
5 schedule an additional hearing to be held not later than the seventh  
6 day after the date of the first hearing. Unless otherwise agreed to  
7 by the parties, the arbitrator must issue a decision in writing and  
8 deliver a copy of the decision to the parties not later than the  
9 14th day after the date of the final hearing.

10           (g) The municipality and the district shall share the cost  
11 of arbitration.

12           SECTION 15. Subchapter E, Chapter 776, Health and Safety  
13 Code, is amended by adding Section 776.083 to read as follows:

14           Sec. 776.083. ANNUAL REPORT. (a) On or before January 1 of  
15 each year, a district shall file with the Office of Rural Community  
16 Affairs an annual report that includes the following:

17                   (1) the district's name;

18                   (2) the name of each county in which the district is  
19 located;

20                   (3) the district's business address;

21                   (4) the name, mailing address, and term of office of  
22 each commissioner;

23                   (5) the name, mailing address, and term of office of  
24 the district's general manager, executive director, and fire chief;

25                   (6) the name of each legal counsel or other consultant  
26 for the district; and

27                   (7) the district's annual budget and tax rate for the

1 preceding fiscal year.

2 (b) The Office of Rural Community Affairs may not charge a  
3 fee for filing the report.

4 (c) The Office of Rural Community Affairs shall develop and  
5 maintain an Internet-based system that enables:

6 (1) a district to securely file the report and update  
7 the district's information; and

8 (2) the public to view, in a searchable format, the  
9 reports filed by districts under this section.

10 (d) If the information included in a district's annual  
11 report changes, the district shall update the district's  
12 information using the Internet-based system before the end of the  
13 calendar quarter in which the district's information changes.

14 SECTION 16. Article 2.12, Code of Criminal Procedure, is  
15 amended to read as follows:

16 Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace  
17 officers:

18 (1) sheriffs, their deputies, and those reserve  
19 deputies who hold a permanent peace officer license issued under  
20 Chapter 1701, Occupations Code;

21 (2) constables, deputy constables, and those reserve  
22 deputy constables who hold a permanent peace officer license issued  
23 under Chapter 1701, Occupations Code;

24 (3) marshals or police officers of an incorporated  
25 city, town, or village, and those reserve municipal police officers  
26 who hold a permanent peace officer license issued under Chapter  
27 1701, Occupations Code;

1           (4) rangers and officers commissioned by the Public  
2 Safety Commission and the Director of the Department of Public  
3 Safety;

4           (5) investigators of the district attorneys', criminal  
5 district attorneys', and county attorneys' offices;

6           (6) law enforcement agents of the Texas Alcoholic  
7 Beverage Commission;

8           (7) each member of an arson investigating unit  
9 commissioned by a city, a county, or the state;

10          (8) officers commissioned under Section 37.081,  
11 Education Code, or Subchapter E, Chapter 51, Education Code;

12          (9) officers commissioned by the General Services  
13 Commission;

14          (10) law enforcement officers commissioned by the  
15 Parks and Wildlife Commission;

16          (11) airport police officers commissioned by a city  
17 with a population of more than 1.18 million that operates an airport  
18 that serves commercial air carriers;

19          (12) airport security personnel commissioned as peace  
20 officers by the governing body of any political subdivision of this  
21 state, other than a city described by Subdivision (11), that  
22 operates an airport that serves commercial air carriers;

23          (13) municipal park and recreational patrolmen and  
24 security officers;

25          (14) security officers and investigators commissioned  
26 as peace officers by the comptroller;

27          (15) officers commissioned by a water control and

1 improvement district under Section 49.216, Water Code;

2 (16) officers commissioned by a board of trustees  
3 under Chapter 54, Transportation Code;

4 (17) investigators commissioned by the Texas State  
5 Board of Medical Examiners;

6 (18) officers commissioned by the board of managers of  
7 the Dallas County Hospital District, the Tarrant County Hospital  
8 District, or the Bexar County Hospital District under Section  
9 281.057, Health and Safety Code;

10 (19) county park rangers commissioned under  
11 Subchapter E, Chapter 351, Local Government Code;

12 (20) investigators employed by the Texas Racing  
13 Commission;

14 (21) officers commissioned under Chapter 554,  
15 Occupations Code;

16 (22) officers commissioned by the governing body of a  
17 metropolitan rapid transit authority under Section 451.108,  
18 Transportation Code, or by a regional transportation authority  
19 under Section 452.110, Transportation Code;

20 (23) investigators commissioned by the attorney  
21 general under Section 402.009, Government Code;

22 (24) security officers and investigators commissioned  
23 as peace officers under Chapter 466, Government Code;

24 (25) an officer employed by the Texas Department of  
25 Health under Section 431.2471, Health and Safety Code;

26 (26) officers appointed by an appellate court under  
27 Subchapter F, Chapter 53, Government Code;

1 (27) officers commissioned by the state fire marshal  
2 under Chapter 417, Government Code;

3 (28) an investigator commissioned by the commissioner  
4 of insurance under Article 1.10D, Insurance Code;

5 (29) apprehension specialists commissioned by the  
6 Texas Youth Commission as officers under Section 61.0931, Human  
7 Resources Code;

8 (30) officers appointed by the executive director of  
9 the Texas Department of Criminal Justice under Section 493.019,  
10 Government Code;

11 (31) investigators commissioned by the Commission on  
12 Law Enforcement Officer Standards and Education under Section  
13 1701.160, Occupations Code;

14 (32) commission investigators commissioned by the  
15 Texas Commission on Private Security under Section 1702.061(f),  
16 Occupations Code; and

17 (33) the fire marshal and any officers, inspectors, or  
18 [~~and any~~] investigators commissioned by an emergency services  
19 district [~~to assist that fire marshal,~~] under [~~Subchapter F,~~]  
20 Chapter 775, Health and Safety Code.

21 SECTION 17. (a) This Act takes effect September 1, 2003.

22 (b) The Office of Rural Community Affairs shall develop an  
23 Internet-based system as required by Subsection (c), Section  
24 775.083, and Subsection (c), Section 776.083, Health and Safety  
25 Code, as added by this Act, before January 1, 2004.

26 (c) Sections 2, 3, 13, and 14 of this Act apply only to  
27 removal of territory of an emergency services district on or after

1 the effective date of this Act.

David Newhall

President of the Senate

Jim Cusick

Speaker of the House

I certify that H.B. No. 1108 was passed by the House on May 8, 2003, by the following vote: Yeas 140, Nays 0, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 1108 on May 30, 2003, by the following vote: Yeas 143, Nays 0, 2 present, not voting.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 1108 was passed by the Senate, with amendments, on May 28, 2003, by the following vote: Yeas 31, Nays 0.

Patsy Spaw  
Secretary of the Senate

APPROVED: 18 JUN '03

Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
8:30 am O'CLOCK

JUN. 18 2003  
Luigi Shea  
Secretary of State