

HEALTH AND SAFETY CODE

TITLE 9. SAFETY

SUBTITLE B. EMERGENCIES

CHAPTER 775. EMERGENCY SERVICES DISTRICTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 775.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of emergency services commissioners.

(2) "District" means an emergency services district created under this chapter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 775.002. LIBERAL CONSTRUCTION. This chapter and a proceeding under this chapter shall be liberally construed to achieve the purposes of this chapter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 775.003. AUTHORIZATION. An emergency services district may be organized as provided by Article III, Section 48-e, of the Texas Constitution, as proposed by S.J.R. No. 27, Acts of the 70th Legislature, Regular Session, 1987, and adopted by the voters at an election held November 3, 1987, and by this chapter to protect life and health.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. CREATION OF DISTRICT

Sec. 775.011. PETITION FOR CREATION OF DISTRICT LOCATED WHOLLY IN ONE COUNTY. (a) Before a district located wholly in one county may be created, the county judge of that county must receive a petition signed by at least 100 qualified voters who own taxable real property in the proposed district. If there are fewer than 100 of those voters, the petition must be signed by a majority of those voters.

(b) The name of the district proposed by the petition must be "_____ County Emergency Services District No. _____," with the name of the county and the proper consecutive number inserted.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 775.012. PETITION FOR CREATION OF DISTRICT LOCATED IN MORE THAN ONE COUNTY. (a) Before a district that contains territory located in more than one county may be created, the county judge of each county in which the proposed district will be located must receive a petition signed by at least 100 qualified voters who own taxable real property that is located in the county in which that judge presides and in the proposed district. If there are fewer than 100 of those voters, the petition must be signed by a majority of those voters.

(b) The name of the district proposed by the petition must be "_____ Emergency Services District No. _____." The name of each county must be inserted in the first blank, and the next available district number must be inserted into the second blank.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 496, Sec. 1, eff. Sept. 1, 1999.

Sec. 775.013. CONTENTS OF PETITION. (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;
- (6) the mailing address of each petitioner; and
- (7) the name of each municipality whose consent must be obtained under Section 775.014.

(a-1) A statement that the boundaries of the district are coextensive with the boundaries of another political subdivision, as those boundaries exist on a particular date, is a sufficient legal description for purposes of Subsection (a)(3).

(b) The petition must contain an agreement signed by at least two petitioners that obligates them to pay not more than \$150 of the costs incident to the formation of the district, including the costs of publishing notices, election costs, and other necessary and incidental expenses.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1333, Sec. 1, eff. June 16, 2001; Acts 2001, 77th Leg.,

ch. 886, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 235, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 930, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 10.009, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [87](#), Sec. 1, eff. May 17, 2005.

Sec. 775.014. CREATION OF DISTRICT THAT INCLUDES MUNICIPAL TERRITORY.

(a) Before a district may be created that contains territory in a municipality's limits or extraterritorial jurisdiction, a written request to be included in the district must be presented to the municipality's governing body after the petition is filed under Section 775.015. Except as provided by Subsection (c), that territory may not be included in the district unless the municipality's governing body gives its written consent on or before the 60th day after the date on which the municipality receives the request.

(b) If the municipality's governing body does not consent to inclusion within the 60-day period prescribed by Subsection (a), a majority of the qualified voters and the owners of at least 50 percent of the territory in the municipality's limits or extraterritorial jurisdiction that would have been included in the district may petition the governing body to make fire control and emergency medical and ambulance services available. The petition must be submitted to the governing body not later than the 90th day after the date on which the municipality receives the request under Subsection (a).

(c) If the municipality's governing body refuses or fails to act on the petition requesting fire protection and emergency medical and ambulance services within six months after the date on which the petition submitted under Subsection (b) is received, the governing body's refusal or failure to act constitutes consent for the territory that is the subject of the petition to be included in the proposed district.

(d) If the proposed district will include territory designated by a municipality as an industrial district under Section 42.044, Local Government Code, consent to include the industrial district must be obtained from the municipality's governing body in the same manner provided by this section for obtaining consent to include territory within the limits or extraterritorial jurisdiction of a municipality.

(e) If the municipality's governing body consents to inclusion of territory within its limits or extraterritorial jurisdiction, or in an industrial district, the territory may be included in the district in the same manner as other territory is included under this chapter.

(f) A governing body's consent to include territory in the district and to initiate proceedings to create a district as prescribed by this chapter

expires six months after the date on which the consent is given.

(g) This section does not apply if the proposed district contains territory in the unincorporated area of a county with a population of 3.3 million or more.

(h) The governing body of a municipality with a population of more than one million may negotiate with the commissioners court of a county with a population of less than 1.8 million that is the county in which the majority of the territory inside the municipality's corporate boundaries is located conditions under which the municipality will grant its consent to the inclusion of its extraterritorial jurisdiction in the district. The negotiated conditions may:

(1) limit the district's ability to incur debt;

(2) require the district to ensure that its equipment is compatible with the municipality's equipment; and

(3) require the district to enter into mutual aid agreements.

(i) A request submitted under this section to a municipality described by Subsection (h) must include:

(1) a copy of the petition submitted under Section 775.015; and

(2) a sufficient legal description of the portion of the municipality and its extraterritorial jurisdiction that would be included in the district territory.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 5, Sec. 1, eff. Feb. 28, 1991; Acts 1999, 76th Leg., ch. 496, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 886, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [1163](#), Sec. 53, eff. September 1, 2011.

Sec. 775.015. FILING OF PETITION AND NOTICE OF HEARING. (a) If the petition is in proper form, the county judge may receive the petition and shall file the petition with the county clerk.

(b) At the next regular or special session of the commissioners court held after the petition is filed with the county clerk, the commissioners court shall set a place, date, and time for the hearing to consider the petition.

(c) The county clerk shall give notice of the hearing. The notice must state:

(1) that creation of a district is proposed;

(2) that the district is to be created and is to operate under Article III, Section 48-e, of the Texas Constitution, as proposed by S.J.R. No. 27, Acts of the 70th Legislature, Regular Session, 1987, and adopted by the

voters at an election held November 3, 1987;

- (3) the name of the proposed district;
- (4) the district's boundaries as stated in the petition;
- (5) the place, date, and time of the hearing; and
- (6) that each person who has an interest in the creation of the

district may attend the hearing and present grounds for or against creation of the district.

(d) The county clerk shall retain a copy of the notice and shall deliver sufficient copies of the notice to the sheriff for posting and publication as prescribed by Subsection (e).

(e) Not later than the 21st day before the date on which the hearing will be held, the sheriff shall post one copy of the notice at the courthouse door. The sheriff shall also have the notice published in a newspaper of general circulation in the proposed district once a week for two consecutive weeks. The first publication must occur not later than the 21st day before the date on which the hearing will be held.

(f) The return of each officer executing notice must:

- (1) be endorsed or attached to a copy of the notice;
- (2) show the execution of the notice;
- (3) specify each date on which the notice was posted or published;

and

- (4) include a printed copy of the published notice.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 775.016. HEARING. (a) At the time and place set for the hearing or at a later date then set, the commissioners court shall consider the petition and each issue relating to creation of the district.

(b) Any interested person may appear before the commissioners court in person or by attorney to support or oppose the creation of the district and may offer pertinent testimony.

(c) The commissioners court has exclusive jurisdiction to determine each issue relating to the creation of the district, including any matters negotiated with a consenting municipality under Section 775.014(h), and may issue incidental orders it considers proper in relation to the issues before the commissioners court. The commissioners court may adjourn the hearing as necessary.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 886, Sec. 3, eff. Sept. 1, 2001.

Sec. 775.017. PETITION APPROVAL. (a) If after the hearing the commissioners court finds that creation of the district is feasible and will promote the public safety, welfare, health, and convenience of persons residing in the proposed district, the commissioners court shall grant the petition, fix the district's boundaries, and impose any conditions negotiated under Section 775.014(h). If the proposed district, according to its boundaries stated in the petition, is located wholly in a county with a population of more than 3.3 million, the commissioners court may amend the petition to change the boundaries of the proposed district if the commissioners court finds the change is necessary or desirable. For the purposes of this provision, the population of the county is determined according to the most recent federal decennial census available at the time the petition is filed.

(b) If the proposed district will include territory in the municipal limits or extraterritorial jurisdiction of one or more municipalities, the commissioners court of the county in which the municipality is located must determine if the district would still meet the requirements prescribed by Subsection (a) if the territory in the municipality's limits or extraterritorial jurisdiction is excluded from the district. The commissioners court must make this finding for each municipality the territory of which will be included in the district.

(c) If the commissioners court finds that the proposed district does not meet the requirements prescribed by Subsection (a), the commissioners court shall deny the petition.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 269, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 886, Sec. 4, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [1163](#), Sec. 54, eff. September 1, 2011.

Sec. 775.018. ELECTION. (a) On the granting of a petition, the commissioners court shall order an election to confirm the district's creation and authorize the imposition of a tax not to exceed the rate allowed by Section 48-e, Article III, Texas Constitution. Any conditions negotiated under Section 775.014(h) must be included on the ballot.

(b) Repealed by Acts 2005, 79th Leg., Ch. 123, Sec. 2, eff. September 1, 2005.

(c) If the petition indicates that the proposed district will contain territory in more than one county, the commissioners court may not order an election until the commissioners court of each county in which the district will be located has granted the petition.

(d) Subject to Section 4.003, Election Code, the notice of the election shall be given in the same manner as the notice of the petition hearing.

(e) The election shall be held on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with other requirements of law.

(f) If the territory of a district proposed under this chapter overlaps with the boundaries of another district created under this chapter, the commissioners court of each county in which the proposed district is located shall send to the board of the existing district a copy of the petition for creation of the proposed district. This subsection does not apply to a proposed district located wholly in a county with a population of more than three million.

(g) The board of the existing district shall adopt a statement before the date of the election required by this section that specifies the types of emergency services the existing district will provide or continue to provide in the overlapping territory if the proposed district is created. This subsection does not apply to a proposed district located wholly in a county with a population of more than three million.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 270, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 294, Sec. 1, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 496, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 886, Sec. 5, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1140, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. [123](#), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. [123](#), Sec. 2, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. [639](#), Sec. 1, eff. June 17, 2011.

Sec. 775.019. ELECTION RESULT AND COMMISSIONERS COURT ORDER. (a) A district is created and organized under this chapter if a majority of the votes cast in the election favor creation of the district.

(b) A district may not include territory in a municipality's limits or extraterritorial jurisdiction unless a majority of the voters residing in that territory who vote at the election vote in favor of creating the district subject to any conditions negotiated under Section 775.014(h) and imposing a tax. The exclusion of that territory does not affect the creation of a district that includes the remainder of the proposed territory if the commissioners court's findings under Section 775.017 are favorable to the district's creation.

(c) Repealed by Acts 1991, 72nd Leg., ch. 620, Sec. 2, eff. June 16,

1991.

(d) If a majority of those voting at the election vote against creation of the district, the commissioners court may not order another election for at least one year after the date of the official canvass of the most recent election concerning creation of the district. A subsequent election must be held in the same manner provided by this chapter for the original creation election.

(e) When a district is created, the commissioners court of each county in which the district is located shall enter in its minutes an order that reads substantially as follows:

Whereas, at an election held on the _____ day of _____, 19____, in that part of _____ County, State of Texas, described as (insert description unless the district is countywide), there was submitted to the qualified voters the question of whether that territory should be formed into an emergency services district under state law; and

Whereas, at the election _____ votes were cast in favor of formation of the district and _____ votes were cast against formation; and

Whereas, the formation of the emergency services district received the affirmative vote of the majority of the votes cast at the election as provided by law;

Now, therefore, the Commissioners Court of _____ County, State of Texas, finds and orders that the tract described in this order has been duly and legally formed into an emergency services district (or a portion thereof) under the name of _____, under Article III, Section 48-e, of the Texas Constitution, as proposed by S.J.R. No. 27, Acts of the 70th Legislature, Regular Session, 1987, and adopted by the voters at an election held November 3, 1987, and has the powers vested by law in the district.

(f) Any conditions that were negotiated under Section 775.014(h) and included on the ballot must be included in the order entered under this section.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 620, Sec. 2, eff. June 16, 1991; Acts 2001, 77th Leg., ch. 886, Sec. 6, eff. Sept. 1, 2001.

Sec. 775.020. OVERLAPPING DISTRICTS LOCATED WHOLLY IN POPULOUS COUNTY.

(a) This section applies only to a district located wholly in a county with a population of more than three million.

(b) If the territory in a district created under this chapter overlaps with the boundaries of another district created under this chapter, a district converted under this chapter, or a district converted under former Section

794.100, the most recently created district may not provide services in the overlapping territory that duplicate the services provided by the other district at the time the overlapping district was created.

(c) For purposes of this section, a district is created on the date on which the election approving its creation was held. If the elections approving the creation of two or more districts are held on the same date, the most recently created district is the district for which the hearing regarding approval of the petition for creation of the district was most recently held.

(d) The creation of a district with boundaries that overlap the boundaries of another district does not affect the validity of either district.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1333, Sec. 2, eff. June 16, 2001; Acts 2003, 78th Leg., ch. 1204, Sec. 1.001, eff. Sept. 1, 2003.

Sec. 775.0205. OVERLAPPING DISTRICTS. (a) If the territory in a district created under this chapter overlaps with the boundaries of another district created under this chapter, the most recently created district may not provide services in the overlapping territory that duplicate the services described in the statement required by Section 775.018(g).

(b) If the territory in more than two districts overlaps, the commissioners court of the county in which the most recently created district is located by order shall exclude the overlapping territory from that district.

(c) For purposes of this section, a district is created on the date on which the election approving its creation was held. If the elections approving the creation of two or more districts are held on the same date, the most recently created district is the district for which the hearing regarding approval of the petition for creation of the district was most recently held.

(d) The creation of a district with boundaries that overlap the boundaries of another district does not affect the validity of either district.

(d-1) The legislature finds that the performance of non-duplicative emergency services in the overlapping territory of emergency service districts is complementary to and not in conflict with the powers and duties of the respective districts.

(d-2) A person may serve as an emergency services commissioner of a district created under this chapter at the same time that the person serves as an emergency services commissioner of another district with overlapping territory created under this chapter.

(d-3) A person serving as a commissioner of more than one district under this section:

(1) may receive compensation for serving on only one board; and

(2) is entitled to reimbursement for reasonable and necessary expenses incurred in performing official duties for both boards.

(e) This section does not apply to a district located wholly in a county with a population of more than three million.

Added by Acts 2001, 77th Leg., ch. 1333, Sec. 3, eff. June 16, 2001. Amended by Acts 2003, 78th Leg., ch. 1204, Sec. 1.002, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [639](#), Sec. 2, eff. June 17, 2011.

Sec. 775.021. EXCLUSION OF TERRITORY LOCATED WITHIN OTHER TAXING AUTHORITY. (a) This section applies only to a district located in whole or in part in a county that:

- (1) borders the Gulf of Mexico; and
- (2) has a population of less than 1.5 million.

(b) The board of a district may exclude from the district the territory located within the boundaries of another taxing authority if the other taxing authority provides the same services to the territory as those provided by the district.

(c) The board, at its discretion, may hold a hearing to consider the exclusion of the territory.

(d) The board shall hold a hearing to consider the exclusion of the territory if the board receives a petition requesting a hearing on the issue that is signed by at least five percent of the qualified voters who own taxable real property in the district. A petition submitted under this subsection must describe the proposed new boundaries of the district or describe the boundaries of the territory to be excluded from the district.

(e) The board shall issue a notice of a hearing to be held under Subsection (c) or (d). The provisions of Section 775.015 relating to the procedure for issuing notice of a hearing to create the district apply to the notice for the hearing under this section. The notice must state:

- (1) the proposed new boundaries of the district or of the territory to be excluded;
- (2) the time and place of the hearing; and
- (3) that each person who has an interest in the exclusion or nonexclusion of the territory may attend the hearing and present the person's opinion for or against the exclusion of the territory.

(f) After the hearing the board either may order an election on the question of the exclusion of the territory or may declare by resolution the territory excluded from the district. However, the board may not declare the territory as excluded if the owners of at least three percent of the property

located in the district protest the exclusion.

(g) If the board excludes the territory by resolution, the board shall state in the resolution the new boundaries of the district. The board shall file a copy of the resolution in the office of the county clerk of each county in which the district is located. The county clerk of each affected county shall record the resolution in the county records. After the resolution is recorded, the excluded territory is no longer a part of the district.

(h) The board shall order an election on the question of exclusion if:

(1) the owners of at least three percent of the property located in the district protest the exclusion; or

(2) the board:

(A) despite the lack of a protest, refuses to exclude the territory; and

(B) after refusing to exclude the territory, receives a petition requesting an election that is signed by a majority of the qualified voters who own taxable real property in the territory proposed to be excluded.

(i) Except as otherwise required by the Election Code, the election notice, the manner and time of giving the notice, and the manner of holding the election are governed by the applicable provisions of this chapter relating to the original election to create the district.

(j) If a majority of the voters voting in the election favor excluding the territory from the district, the board shall enter an order declaring the territory excluded from the district and stating the new boundaries of the district. The board shall file a copy of the order in the office of the county clerk of each county in which the district is located. The county clerk of each affected county shall record the order in the county records. After the order is recorded, the excluded territory is no longer a part of the district.

(k) If a majority of the voters voting in the election do not favor excluding the territory, the board may not act on a petition to exclude all or part of the territory until the first anniversary of the date of the most recent election to exclude the territory from the district.

(l) The exclusion of territory under this section does not diminish or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or other obligations of the district.

(m) Territory excluded under this section is not released from the payment of its pro rata share of the district's indebtedness. The district shall continue to levy taxes each year on the excluded territory at the same rate levied on territory in the district until the taxes collected from the excluded territory equal its pro rata share of the indebtedness of the district

at the time the territory was excluded. The taxes collected under this subsection shall be applied exclusively to the payment of the excluded territory's pro rata share of the indebtedness. The owner of all or part of the excluded territory may pay in full, at any time, the owner's share of the pro rata share of the district's indebtedness.

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 271, eff. Sept. 1, 1991.

Sec. 775.022. REMOVAL OF TERRITORY BY MUNICIPALITY. (a) 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, the municipality shall send written notice of that fact to the board. The municipality must send the notice to the secretary of the board by certified mail, return receipt requested. The territory remains part of the district and does not become part of the municipality until the secretary of the board receives the notice. On receipt of the notice, the board shall immediately change its records to show that the territory has been disannexed from the district and shall cease to provide further services to the residents of that territory.

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

(c) If a municipality annexes territory in a district, the municipality shall compensate the district immediately after disannexation of the territory under Subsection (a) in an amount equal to the annexed territory's pro rata share of the district's bonded and other indebtedness as computed according to the formula in Subsection (e). The district shall apply compensation received from a municipality under this subsection exclusively to the payment of the annexed territory's pro rata share of the district's bonded and other indebtedness.

(d) On the district's request, a municipality shall purchase from the district at fair market value any real or personal property used to provide emergency services in territory disannexed under this section.

(e) The amount of compensation under Subsection (c) shall 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) For purposes of this section, total indebtedness includes loans and lease-purchase agreements but does not include:

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

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

Added by Acts 1991, 72nd Leg., ch. 620, Sec. 1, eff. June 16, 1991. Amended by Acts 1997, 75th Leg., ch. 392, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 496, Sec. 4, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 235, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 907, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 930, Sec. 2, eff. Sept. 1, 2003.

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

(b) A request for binding arbitration must be in writing and may not be 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) The municipality and the district must agree on the arbitrator. If the parties cannot agree on the appointment of an arbitrator before the 11th business day after the date arbitration is requested, the mayor of the municipality shall 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. An arbitrator included in the list must be a resident of this state and may not be a resident of a county in which any part of the municipality or any part of the district is located. The municipality and the district must agree on the appointment of an arbitrator included in the list. 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, each party or the party's designee may alternately strike a name from the list. The remaining person on the list shall be appointed as the arbitrator. In this subsection, "business day" means a day other than a Saturday, Sunday, or state or national holiday.

(d) The arbitrator shall:

(1) set a hearing to be held not later than the 10th day after the

date the arbitrator is appointed; and

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

(e) The arbitrator may:

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

(2) administer oaths; and

(3) issue subpoenas to require:

(A) the attendance and testimony of witnesses; and

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

(f) Unless the parties to the dispute agree otherwise, the arbitrator shall complete the hearing within two consecutive days. The arbitrator shall permit each party one day to present evidence and other information. The arbitrator, for good cause shown, may schedule an additional hearing to be held not later than the seventh day after the date of the first hearing. Unless otherwise agreed to by the parties, the arbitrator must 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) The municipality and the district shall share the cost of arbitration.

Added by Acts 2003, 78th Leg., ch. 235, Sec. 3, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 907, Sec. 2, eff. Sept. 1, 2003.

Sec. 775.0235. REMOVAL OF CERTAIN TERRITORY ON REQUEST OF MUNICIPALITY.

(a) The board shall remove territory from a district as provided by this section, on request of a municipality, if the territory:

(1) was included in the corporate limits of the municipality at the time the territory was first included in the district;

(2) is included in any part of a district that is composed of two or more territories that are not contiguous to each other; and

(3) is surrounded on at least three sides by territory inside the municipal boundaries of a municipality with a population of 400,000 or more.

(b) The board shall, on request of the municipality, immediately disannex the territory from the district and shall cease to provide further services to the residents of that territory.

(c) On request by the municipality, in connection with a disannexation under Subsection (b), the board shall immediately disannex all territory in the district that is included in the municipality's extraterritorial jurisdiction

and shall cease to provide further services to the residents of such additional territory.

(d) The disannexation of territory under this section does not diminish or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or other obligations of the district.

(e) If territory is disannexed under this section, the municipality shall compensate the district in an amount equal to the disannexed territory's pro rata share of the district's indebtedness at the time the territory is disannexed. The district shall apply compensation received from a municipality under this subsection exclusively to the payment of the disannexed territory's pro rata share of the district's indebtedness.

(f) On the district's request, a municipality shall purchase from the district at fair market value any real or personal property used to provide emergency services in territory disannexed under this section. If any part of the indebtedness for which the district receives compensation under Subsection (e) 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 percentage equal to the disannexed territory's pro rata share under Subsection (e).

Added by Acts 1999, 76th Leg., ch. 475, Sec. 1, eff. Sept. 1, 1999.

Sec. 775.024. CONSOLIDATION OF EMERGENCY SERVICES DISTRICTS. (a) Two or more emergency services districts may consolidate into a single emergency services district as provided by this section. Before consolidating, the board of each district must:

(1) determine that consolidation would allow the districts to provide services more economically and efficiently; and

(2) adopt a joint order of consolidation that includes:

(A) the name and proposed territory of the consolidated district;

(B) the proposed date on which the existing districts dissolve and the consolidated district is created and will start offering services;

(C) if the maximum ad valorem tax rates in the districts are different, a statement that the districts will consolidate only if voters approve an equalized ad valorem tax rate at the election required by Section 775.0241; and

(D) a statement that the district will be consolidated only if the residents of the district and the residents of at least one other district approve the consolidation in an election held for that purpose.

(b) The boards shall agree on a name for the proposed consolidated district and choose five commissioners from among the membership of the boards

to serve on the initial board for the proposed district. The boards shall agree to stagger the terms appropriately.

(c) If the boards do not make the appointments before the 31st day after the date the boards adopted the joint order:

(1) for a consolidated district to which Section 775.0345 or 775.035 does not apply, the commissioners court shall appoint five commissioners to the board of the consolidated district; or

(2) for a consolidated district to which Section 775.0345 or 775.035 does apply, the board of the consolidated district is initially composed of the two commissioners from each existing board who have served the longest terms.

(c-1) The number of initial emergency services commissioners on a board described by Subsection (c)(2) is not required to be five.

(d) The ballot for the election to approve a consolidation shall be printed to permit voting for or against the proposition: "The consolidation of the _____ (insert district names) to create the _____ (insert name of proposed district), which assumes all outstanding debts of the existing districts." The ballot shall include a proposition for an election required under Section 775.0241, if applicable.

(e) If a majority of the voters voting in at least two of the districts proposed to be consolidated favor the consolidation, the consolidated district is created and is composed of the districts that favored the consolidation. If less than a majority of the voters voting in any of the districts are in favor of the consolidation, that district is not part of any consolidated district.

(f) The consolidated district is created on the latest of:

(1) the date stated in the joint order;

(2) the date the consolidation is approved in an election described by Subsection (d); or

(3) the date the maximum ad valorem tax rate the consolidated district may impose under Section 775.0241 is established, if necessary.

(g) The consolidated district assumes all powers, rights, duties, assets, and liabilities of the former districts without a change in status. The consolidation does not diminish or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or obligations of the district.

(h) For a consolidated district to which Section 775.0345 or 775.035 applies, the initial commissioners of the consolidated district serve until the next available uniform election date after the date the joint order is adopted and that allows sufficient time to comply with other requirements of law. After an election is held under Section 775.0345 or 775.035:

(1) the two commissioners who receive the fewest votes of the elected commissioners serve terms ending on December 31 of the second year following

the year in which the election is held; and

(2) the remaining elected commissioners serve terms ending on December 31 of the fourth year following the year in which the election is held.

Added by Acts 2005, 79th Leg., Ch. [1101](#), Sec. 1, eff. June 18, 2005.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [639](#), Sec. 3, eff. June 17, 2011.

Sec. 775.0241. TAXES FOR CONSOLIDATED DISTRICT. (a) If two districts that want to consolidate under Section 775.024 have different maximum ad valorem tax rates, the board of the district with the lower maximum ad valorem tax rate shall order an election in its district under Section 775.0745 to authorize the imposition of taxes in the territory of that district at a maximum rate that equals the maximum rate authorized in the district with the higher maximum rate.

(b) If a majority of the voters do not favor the increase in the maximum ad valorem tax rate under Subsection (a), the districts may not proceed with the consolidation.

(c) If the districts have different sales and use tax rates, the board of the consolidated district shall:

(1) designate the territory of the former districts as subdistricts;

(2) continue to impose the sales and use tax in each subdistrict at the rate the tax was imposed by the former district; and

(3) send to the comptroller by registered or certified mail:

(A) a copy of the joint order described by Section 775.024(a)(2);

and

(B) a map of the consolidated district that clearly shows the territory of each subdistrict.

(d) Subsection (c) does not limit the authority of the board of the consolidated district to order an election under Section 775.0752 in a subdistrict or in the entire district.

Added by Acts 2011, 82nd Leg., R.S., Ch. [639](#), Sec. 4, eff. June 17, 2011.

Sec. 775.025. EXCLUSION OF CERTAIN TERRITORY SUBJECT TO ASSESSMENTS. (a) The board shall hold a hearing to consider the exclusion from the district of territory in a planned community if the board receives a petition requesting a hearing on the issue that is signed by at least five percent of the qualified voters residing in the territory proposed to be excluded from the district. A petition submitted under this subsection must describe the boundaries of the

territory to be excluded from the district.

(b) The board shall give notice of a hearing under this section. The procedure under Section 775.015 for issuing notice of a hearing to create the district applies to the notice under this section. The notice must state:

- (1) the boundaries of the territory proposed to be excluded;
- (2) the time and place of the hearing; and

(3) that each person who has an interest in the exclusion or nonexclusion of the territory may attend the hearing and present the person's opinion for or against the exclusion of the territory.

(c) After the hearing, if the board finds that the entity responsible for administering and collecting the ad valorem or annual variable budget based assessments in the territory to be excluded provides or contracts for the provision of substantially the same services as provided by the district, the board shall:

- (1) order an election on the question of exclusion; or
- (2) declare by resolution the territory excluded from the district.

(d) The board may not exclude territory by resolution if at least three percent of the qualified voters residing in the territory to be excluded from the district protest the exclusion in writing at the hearing.

(e) In a resolution excluding territory, the board shall describe the new boundaries of the district.

(f) The board shall order an election in the territory proposed to be excluded on the question of exclusion if:

- (1) at least three percent of the qualified voters residing in the territory to be excluded protest the exclusion in writing at the hearing; or
- (2) the board:

(A) despite the lack of a sufficient protest, refuses to exclude the territory; and

(B) not later than the 90th day after refusing to exclude the territory, receives a petition requesting an election that is signed by at least 10 percent of the qualified voters residing in the territory proposed to be excluded.

(g) Except as otherwise provided by the Election Code, the provisions of this chapter relating to the election creating the district apply to the election notice, the manner and time of giving the notice, and the manner of holding the election under this section.

(h) For purposes of the election, the order calling the election shall divide the territory proposed to be excluded from the district into one or more precincts.

(i) If a majority of the votes in an election favor excluding the

territory from the district, the board shall enter an order declaring the territory excluded from the district and describing the new boundaries of the district.

(j) The board shall file a copy of a resolution or order with the county clerk of each county in which the district is located. Each county clerk shall record the resolution or order. After the resolution or order is recorded, the excluded territory is no longer part of the district.

(k) If a majority of the votes in the election are against excluding the territory, the board may not act on a petition to exclude all or any part of the territory before the first anniversary of the date of the most recent election to exclude the territory.

(l) The exclusion of territory under this section does not diminish or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or other district obligations. The district shall continue to impose taxes each year on the excluded territory at the same rate imposed on other territory in the district until the total amount of taxes collected from the excluded territory equals its pro rata share of the indebtedness of the district at the time the territory was excluded. The taxes collected under this subsection shall be applied only to the payment of the excluded territory's pro rata share of indebtedness. The owner of all or part of the excluded territory at any time may pay in full the owner's share of the excluded territory's pro rata share of the district's indebtedness at the time the territory was excluded.

(m) On or after the date on which the appropriate county clerk records the resolution or order excluding the territory from the district, the district or a fire department or ambulance service that contracts with the district is not required to provide to the excluded territory emergency service facilities, emergency services, or other services to protect the life and health of residents in the territory.

(n) For purposes of Subsection (o)(1), land ownership that is separated only by the claim of title by the state to the beds and banks of rivers or streams is considered contiguous. Land ownership that is separated by a farm-to-market road right-of-way, whether fee simple ownership or an easement, is not considered contiguous.

(o) In this section:

(1) "Planned community" means a planned community of 15,000 or more acres of land originally established under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4501 et seq.) that is:

(A) located in a county adjacent to a county with a population of 2,800,000 or more according to the most recent federal census; and

(B) subject to restrictive covenants containing ad valorem or

annual variable budget based assessments on real property for use in part to finance services of the same general type provided by the district.

(2) "Territory in a planned community" means territory that:

(A) on the effective date of this section comprises all or part of a planned community; or

(B) on the effective date of this section is contiguous to a planned community and later becomes part of that planned community.

Added by Acts 1997, 75th Leg., ch. 1424, Sec. 1, eff. June 20, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [3](#), Sec. 1, eff. April 22, 2005.

Acts 2005, 79th Leg., Ch. [3](#), Sec. 2, eff. April 22, 2005.

Acts 2005, 79th Leg., Ch. [3](#), Sec. 3, eff. April 22, 2005.

Sec. 775.026. CONVERSION OF RURAL FIRE PREVENTION DISTRICTS TO EMERGENCY SERVICES DISTRICTS. (a) Each rural fire prevention district created under former Chapter 794 is converted to an emergency services district operating under this chapter.

(b) The name of a district converted under this section is changed to "___ Emergency Services District No. __," with the name of the county or counties in which the district is located and an appropriate number inserted to distinguish one district from another district.

(c) The emergency services district to which a rural fire prevention district converts assumes all obligations and outstanding indebtedness of the rural fire prevention district.

(d) A fire commissioner of a rural fire prevention district is an emergency services commissioner of the converted district on conversion of the district under this section and shall serve until the term for which the commissioner was appointed or elected expires.

Added by Acts 2003, 78th Leg., ch. 1204, Sec. 1.003, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [383](#), Sec. 1, eff. September 1, 2005.

SUBCHAPTER C. ORGANIZATION, POWERS, AND DUTIES

Sec. 775.031. DISTRICT POWERS. (a) A district is a political subdivision of the state. To perform the functions of the district and to provide emergency services, a district may:

(1) acquire, purchase, hold, lease, manage, occupy, and sell real and personal property or an interest in property;

(2) enter into and perform necessary contracts;

- (3) appoint and employ necessary officers, agents, and employees;
- (4) sue and be sued;
- (5) impose and collect taxes as prescribed by this chapter;
- (6) accept and receive donations;
- (7) lease, own, maintain, operate, and provide emergency services

vehicles and other necessary or proper apparatus, instrumentalities, equipment, and machinery to provide emergency services;

(8) construct, lease, own, and maintain real property, improvements, and fixtures necessary to house, repair, and maintain emergency services vehicles and equipment;

(9) contract with other entities, including other districts or municipalities, to make emergency services facilities and emergency services available to the district;

(10) contract with other entities, including other districts or municipalities, for reciprocal operation of services and facilities if the contracting parties find that reciprocal operation would be mutually beneficial and not detrimental to the district;

(11) borrow money; and

(12) perform other acts necessary to carry out the intent of this chapter.

(b) A district located wholly within a county with a population of more than 3.3 million may not provide fire prevention or fire-fighting services unless the district:

(1) was originally a rural fire prevention district and was converted to an emergency services district under this chapter or former Section 794.100; or

(2) is created after September 1, 2003.

(c) A district may contract with the state or a political subdivision for law enforcement services or for enforcement of the district's fire code. A district may 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.

(d) A district is not required to perform all the functions authorized by this chapter. A district may be created to provide limited services.

(e) In the event of a conflict between a power granted under this chapter and a condition imposed in accordance with Section 775.019(f), the condition controls.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 272, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 392, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 496, Sec. 5,

eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 272, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 886, Sec. 7, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 235, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 930, Sec. 3, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1204, Sec. 1.004, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [1163](#), Sec. 55, eff. September 1, 2011.

Sec. 775.032. CERTAIN BUSINESSES NOT SUBJECT TO AD VALOREM TAX OR DISTRICT POWERS. (a) A business entity is not subject to the ad valorem tax authorized by this chapter or subject to the district's powers if the business entity:

(1) provides its own fire prevention and fire control services and owns or operates fire-fighting equipment or systems equivalent to or better than standards developed by the National Fire Protection Association or another nationally recognized association and for which the business entity receives the appropriate approval from the Texas Industrial Emergency Services Board of the State Firemen's and Fire Marshals' Association of Texas;

(2) provides and operates its own equipped industrial ambulance with a licensed driver and provides industrial victim care by an emergency care attendant trained to provide the equivalent of ordinary basic life support, as defined by Section 773.003; and

(3) provides ordinary emergency services for the business entity, such as emergency response, as defined by 29 C.F.R. Sec. 1910.120, rescue, disaster planning, or security services, as recognized by the Texas Industrial Emergency Services Board of the State Firemen's and Fire Marshals' Association of Texas, and provides the equipment, training, and facilities necessary to safely handle emergencies and protect the business entity and its neighbors in the community.

(b) This section shall not be construed to exempt a business from a sales and use tax authorized by Section 775.0751.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 14, Sec. 273, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1204, Sec. 1.005, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [558](#), Sec. 1, eff. September 1, 2005.

Sec. 775.033. LIABILITY OF DISTRICT. (a) A district is not liable for a claim arising from the act or omission of an employee or volunteer under an

oral or written contract with the district if the act or omission:

- (1) is in the course and scope of the employee's or volunteer's duties for the district;
- (2) takes place during the provision of emergency services;
- (3) is not in violation of a statute or ordinance applicable to emergency action; and
- (4) is not wilful or wantonly negligent.

(b) This section does not expand the liability of a district.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 775.034. APPOINTMENT OF BOARD IN DISTRICT LOCATED WHOLLY IN ONE COUNTY. (a) The commissioners court of a county in which a single-county district is located shall appoint a five-member board of emergency services commissioners to serve as the district's governing body. To serve as a member of the board a person must be:

- (1) at least 18 years of age; and
- (2) a resident citizen of the state and:
 - (A) a qualified voter within areas served by the district; or
 - (B) the owner of land subject to taxation in the district.

(b) Except as prescribed by Subsection (c), commissioners serve two-year terms.

(c) After the votes are canvassed and the commissioners court enters the order creating the district, the commissioners court shall appoint the initial emergency services commissioners to serve until January 1 of the year following the district election. On January 1, the court shall designate three of those emergency services commissioners to serve a two-year term and two of those emergency services commissioners to serve a one-year term.

(d) On January 1 of each year, the commissioners court shall appoint a successor for each emergency services commissioner whose term has expired.

(e) The commissioners court shall fill a vacancy on the board for the remainder of the unexpired term.

(f) 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 may continue to serve until the expiration of the member's term.

(g) The commissioners court shall 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.

(h) This section does not apply to a district located wholly in a county with a population of more than three million.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 496, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 272, Sec. 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 235, Sec. 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 930, Sec. 4, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [900](#), Sec. 1, eff. September 1, 2007.

Sec. 775.0345. ELECTION OF BOARD IN CERTAIN POPULOUS COUNTIES. (a) This section applies only to a district located wholly in a county with a population of more than three million.

(b) The governing body of a district consists of a five-person board of emergency services commissioners elected as prescribed by this section. Except as provided by Subsection (h), emergency services commissioners serve four-year terms.

(c) After a district is created, the county judge shall establish a convenient day provided by Section 41.001, Election Code, to conduct an election to elect the initial emergency services commissioners.

(d) To be eligible to be a candidate for emergency services commissioner, a person must be at least 18 years of age and a resident of the district.

(e) A candidate for emergency services commissioner on an initial board must give the county clerk a sworn notice of the candidate's intention to run for office. The notice must state the person's name, age, and address and state that the person is serving notice of intent to run for emergency services commissioner. On receipt of the notice, the county clerk shall have the candidate's name placed on the ballot.

(f) The county clerk shall appoint an election judge to certify the results of the election.

(g) After the election is held, the county clerk or the clerk's deputy shall prepare a sworn statement of the election costs incurred by the county. The statement shall be given to the newly elected board, which shall order the appropriate official to reimburse the county for the county's election costs.

(h) The initial emergency services commissioners' terms of office begin 30 days after canvassing of the election results. The two commissioners who received the fewest votes serve a term that expires on December 31 of the second year following the year in which the election was held. The other emergency services commissioners serve terms that expire on December 31 of the

fourth year following the year in which the election was held.

(i) The board shall hold the general election for commissioner every two years on an authorized uniform election date as provided by Chapter 41, Election Code. The board may change the election date from one authorized election date to another authorized election date and shall adjust the terms of office to conform to the new election date.

(j) Subchapter C, Chapter 146, Election Code, applies to a write-in candidate for emergency services commissioner under this section in the same manner it applies to a write-in candidate for a city office under that subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. [900](#), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [454](#), Sec. 1, eff. January 1, 2010.

Sec. 775.035. ELECTION OF BOARD IN DISTRICT LOCATED IN MORE THAN ONE COUNTY. (a) The governing body of a district located in more than one county consists of a five-person board of emergency services commissioners elected as prescribed by this section. Except as provided by Subsection (g), emergency services commissioners serve four-year terms.

(b) After a district located in more than one county is created, the county judges of each county in the district shall mutually establish a convenient day provided by Section 41.001, Election Code, to conduct an election to elect the initial emergency services commissioners.

(c) To be eligible to be a candidate for emergency services commissioner of a district located in more than one county, a person must be at least 18 years of age and a resident of the district.

(d) A candidate for emergency services commissioner must give the county clerk of each county in the district a sworn notice of the candidate's intention to run for office. The notice must state the person's name, age, and address and state that the person is serving notice of intent to run for emergency services commissioner. On receipt of the notice, the county clerk shall have the candidate's name placed on the ballot.

(e) The county clerks of each county in the district shall jointly appoint an election judge to certify the results of the election.

(f) After the election is held, the county clerk of each county or the clerk's deputy shall prepare a sworn statement of the election costs incurred by the county. The statement shall be given to the newly elected board, which shall order the appropriate official to reimburse each county for the county's election costs.

(g) The initial emergency services commissioners' terms of office begin

30 days after canvassing of the election results. The two commissioners who received the fewest votes serve a term that expires on December 31 of the second year following the year in which the election was held. The other emergency services commissioners serve terms that expire on December 31 of the fourth year following the year in which the election was held.

(h) The general election for commissioner shall be held every two years on an authorized uniform election date as provided by Chapter 41, Election Code. The board may change the election date from one authorized election date to another authorized election date and shall adjust the terms of office to conform to the new election date.

(i) Subchapter C, Chapter 146, Election Code, applies to a write-in candidate for emergency services commissioner under this section in the same manner it applies to a write-in candidate for a city office under that subchapter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 496, Sec. 7, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 272, Sec. 3, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. [384](#), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. [454](#), Sec. 2, eff. January 1, 2010.

Sec. 775.0355. DISQUALIFICATION OF EMERGENCY SERVICES COMMISSIONERS IN CERTAIN POPULOUS COUNTIES. (a) In this section, "emergency services organization" means:

- (1) a volunteer fire department;
- (2) a career or combination fire department;
- (3) a municipal fire department;
- (4) an emergency medical services organization under the jurisdiction of the Department of State Health Services;
- (5) any other agency under the jurisdiction of the state fire marshal's office; or
- (6) any other organization or corporation that governs an emergency services organization.

(b) This section applies only to a district located wholly in a county with a population of more than three million.

(c) A person is disqualified from serving as an emergency services commissioner if that person:

- (1) is related within the third degree of affinity or consanguinity to:
 - (A) a person providing professional services to the district;

(B) a commissioner of the same district; or

(C) a person who is an employee or volunteer of an emergency services organization providing emergency services to the district;

(2) is an employee of a commissioner of the same district, attorney, or other person providing professional services to the district;

(3) is serving as an attorney, consultant, or architect or in some other professional capacity for the district or an emergency services organization providing emergency services to the district; or

(4) fails to maintain the qualifications required by law to serve as a commissioner.

(d) Any rights obtained by a third party through official action of a board covered by this section are not impaired or affected by the disqualification under this section of an emergency services commissioner to serve, provided that the third party had no knowledge, at the time the rights were obtained, of the fact that the commissioner was disqualified to serve.

Added by Acts 2007, 80th Leg., R.S., Ch. [900](#), Sec. 3, eff. September 1, 2007.

Sec. 775.036. POWERS AND DUTIES OF BOARD. (a) The board shall:

(1) hold regular monthly meetings and other meetings as necessary;

(2) keep minutes and records of its acts and proceedings;

(3) give reports required by the state fire marshal, commissioner of health, and other authorized persons;

(4) on a written request from the commissioners court of a county in which the district is located received on or before December 31, give a written report not later than February 1 of the following year to the commissioners court regarding the district's budget, tax rate, and debt service for the preceding fiscal year; and

(5) administer the district in accordance with this chapter.

(b) The board may adopt and enforce a fire code, including fines for any violations, that does not conflict with a fire code adopted by any county that also contains within its boundaries any portion of the land contained in the district and may require inspections in the district relating to the causes and prevention of fires and medical emergencies, except as provided by Section 775.031(b). The fire code must be similar to standards adopted by a nationally recognized standards-making association. The board may not enforce 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. The board of a district located wholly within a county with a population of three million or more may not adopt a fire code or a fine for a violation of the district's

fire code unless the commissioners court of the county consents to the adoption of the code or fine.

(b-1) 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), the board may continue to enforce its fire code in the area subject to the county fire code. To the extent of any conflict between the county's code and the district's code, the more stringent provision prevails.

(c) The board may promote educational programs it considers proper to help carry out the purposes of this chapter.

(d) Repealed by Acts 2009, 81st Leg., R.S., Ch. 308, Sec. 4, eff. June 19, 2009.

(e) Chapter 551, Government Code, does not apply to a meeting of a committee:

- (1) of the board if less than a board quorum attends; or
- (2) composed of representatives of more than one board, if less than a quorum of any of the boards attends.

(f) Each January, the board shall publish the street address of the district's administrative office in eight-point type in the legal notices section of a newspaper of general circulation in the district. In a district's first year of operation, the board shall publish the notice not later than the 60th day after the date the initial board is appointed.

(g) The board may 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. The board may adopt procedures to order the owner or occupant of the property that fails an inspection to correct the hazardous situation.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 274, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 195, Sec. 1, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 282, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 496, Sec. 8, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 272, Sec. 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 235, Sec. 6, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 930, Sec. 5, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [308](#), Sec. 1, eff. June 19, 2009.

Acts 2009, 81st Leg., R.S., Ch. [308](#), Sec. 4, eff. June 19, 2009.

Sec. 775.0362. LIMIT ON REGULATION OF FIREWORKS. Except as provided by

Section 775.0363, the district may not regulate the sale, use, or transportation of fireworks.

Added by Acts 2011, 82nd Leg., R.S., Ch. [639](#), Sec. 5, eff. June 17, 2011.

Sec. 775.0363. REGULATION OF FIREWORKS. The district may adopt a rule relating to fireworks that is the same as or less stringent than a rule adopted or enforced by the commissioner of insurance and the state fire marshal under Chapter 2154, Occupations Code, relating to retail fireworks stands, fireworks bulk manufacturing and storage facilities, fireworks sales buildings, or any other structure used in public pyrotechnic displays to which the rules adopted under Chapter 2154, Occupations Code, apply.

Added by Acts 2011, 82nd Leg., R.S., Ch. [639](#), Sec. 5, eff. June 17, 2011.

Sec. 775.0365. BOARD TRAINING. (a) An emergency services commissioner shall complete at least six hours of continuing education relating to the performance of the duties of an emergency services commissioner at least once in a two-year period.

(b) Continuing education instruction required by Subsection (a) must be certified by an institution of higher education as defined by Section 61.003, Education Code.

(c) For purposes of Subsection (a), an emergency services commissioner may carry forward from one two-year period to the next two-year period not more than three continuing education hours that the commissioner completes in excess of the required six hours.

(d) For purposes of removal under Section 775.0422 or 775.0423, "incompetency" includes the failure of an emergency services commissioner to comply with Subsection (a).

Added by Acts 2011, 82nd Leg., R.S., Ch. [639](#), Sec. 6, eff. June 17, 2011.

Sec. 775.0366. SERVICE CONTRACTS. (a) In this section, "local government" has the meaning assigned by Section 791.003, Government Code.

(b) The board may contract with a local government, including another district, to provide staff, facilities, equipment, programs, or services the board considers necessary to provide or obtain emergency services that the district or the local government is authorized to provide.

(c) A person acting under a contract under this section, including an emergency services commissioner, does not, because of that action, hold more than one civil office of emolument or more than one office of honor, trust, or profit.

(d) Except as provided by Subsection (e), if a district contracts with a local government under this section to provide or obtain emergency services, the district is responsible for any civil liability that arises from furnishing those services if the district would have been responsible for furnishing the services in the absence of the contract.

(e) The parties to a contract between governmental entities under this section may agree to assign responsibility for civil liability that arises from services provided under the contract in any manner agreed to by the parties. The parties must assign that responsibility in a written provision of the contract that specifically refers to this subsection and states that the assignment of liability is intended to be different from liability otherwise assigned under Subsection (d).

(f) This section does not change the liability limits and immunities for a governmental unit under Chapter 101, Civil Practice and Remedies Code, or other law.

(g) A contract under this section is not a joint enterprise for liability purposes.

Added by Acts 2011, 82nd Leg., R.S., Ch. [639](#), Sec. 6, eff. June 17, 2011.

Sec. 775.037. OFFICERS OF BOARD. (a) The emergency services commissioners shall elect from among their members a president, vice-president, secretary, treasurer, and assistant treasurer to perform the duties usually required of the respective offices. The office of secretary and treasurer may be combined.

(b) The treasurer must execute and file with the county clerk a bond conditioned on the faithful execution of the treasurer's duties. The treasurer of a district located in more than one county shall file the bond with the county clerk of the county with the largest population in the district. The county judge of the county in which the bond is to be filed must determine the amount and sufficiency of the bond before it is filed.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 775.038. COMPENSATION; CONFLICT OF INTEREST. (a) Except as provided by Subsection (b), an emergency services commissioner is entitled to receive compensation of not more than \$50 per day for each day the commissioner actually spends performing the duties of a commissioner. Compensation may not exceed \$3,000 per year. Commissioners may be reimbursed for reasonable and necessary expenses incurred in performing official duties.

(b) Instead of compensation under Subsection (a), a commissioner may

elect to receive per diem compensation of \$50 for each day the commissioner actually spends performing the duties of a commissioner. A commissioner who receives per diem compensation may not be reimbursed for reasonable and necessary expenses. Per diem payments may not exceed \$3,000 per year.

(c) To receive compensation, per diem compensation, or reimbursement for expenses, a commissioner must file with the district a verified statement showing the number of days actually spent performing the duties of a commissioner and a general description of the duties performed for each day of service.

(d) Commissioners are subject to Chapter 171, Local Government Code.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 392, Sec. 3, eff. Sept. 1, 1997.

Sec. 775.039. DIFFERENTIAL PAY AND BENEFITS FOR EMPLOYEES OF EMERGENCY SERVICES DISTRICTS. (a) A board may provide differential pay to a district employee who is a member of the state military forces or a reserve component of the United States armed forces who is called to active duty if:

(1) the board adopts a policy providing for differential pay for all similarly situated employees; and

(2) the employee's military pay is less than the employee's gross pay from the district.

(b) The combination of differential pay and military pay may not exceed the employee's actual gross pay from the district.

(c) For purposes of this section, military pay does not include money the employee receives:

(1) for service in a combat zone;

(2) as hardship pay; or

(3) for being separated from the employee's family.

(d) The differential pay provided by Subsection (a) begins when the benefits allowed under Section 431.005, Government Code, are exhausted and continues until the employee's active military duty terminates.

(e) The board may extend the insurance benefits provided by the district to a district employee who is a member of the state military forces or a reserve component of the United States armed forces who is called to active duty and to the employee's dependents. The extension period begins when the benefits allowed under Section 431.005, Government Code, are exhausted and continues until the employee's active military duty terminates.

Added by Acts 2011, 82nd Leg., R.S., Ch. [1097](#), Sec. 1, eff. September 1, 2011.

Sec. 775.040. FEES FOR PROVIDING SERVICES. A district, or a person authorized by contract on the district's behalf, may charge a reasonable fee for emergency services performed for or on behalf of a person or entity, including a fee for responding to a false alarm or for a fire code inspection.

Added by Acts 1997, 75th Leg., ch. 392, Sec. 4, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 496, Sec. 9, eff. Sept. 1, 1999.

Sec. 775.041. FEE PAYMENT AND COLLECTION. (a) A fee imposed by a district under Section 775.040 must be paid within a reasonable amount of time as established by the district.

(b) If the fee has not been paid in the amount of time established by the district, the district may collect the fee by filing a complaint in the appropriate court of jurisdiction in the county in which the district's principal office or meeting place is located.

(c) If the district prevails in any suit to collect the fee, it may, in the same action, recover reasonable fees for attorneys, expert witnesses, and other costs incurred by the district in the suit. The court shall determine the amount of the attorney's fees.

Added by Acts 1999, 76th Leg., ch. 496, Sec. 10, eff. Sept. 1, 1999.

Sec. 775.042. REMOVAL OF BOARD MEMBER BY BOARD. (a) A board may remove a member if:

- (1) the member is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board; and
- (2) the other members of the board unanimously vote to remove that member.

(b) Not later than the 30th day after the date of a vote to remove a member under Subsection (a), that member may file a written appeal for reinstatement to the commissioners court of the county in which a single-county district is located or, if the district is located in more than one county, the commissioners court of the county where the member resides. The court may reinstate the member if it finds the removal unwarranted after considering:

- (1) a reason for an absence;
- (2) the time and place of a missed meeting;
- (3) the business conducted at a missed meeting; and
- (4) any other factors or circumstances the court considers relevant.

(c) The validity of a board action is not affected because it is taken when a ground for removal of a board member exists.

Added by Acts 1999, 76th Leg., ch. 496, Sec. 10, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [308](#), Sec. 3, eff. June 19, 2009.

Sec. 775.0422. REMOVAL OF APPOINTED BOARD MEMBER BY COMMISSIONERS COURT.

(a) Expired.

(b) The commissioners court of the county in which a district is located, by an order adopted by a majority vote after a hearing, may remove a board member for:

(1) incompetency, as defined by Section 87.011, Local Government Code;

(2) official misconduct, as defined by Section 87.011, Local Government Code; or

(3) misconduct, as defined by Section 178.001, Local Government Code.

(b-1) Section 551.0745, Government Code, applies to a deliberation regarding a removal of a board member in the same manner as that section applies to a deliberation regarding a dismissal of a member of an advisory body.

(c) Not later than the 30th day before the date on which the hearing is held, a commissioners court seeking removal under this section must:

(1) notify the board members that it is considering that action; and

(2) provide the board member with an opportunity to show cause why the board member should not be removed.

(d) The validity of a board action is not affected because it is taken when a ground for removal of a board member exists.

Added by Acts 2009, 81st Leg., R.S., Ch. [308](#), Sec. 2, eff. June 19, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [116](#), Sec. 1, eff. May 21, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [116](#), Sec. 2, eff. May 21, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [639](#), Sec. 7, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. [639](#), Sec. 8, eff. June 17, 2011.

Sec. 775.0423. REMOVAL OF ELECTED BOARD MEMBER. (a) This section applies only to a board member who:

(1) is elected; or

(2) is appointed to fill a vacancy in an elected board member position.

(b) A board member may be removed using the procedures provided by Chapter 87, Local Government Code, for:

(1) incompetency, as defined by Section 87.011, Local Government

Code;

(2) official misconduct, as defined by Section 87.011, Local Government Code;

(3) intoxication, as described by Section 87.013, Local Government Code; or

(4) misconduct, as defined by Section 178.001, Local Government Code.

(c) The validity of a board action is not affected because it is taken when a ground for removal of a board member exists.

Added by Acts 2011, 82nd Leg., R.S., Ch. [639](#), Sec. 9, eff. June 17, 2011.

Sec. 775.043. EXEMPTION FROM INVESTMENT TRAINING. (a) Section 2256.008, Government Code, does not apply to an officer or employee of a district created under this chapter.

(b) A district may invest funds only in the authorized investments set forth under Government Code Section 2256.009 (obligations of, or guaranteed by governmental entities), 2256.010 (certificates of deposit and share certificates), or 2256.016 (investment pools), unless the treasurer, chief financial officer (if not the treasurer), and the investment officer of the district attend and successfully complete the training requirements under Section 2256.008, Government Code.

Added by Acts 1999, 76th Leg., ch. 914, Sec. 1, eff. June 18, 1999.

Renumbered from Health & Safety Code Sec. 775.041 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(80), eff. Sept. 1, 2001.

Sec. 775.044. VACANCY ON BOARD OF DISTRICT LOCATED IN MORE THAN ONE COUNTY. (a) Not later than the 90th day after a board vacancy for a district located in more than one county occurs, the remaining board members shall appoint a person to fill the unexpired term.

(b) If the board has not filled the vacancy before the 91st day after the date of the vacancy, the commissioners court of the county where the previous board member resided shall appoint a person to fill the vacancy.

(c) A person appointed under this section must be eligible to serve under Section 775.035.

Added by Acts 2005, 79th Leg., Ch. [384](#), Sec. 2, eff. September 1, 2005.

Sec. 775.0445. VACANCY ON BOARD OF DISTRICT LOCATED IN CERTAIN POPULOUS COUNTIES. (a) In this section, "vacancy" means a vacancy in the office of director that occurs for any reason, including an office that is vacant because:

- (1) a director was disqualified under Section 775.0355; or
- (2) no candidate filed for election to the office.

(b) This section applies only to a district located wholly in a county with a population of more than three million.

(c) Not later than the 90th day after a board vacancy occurs, the remaining board members shall appoint a person to fill the unexpired term.

(d) A person appointed under this section must be eligible to serve under Section 775.0345.

Added by Acts 2007, 80th Leg., R.S., Ch. [900](#), Sec. 4, eff. September 1, 2007.

SUBCHAPTER D. CHANGE IN BOUNDARIES OR DISSOLUTION OF DISTRICT

Sec. 775.051. EXPANSION OF DISTRICT TERRITORY. (a) Qualified voters who own taxable real property in a defined territory that is not included in a district may file a petition with the secretary of the board requesting the inclusion of the territory in the district. The petition must be signed by at least 50 qualified voters who own taxable real property in the territory or a majority of those voters, whichever is less.

(b) The board by order shall set a time and place to hold a hearing on the petition to include the territory in the district. The hearing may be held not earlier than the 31st day after the date on which the board issues the order.

(c) The secretary of the board shall give notice of the hearing. The notice must contain the time and place for the hearing and a description of the territory proposed to be annexed into the district.

(d) The secretary shall:

- (1) post copies of the notice in three public places in the district and one public place in the territory proposed to be annexed into the district for at least 15 days before the date of the hearing; and

- (2) not later than the 16th day before the date on which the hearing will be held, publish the notice once in a newspaper of general circulation in the county.

(e) If after the hearing the board finds that annexation of the territory into the district would be feasible and would benefit the district, the board may approve the annexation by a resolution entered in its minutes. The board is not required to include all of the territory described in the petition if the board finds that a change is necessary or desirable.

(f) Annexation of territory is final when approved by a majority of the voters at an election held in the district and by a majority of the voters at a separate election held in the territory to be annexed. If the district has

outstanding debts or taxes, the voters in the election to approve the annexation must also determine if the annexed territory will assume its proportion of the debts or taxes if added to the district.

(g) The election ballots shall be printed to provide for voting for or against the following, as applicable:

(1) "Adding (description of territory to be added) to the _____ Emergency Services District."

(2) "(Description of territory to be added) assuming its proportionate share of the outstanding debts and taxes of the _____ Emergency Services District, if it is added to the district."

(h) The election notice, the manner and time of giving the notice, and the manner of holding the election are governed by the other provisions of this chapter relating to those matters to the extent that those provisions can be made applicable.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 775.052. PETITION FOR DISSOLUTION; NOTICE OF HEARING. (a) Before a district may be dissolved, the district's board must receive a petition signed by at least 10 percent of the registered voters in the district.

(b) If the petition is in proper form, the board shall set a place, date, and time for a hearing to consider the petition.

(c) The board shall give notice of the hearing. The notice must include:

- (1) the name of the district;
- (2) a description of the district's boundaries;
- (3) the proposal that the district be dissolved; and
- (4) the place, date, and time of the hearing on the petition.

(d) The notice shall be published in a newspaper of general circulation in the district once a week for two consecutive weeks. The first publication must occur not later than the 21st day before the date on which the hearing will be held.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 775.053. HEARING. (a) At the hearing on the petition to dissolve the district, the board shall consider the petition and each issue relating to the dissolution of the district.

(b) Any interested person may appear before the board to support or oppose the dissolution.

(c) The board shall grant or deny the petition.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 775.054. ELECTION TO CONFIRM DISSOLUTION. (a) On the granting of a petition to dissolve the district, the board shall order an election to confirm the district's dissolution.

(b) Notice of the election shall be given in the same manner as the notice of the petition hearing.

(c) The election shall be held on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with the requirements of law and that occurs after the date on which the board grants the petition.

(d) The ballot shall be printed to provide for voting for or against the following: "Dissolving the _____ Emergency Services District."

(e) A copy of the tabulation of results shall be filed with the county clerk of each county in which the district is located.

(f) If a majority of those voting at the election vote to dissolve the district, the board shall proceed with dissolution. An election to create a new district in the boundaries of the old district may not be held for at least one year after dissolution.

(g) If a majority of those voting at the election vote against dissolving the district, the board may not order another election on the issue before the first anniversary of the date of the canvass of the election.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 775.055. ADMINISTRATION OF PROPERTY, DEBTS, AND ASSETS AFTER DISSOLUTION. (a) After a vote to dissolve a district, the board shall continue to control and administer the property, debts, and assets of the district until all funds are disposed of and all district debts are paid or settled.

(b) The board may not dispose of the district's assets except for due compensation unless the debts are transferred to another governmental entity or agency within or embracing the district and the transfer will benefit the district's residents.

(c) After the board issues the dissolution order, the board shall:

(1) determine the debt owed by the district; and

(2) impose on the property included in the district's tax rolls a tax that is in proportion of the debt to the property value.

(d) Each taxpayer may pay the tax imposed by the district under this section at once.

(e) The board may institute a suit to enforce payment of taxes and to foreclose liens to secure the payment of taxes due the district.

(f) When all outstanding debts and obligations of the district are paid, the board shall order the secretary to return the pro rata share of all unused tax money to each district taxpayer. A taxpayer may request that the taxpayer's share of surplus tax money be credited to the taxpayer's county taxes. If a taxpayer requests the credit, the board shall direct the secretary to transmit the funds to the county tax assessor-collector.

(g) After the district pays all its debts and disposes of all its assets and funds as prescribed by this section, the board shall file a written report with the commissioners court of each county in which the district is located setting forth a summary of the board's actions in dissolving the district. Not later than the 10th day after the date it receives the report and determines that the requirements of this section have been fulfilled, the commissioners court of each county shall enter an order dissolving the district.

(h) Each emergency services commissioner is discharged from liability under the emergency services commissioner's bond on entry of the order prescribed by Subsection (g).

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 775.056. TRANSFER OF TERRITORY BETWEEN DISTRICTS. (a) After a hearing, a district may make mutually agreeable changes in boundaries with another district, provided that the maximum tax rate authorized for such a district does not exceed the maximum tax rate previously authorized for any territory added to that district. The districts shall agree on an effective date for the changes in boundaries.

(b) The changes in boundaries under this section do not diminish or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or other district obligations.

(c) A district shall compensate the district that loses territory in an amount equal to that territory's pro rata share of the losing district's bonded and other indebtedness based on the unpaid principal balances and the actual property values at the time the changes in boundaries are made. The district that loses territory shall apply compensation received from the annexing district under this subsection exclusively to the payment of the annexed territory's pro rata share of the losing district's bonds or other debt.

Added by Acts 2001, 77th Leg., ch. 1140, Sec. 5, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [639](#), Sec. 10, eff. June 17, 2011.

SUBCHAPTER E. FINANCES AND BONDS

Sec. 775.071. LIMITATION ON INDEBTEDNESS. (a) Except as provided by Subsection (b), a district may not contract for an amount of indebtedness in any one year that is in excess of the funds then on hand and anticipated revenues for the year.

(b) This section does not apply to Sections 775.051, 775.072, 775.076, 775.077, 775.078, and 775.085.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 496, Sec. 11, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1140, Sec. 6, eff. Sept. 1, 2001.

Sec. 775.072. DEPOSITORIES. (a) The board shall designate one or more banks to serve as depositories for district funds.

(b) The board shall deposit all district funds in a depository bank, except that the board:

(1) may deposit funds pledged to pay bonds or notes with banks named in the trust indenture or in the bond or note resolution; and

(2) shall remit funds for the payment of the principal of and interest on bonds and notes to the bank of payment.

(c) The district may not deposit funds in a depository or trustee bank in an amount that exceeds the maximum amount secured by the Federal Deposit Insurance Corporation unless the excess funds are secured in the manner provided by law for the security of county funds.

(d) The resolution or trust indenture securing the bonds or notes may require that any or all of the funds must be secured by obligations of or unconditionally guaranteed by the federal government.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 775.073. METHOD OF PAYMENT. (a) District funds may be disbursed only by check signed by the treasurer and countersigned by the president. If the treasurer is absent or unavailable, the assistant treasurer may sign for the treasurer. If the president is absent or unavailable, the vice president may sign for the president.

(b) An expenditure of more than \$2,000 may not be paid from tax money unless a sworn itemized account covering the expenditure is presented to the board and the board approves the expenditure.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 816, Sec. 1, eff. Aug. 28, 1995.

Sec. 775.074. AD VALOREM TAX. (a) The board shall annually impose an ad

valorem tax on all real and personal property located in the district and subject to district taxation for the district's support and the purposes authorized by this chapter.

(b) If a district issues bonds or notes that are payable wholly from ad valorem taxes, the board shall, when bonds or notes are authorized, set a tax rate that is sufficient to pay the principal of and interest on the bonds or notes as the interest and principal come due and to provide reserve funds if prescribed in the resolution authorizing, or the trust indenture securing, the bonds or notes.

(c) If a district issues bonds or notes that are payable from ad valorem taxes and from revenues, income, or receipts of the district, the board shall, when the bonds or notes are authorized, set a tax rate that is sufficient to pay the principal of and interest on the bonds and notes and to create and maintain any reserve funds.

(d) In establishing the rate of the ad valorem tax to be collected for a year, the board shall consider the money that will be available to pay the principal of and interest on any bonds or notes issued and to create any reserve funds to the extent and in the manner permitted by the resolution authorizing, or the trust indenture securing, the bonds or notes.

(d-1) The board may not set the tax rate for a fiscal year before the date the board adopts a budget for that fiscal year.

(e) The board shall certify the ad valorem tax rate to the county tax assessor-collector, who is the assessor-collector for the district.

(f) Repealed by Acts 1999, 76th Leg. ch. 496, Sec. 14, eff. September 1, 1999.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 2, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 14, Sec. 275, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 496, Sec. 14, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [639](#), Sec. 11, eff. June 17, 2011.

Sec. 775.0745. ELECTION TO INCREASE TAX RATE. (a) If the board decides to increase the maximum tax rate of the district to any rate at or below the rate allowed by this chapter or Section 48-e, Article III, Texas Constitution, the board must order an election to authorize the increase. The proposition on the ballot must state the proposed maximum tax rate to be authorized at the election.

(b) The board shall give notice of the election as provided by Section 4.003, Election Code. The notice shall contain the information required by

Section 4.004, Election Code.

(c) The election shall be held on the first uniform election date provided by the Election Code after the date of the board's order that allows sufficient time to comply with any requirements of law.

(d) If a majority of the votes cast in the election favor the increase in the maximum tax rate, the maximum tax rate for the district is increased to the rate authorized by the election. The increase in the maximum tax rate does not apply to a tax year for which the board adopts a tax rate before the date of the election.

(e) Repealed by Acts 2005, 79th Leg., Ch. 123, Sec. 2, eff. September 1, 2005.

Added by Acts 2001, 77th Leg., ch. 1140, Sec. 3, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1204, Sec. 1.007, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [123](#), Sec. 2, eff. September 1, 2005.

Sec. 775.075. REDUCTION OF AD VALOREM TAX RATE. (a) The qualified voters of a district may petition in the manner provided by Sections 775.052 through 775.054 for dissolution of a district to reduce the ad valorem tax rate of the district.

(b) The petition must state the new tax rate desired by the voters.

(c) The tax rate may not be reduced below the rate needed to pay any outstanding bonded indebtedness.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 2, eff. Sept. 1, 1989.

Sec. 775.0751. SALES AND USE TAX. (a) A district may adopt a sales and use tax, change the rate of its sales and use tax, or abolish its sales and use tax at an election held as provided by Section 775.0752. The district may impose the tax at a rate from one-eighth of one percent to two percent in increments of one-eighth of one percent. Revenue from the tax may be used for any purpose for which ad valorem tax revenue of the district may be used.

(b) Chapter 323, Tax Code, applies to the application, collection, and administration of the tax imposed under this section. The comptroller may make rules for the collection and administration of this tax in the same manner as for a tax imposed under Chapter 323, Tax Code. Where a county and a hospital district both impose a sales and use tax, the comptroller may by rule provide for proportionate allocation of sales and use tax collections between a county and a hospital district on the basis of the period of time each tax is imposed

and the relative tax rates.

(c) Except as provided by Subsection (c-1), a district may not adopt a tax under this section or increase the rate of the tax if as a result of the adoption of the tax or the tax increase the combined rate of all sales and use taxes imposed by the district and other political subdivisions of this state having territory in the district would exceed two percent at any location in the district.

(c-1) A district that otherwise would be precluded from adopting a sales and use tax under Subsection (c) may adopt a sales and use tax, change the rate of its sales and use tax, or abolish its sales and use tax at an election held as provided by Section 775.0752, if the board:

(1) excludes from the election and the applicability of any proposed sales and use tax any territory in the district where the sales and use tax is then at two percent; and

(2) not later than the 30th day after the date on which the board issues the election order, gives, for informational purposes, written or oral notice on the proposed imposition, increase, or abolition of the sales and use tax, including the reasons for the proposed change, to the commissioners court of each county in which the district is located.

(d) If the voters of a district approve the adoption of the tax or an increase in the tax rate at an election held on the same election date on which another political subdivision of this state adopts a sales and use tax or approves the increase in the rate of its sales and use tax and as a result the combined rate of all sales and use taxes imposed by the district and other political subdivisions of this state having territory in the portion of the district in which the district sales and use tax will apply would exceed two percent at any location in that portion of the district, the election to adopt a sales and use tax or to increase the rate of the sales and use tax in the district under this subchapter has no effect.

(e) to (h) Expired.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 3, eff. Sept. 1, 1989.
Amended by Acts 2003, 78th Leg., ch. 235, Sec. 7, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 930, Sec. 6, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [1385](#), Sec. 1, eff. June 15, 2007.

Sec. 775.0752. SALES AND USE TAX ELECTION PROCEDURES. (a) Except as otherwise provided by this subchapter, an election to adopt or abolish a district's sales and use tax or to change the rate of the tax is governed by the provisions of Subchapter E, Chapter 323, Tax Code, applicable to an

election to adopt or abolish a county sales and use tax.

(b) An election is called by the adoption of a resolution by the board. The board shall call an election if a number of qualified voters of the district equal to at least five percent of the number of registered voters in the district petitions the board to call the election.

(c) At an election to adopt the tax, the ballot shall be prepared to permit voting for or against the proposition: "The adoption of a local sales and use tax in (name of district) at the rate of (proposed tax rate) percent."

(d) At an election to abolish the tax, the ballot shall be prepared to permit voting for or against the proposition: "The abolition of the local sales and use tax in (name of district)."

(e) At an election to change the rate of the tax, the ballot shall be prepared to permit voting for or against the proposition: "The (increase or decrease, as applicable) in the rate of the local sales and use tax imposed by (name of district) from (tax rate on election date) percent to (proposed tax rate) percent."

Added by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 3, eff. Sept. 1, 1989.

Sec. 775.0753. SALES AND USE TAX EFFECTIVE DATE; BOUNDARY CHANGE. (a) The adoption or abolition of the tax or change in the tax rate takes effect on the first day of the first calendar quarter occurring after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the results of the election.

(b) If the comptroller determines that an effective date provided by Subsection (a) will occur before the comptroller can reasonably take the action required to begin collecting the tax or to implement the abolition of the tax or the tax rate change, the effective date may be extended by the comptroller until the first day of the next succeeding calendar quarter.

(c) The provisions of Section 321.102, Tax Code, governing the application of a municipal sales and use tax in the event of a change in the boundaries of a municipality apply to the application of a tax imposed under this chapter in the event of a change in the district's boundaries.

Added by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 3, eff. Sept. 1, 1989.

Sec. 775.076. BONDS AND NOTES AUTHORIZED. (a) The board may issue bonds and notes as prescribed by this chapter to perform any of its powers.

(a-1) Before the board may issue bonds or notes authorized by this section, the commissioners court of each county in which the district is located must approve the issuance of the bonds or notes by a majority vote.

This subsection does not apply to a district located wholly in a county with a population of more than three million.

(b) The board may issue bonds and notes in one or more issues or series that are payable from and secured by liens on and pledges of:

- (1) ad valorem taxes;
- (2) all or part of the district's revenues, income, or receipts; or
- (3) a combination of those taxes, revenues, income, and receipts.

(c) The bonds and notes may be issued to mature in not more than 40 years from the date of their issuance.

(d) Provision may be made for the subsequent issuance of additional parity bonds or notes or subordinate lien bonds or notes under terms and conditions stated in the resolution authorizing the issuance of the bonds or notes.

(e) to (g) Repealed by Acts 2001, 77th Leg., ch. 1140, Sec. 23(2), eff. Sept. 1, 2001.

(h) If provided by the resolution, the proceeds from the sale of the bonds or notes may be used for:

- (1) paying interest on the bonds or notes during the period of the acquisition or construction of a facility to be provided through the issuance of the bonds or notes;
- (2) paying expenses of operation and maintenance of the facility;
- (3) creating a reserve fund to pay the principal of and interest on the bonds or notes; and
- (4) creating other funds.

(i) As provided in the resolution, proceeds from the sale of the bonds and notes may be placed on time deposit or invested until needed.

(j) If the bonds or notes are issued payable by a pledge of revenues, income, or receipts, the district may pledge all or any part of its revenues, income, or receipts from fees, rentals, rates, charges, and proceeds and payments from contracts to the payment of the bonds or notes, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds or notes. The pledged fees, rentals, rates, charges, proceeds, and payments must be established and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for:

- (1) all payments of principal, interest, and any other amounts required in connection with the bonds or notes; and
- (2) the payment of expenses in connection with the bonds or notes and the operation, maintenance, and other expenses in connection with the facilities to the extent required by the resolution authorizing, or the trust

indenture securing, the issuance of the bonds or notes.

(k) The district shall impose a tax as prescribed by Section 775.074 if the bonds or notes are payable wholly or partly from ad valorem taxes.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1140, Sec. 7, 23(2), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 235, Sec. 8, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 930, Sec. 7, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [900](#), Sec. 5, eff. September 1, 2007.

Sec. 775.077. ELECTION TO APPROVE BONDS AND NOTES. (a) A district may not authorize bonds and notes secured in whole or in part by taxes unless a majority of the district's qualified voters who vote at an election ordered for that purpose approve the issuance of the bonds and notes.

(b) The board may order an election on the bonds and notes. The order must contain the same information contained in the notice of the election.

(c) The board shall publish notice of the election at least once in a newspaper of general circulation in the district. The notice must be published not later than the 31st day before election day.

(d) In addition to the contents of the notice required by the Election Code, the notice must state:

- (1) the amount of bonds or notes to be authorized; and
- (2) the maximum maturity of the bonds or notes.

(e) At an election to approve bonds or notes payable wholly from ad valorem taxes, the ballots must be printed to provide for voting for or against the following: "The issuance of (bonds or notes) and the levy of taxes for payment of the (bonds or notes)."

(f) At an election to approve bonds or notes payable from both ad valorem taxes and revenues, the ballots must be printed to provide for voting for or against the following: "The issuance of (bonds or notes) and the pledge of net revenues and the levy of ad valorem taxes adequate to provide for the payment of the (bonds or notes)."

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 775.078. BOND ANTICIPATION NOTES. (a) A district may issue bond anticipation notes from time to time to carry out one or more of its powers.

(b) The bond anticipation notes may be secured by a pledge of all or part of the district's ad valorem taxes and revenues, income, or receipts.

(c) A district may from time to time authorize the issuance of bonds to

provide proceeds to pay the principal of and interest on bond anticipation notes. The bonds must be secured by a pledge of all or part of the district's ad valorem taxes or revenues, income, or receipts and may be issued on a parity with or subordinate to outstanding district bonds.

(d) If the resolution authorizing the issuance of, or the trust indenture securing, the bond anticipation notes includes a covenant that the notes are payable from the proceeds of the subsequently issued bonds, it is not necessary for the district to demonstrate, in order to receive the approval of the attorney general or registration by the comptroller, that the ad valorem taxes or revenues, income, or receipts that may be pledged to payment of the notes will be sufficient to pay the principal of and interest on the notes.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989.

Sec. 775.082. AUDIT OF DISTRICT IN LESS POPULOUS COUNTIES. (a) The county auditor of a county that contains any part of the district shall have access to the books, records, officials, and assets of the district.

(b) A district shall prepare and file with the commissioners court of each county that contains any part of the district on or before June 1 of each year an audit report of the district's fiscal accounts and records. The audit shall be performed and the report shall be prepared at the expense of the district. The county auditor, with the approval of the commissioners court, shall adopt rules relating to the format of the audit and report. If a district is located in more than one county, the county auditors, with the approval of the commissioners court of each county in which the district is located, shall adopt uniform rules relating to the format of the audit and report.

(c) The person who performs the audit and issues the report must be an independent certified public accountant or firm of certified public accountants licensed in this state, unless the commissioners court by order requires the audit to be performed by the county auditor at least 120 days before the end of the district's fiscal year.

(d) The commissioners court, on application made to the commissioners court by the district, may extend up to an additional 30 days the deadline for filing the audit report.

(e) If the district fails to complete and file the audit report within the time provided by Subsection (b) or (d), the commissioners court may order the county auditor to perform the audit and issue the report. If a district is located in more than one county, the commissioners court of each county in which the district is located shall designate by joint order a county auditor of one of the counties to perform the audit and issue the report.

(e-1) When a district located wholly in one county fails to complete and file the audit report by September 1 of each year and a county auditor is not ordered to prepare the report, the president and treasurer of the board are removed from the board and the commissioners court shall fill the vacancies as provided by Section 775.034.

(f) The district shall pay all costs incurred by the county auditor to perform an audit and issue the report required by this section, unless otherwise ordered by the commissioners court or by joint order of the commissioners courts, if the district is located in more than one county.

(g) This section does not apply to a district located wholly in a county with a population of more than three million.

Added by Acts 1993, 73rd Leg., ch. 195, Sec. 2, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 392, Sec. 5, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. [120](#), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [900](#), Sec. 6, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. [900](#), Sec. 7, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. [639](#), Sec. 12, eff. June 17, 2011.

Sec. 775.0825. AUDIT OF DISTRICT IN CERTAIN POPULOUS COUNTIES. (a) This section applies only to a district located wholly in a county with a population of more than three million.

(b) A district shall prepare on or before July 1 of each year an audit of the district's fiscal accounts and records.

(c) The audit shall be performed and the report shall be prepared at the expense of the district.

(d) The audit shall be available for review and inspection at the administrative office of the district.

(e) A copy of the audit shall be filed with the clerk of the county commissioner's court within 30 days after receipt by the board.

Added by Acts 2007, 80th Leg., R.S., Ch. [900](#), Sec. 8, eff. September 1, 2007.

Sec. 775.083. ANNUAL REPORT. (a) On or before January 1 of each year, a district shall file with the Texas Department of Rural Affairs an annual report that includes the following:

- (1) the district's name;
- (2) the name of each county in which the district is located;
- (3) the district's business address;
- (4) the name, mailing address, and term of office of each

commissioner;

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

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

(7) the district's annual budget and tax rate for the preceding fiscal year.

(b) The Texas Department of Rural Affairs may not charge a fee for filing the report.

(c) The Texas Department of Rural Affairs shall develop and maintain an Internet-based system that enables:

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

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

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

Added by Acts 1997, 75th Leg., ch. 392, Sec. 6, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 235, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [112](#), Sec. 98, eff. September 1, 2009.

Sec. 775.084. COMPETITIVE BIDS. (a) Except as provided by Subsection (i), the board must submit to competitive bids an expenditure of more than \$50,000 for:

(1) one item or service; or

(2) more than one of the same or a similar type of item or service in a fiscal year.

(b) The board shall request bids on items to be purchased or leased or services to be performed as provided by this subsection. The board shall notify suppliers, vendors, or providers by advertising for bids or by providing at least three suppliers, vendors, or purchasers with written notice by mail of the intended purchase. If the board decides to advertise for bids, the advertisement must be published in accordance with Section 262.025(a), Local Government Code. If the board receives fewer than three bids in response to the advertisement, the board shall give written notice directly to at least three suppliers, vendors, or providers of the intended purchase. If three suppliers, vendors, or providers are not available or known to the board, the

board shall give written notice by mail directly to each supplier, vendor, or provider known to the board.

(c) The advertisement or notice for competitive bidding must:

(1) describe the work to be performed or the item to be purchased or leased;

(2) state the location at which the bidding documents, plans, specifications, or other data may be examined; and

(3) state the time and place for submitting bids and the time and place that bids will be opened.

(d) The board may not prepare restrictive bid specifications.

(e) Bids may be opened only by the board at a public meeting or by a district officer or employee at or in a district office.

(f) The board may reject any bid. The board may not award a contract to a bidder who is not the lowest bidder unless, before the bid is awarded, the lowest bidder is given notice of the proposed award and an opportunity to appear before the board or its designated representative and present evidence concerning the bidder's responsibility.

(g) A contract awarded in violation of this section is void.

(h) This section applies to an expenditure of district tax revenues by any party or entity for the purchase of services, vehicles, equipment, or goods.

(i) This section does not apply to:

(1) the purchase or lease of real property;

(2) an item or service that the board determines can be obtained from only one source;

(3) a contract for fire extinguishment and suppression services, emergency rescue services, or ambulance services;

(4) an emergency expenditure;

(5) the purchase of vehicle fuel;

(6) the purchase of firefighter bunker gear;

(7) the purchase of insurance coverage; or

(8) repairs funded by a payment made under an insurance claim.

(j) Subsection (i) does not prohibit the board from soliciting competitive bids for any item, service, or contract listed in Subsection (i).

(k) A contract for a public works project must be administered in the manner provided by Subchapter B or H, Chapter 271, Local Government Code, except as provided by this section.

Added by Acts 1997, 75th Leg., ch. 392, Sec. 7, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 235, Sec. 10, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 930, Sec. 8, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [1304](#), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [1248](#), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. [1272](#), Sec. 8, eff. September 1, 2007.

Sec. 775.085. LOAN FOR REAL PROPERTY OR EMERGENCY SERVICES EQUIPMENT.

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

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

(1) tax revenues or funds on hand that are not otherwise pledged to pay a debt of the district; or

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

(c) If tax revenues are pledged to pay a loan, the loan must mature not later than the:

(1) 10th anniversary of the date the loan is made, if the loan is for equipment; or

(2) 20th anniversary of the date the loan is made, if the loan is for real property.

(d) Section 775.077 does not apply to a loan secured under this section, including a loan made before the effective date of this subsection.

Added by Acts 1999, 76th Leg., ch. 496, Sec. 13, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1140, Sec. 8, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 235, Sec. 11, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 930, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [639](#), Sec. 13, eff. June 17, 2011.

SUBCHAPTER F. FIRE MARSHAL

Sec. 775.101. CREATION. (a) A district may create the office of district fire marshal if a county in which the district is located does not have a county fire marshal.

(b) The district shall appoint an individual to serve in the office of fire marshal.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.102. TERM. The fire marshal serves a two-year term.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.103. BOND. The fire marshal shall post a bond in the amount required by the district and conditioned on the faithful and strict performance of the fire marshal's duties under this subchapter.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.104. CONFLICT OF INTEREST. The fire marshal may not:

- (1) have a direct or indirect financial interest in the sale of fire-fighting equipment; or
- (2) be engaged in the business of fire insurance.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.105. ADMINISTRATIVE SUPPORT. The district may provide facilities, equipment, transportation, employees, and other services and assistance to the fire marshal, including investigators.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.106. JURISDICTION. (a) Except as provided by Section 775.107 or 775.115, the fire marshal may not exercise the powers granted under this subchapter in:

- (1) the territory of a municipality that has a municipal fire marshal; or
- (2) the territory of a county that has a county fire marshal.

(b) This subchapter does not change or otherwise limit the authority of any state agency to prevent and extinguish forest and grass fires.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.107. TRANSFER OF JURISDICTION. (a) This section applies if:

- (1) a county in which a district is located creates a county fire marshal under Subchapter B, Chapter 352, Local Government Code; or
- (2) a municipality located in the district creates a municipal fire marshal.

(b) Not later than the 30th day after the creation of the county or municipal fire marshal, the jurisdiction of the district fire marshal in that county or municipality ceases. The new county or municipal fire marshal shall assume control over any pending investigations, court proceedings, or other matters being handled by the district fire marshal in the county or

municipality.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.108. GENERAL POWERS AND DUTIES. The fire marshal shall:

- (1) investigate the cause, origin, and circumstances of each fire that damages property;
- (2) determine whether the fire was caused by negligent or intentional conduct; and
- (3) enforce all state, county, and district orders and rules that relate to fires, explosions, or damages caused by a fire or an explosion.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.109. INVESTIGATIONS. (a) The fire marshal shall begin an investigation within 24 hours after notification of a fire. The 24-hour period does not include Sunday.

(b) The fire marshal may investigate attempted fires.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.110. INSPECTION. (a) The fire marshal may, at any time of day, enter and inspect:

- (1) property where a fire has occurred; and
- (2) property adjacent to where a fire occurred.

(b) The fire marshal shall conduct this inspection in a manner least inconvenient to any persons living on the property.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.111. INSPECTION FOR FIRE HAZARDS. (a) In this section, "fire hazard" means any of the following conditions that endanger the safety of a structure or its occupants and promote or cause fire or combustion:

- (1) the presence of a flammable substance;
- (2) a dangerous or dilapidated wall, ceiling, or other structural element;
- (3) improper lighting, heating, or other facilities;
- (4) the presence of a dangerous chimney, flue, pipe, main, or stove, or of dangerous wiring; or
- (5) dangerous storage.

(b) In the interest of safety and fire prevention, the fire marshal may inspect for fire hazards any structure, appurtenance, fixture, or real property

located in the district and within 200 feet of a structure, appurtenance, or fixture. If the fire marshal determines the presence of a fire hazard, the fire marshal may order the owner or occupant of the premises to correct the hazardous situation.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.112. RECORDS. The fire marshal shall keep a record of each fire that the fire marshal is required to investigate. The record must include the facts, statistics, and circumstances determined by the investigation, including the origin of the fire and the estimated amount of the loss.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.113. ADDITIONAL INVESTIGATION POWERS. (a) If the fire marshal determines that further investigation of a fire or of an attempt to set a fire is necessary, the fire marshal may:

- (1) subpoena witnesses to testify regarding the fire or attempt;
- (2) administer oaths to the witnesses;
- (3) take and preserve written statements, including statements under oath such as an affidavit or deposition; and
- (4) require the production of a document or item related to the investigation.

(b) As part of an investigation, the fire marshal may:

- (1) conduct an investigation or examination in private;
- (2) exclude a person who is not under examination; and
- (3) separate witnesses from each other until each witness is examined.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.114. INSURANCE. (a) An action taken by the fire marshal in the investigation of a fire does not affect the rights of a policyholder or of an insurer regarding a loss caused by the fire.

(b) The records of an investigation by the fire marshal relating to the detection, investigation, or prosecution of a crime may be admitted in evidence in the trial of a civil action unless those records are subject to an exception under Sections 552.108(a)(1) and (b)(1), Government Code.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.115. COOPERATION WITH OTHER FIRE MARSHALS. (a) The district

fire marshal shall cooperate with the state fire marshal to conduct:

- (1) fire prevention activities;
- (2) fire-fighting activities; and
- (3) fire investigations.

(b) The district fire marshal shall aid or conduct an investigation in a municipality or a county if requested by the municipality or the county.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.116. ENFORCEMENT. (a) The fire marshal shall file in court a complaint charging arson, attempted arson, conspiracy to defraud, or any other related crime against a person the fire marshal believes to be guilty.

(b) The fire marshal shall file charges in court against a witness who refuses to cooperate with the investigation.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.117. SERVICE OF PROCESS. A constable or sheriff may serve process under this subchapter. The process must be signed by the fire marshal.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.118. CRIMINAL PENALTY; CONTEMPT OF FIRE INVESTIGATION. (a) A person commits an offense if the person is a witness in connection with an investigation by the fire marshal and:

- (1) refuses to be sworn;
- (2) refuses to appear and testify; or
- (3) fails to produce to the fire marshal any document or item

relating to an investigation under this subchapter.

(b) An offense under this section is a misdemeanor punishable by a fine of not more than \$25.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

Sec. 775.119. CRIMINAL PENALTY; FAILURE TO COMPLY WITH ORDER. (a) An owner or occupant of real property who is subject to an order issued by the fire marshal commits an offense if the person fails to comply with the order.

(b) An offense under this section is a Class B misdemeanor.

(c) Each failure to comply with an order is a separate offense.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 5, eff. Sept. 1, 2001.

SUBCHAPTER G. HAZARDOUS MATERIALS

Sec. 775.151. DEFINITIONS. In this subchapter:

(1) "Hazardous material" means a flammable material, an explosive, a radioactive material, a hazardous waste, a toxic substance, or related material, including a substance defined as a "hazardous substance," "hazardous material," "toxic substance," or "solid waste" under:

(A) the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.), as amended;

(B) the federal Resource Conservation and Recovery Act of 1976 (42 U.S. C. Section 6901 et seq.), as amended;

(C) the federal Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.), as amended; or

(D) Chapter 361.

(2) "Responsible party" means a person:

(A) involved in the possession, ownership, or transportation of a hazardous material that is released or abandoned; or

(B) who has legal liability for the causation of an incident resulting in the release or abandonment of a hazardous material.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 6, eff. Sept. 1, 2001.

Sec. 775.152. HAZARDOUS MATERIALS SERVICE. A district may provide hazardous materials services, including a response to an incident involving hazardous material that has been:

(1) leaked, spilled, or otherwise released; or

(2) abandoned.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 6, eff. Sept. 1, 2001.

Sec. 775.153. FEE FOR PROVIDING HAZARDOUS MATERIALS SERVICE; EXCEPTION.

(a) A district, or a person authorized by contract on the district's behalf, may charge a reasonable fee to a responsible party for responding to a hazardous materials service call.

(b) An individual who is a responsible party does not have to pay the fee if:

(1) the individual is not involved in the possession, ownership, or transportation of the hazardous material as the employee, agent, or servant of another person;

(2) the individual is involved solely for private, noncommercial purposes related to the individual's own property and the individual receives no compensation for any services involving the hazardous materials; and

(3) the hazardous materials possessed, owned, or being transported by the individual are in forms, quantities, and containers ordinarily available for sale as consumer products to members of the general public.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 6, eff. Sept. 1, 2001.

Sec. 775.154. EXEMPTION FOR GOVERNMENTAL ENTITIES. This subchapter does not apply to hazardous materials owned or possessed by a governmental entity.

Added by Acts 2001, 77th Leg., ch. 272, Sec. 6, eff. Sept. 1, 2001.

SUBCHAPTER H. CHANGE IN BOUNDARIES OF DISTRICT WITH PLANNED COMMUNITY

Sec. 775.201. DEFINITION. In this subchapter, "planned community" means a planned community of 25,000 or more acres of land originally established under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4501 et seq.) that is:

(1) located wholly or partly in a county with a population of 2.8 million or more; and

(2) subject to restrictive covenants containing ad valorem or annual variable budget-based assessments on real property for use in part to finance services of the same general type provided by the district.

Added by Acts 2007, 80th Leg., R.S., Ch. [828](#), Sec. 1, eff. September 1, 2007.

Sec. 775.202. AGREEMENT ON BOUNDARIES WITH PROPERTY OWNERS IN PLANNED COMMUNITY. (a) After a hearing, a district located wholly in a county with a population of 2.8 million or more may exclude territory by making changes in the district's boundaries in accordance with an agreement among the district and the owners of two-thirds or more in acreage and two-thirds or more in taxable value, according to the most recent certified county property tax rolls, of a defined area of territory of a planned community.

(b) The agreement must be in writing and describe:

(1) the affected territory by metes and bounds, including the changes in the boundaries to be made;

(2) the amount of any compensation to be paid to the district under Section 775.205;

(3) the effective date for the changes in boundaries; and

(4) any other applicable terms.

Added by Acts 2007, 80th Leg., R.S., Ch. [828](#), Sec. 1, eff. September 1, 2007.

Sec. 775.203. NOTICE OF HEARING. (a) The board secretary shall give

notice of the hearing.

(b) The notice must contain the time and place for the hearing and a description of the territory proposed to be excluded.

(c) The secretary shall:

(1) post copies of the notice for at least 15 days before the date of the hearing in three public places in the district, one of which must be in the territory proposed to be excluded; and

(2) not later than the 16th day before the date on which the hearing is held, publish the notice once in a newspaper of general circulation in each county in which the excluded territory is located.

Added by Acts 2007, 80th Leg., R.S., Ch. [828](#), Sec. 1, eff. September 1, 2007.

Sec. 775.204. ADOPTION OF AGREEMENT AND APPROVAL OF EXCLUSION. After the hearing, if the board finds that the exclusion of the territory would be feasible and would benefit the district, the board shall by a resolution entered in its minutes:

(1) adopt the agreement; and

(2) approve the exclusion.

Added by Acts 2007, 80th Leg., R.S., Ch. [828](#), Sec. 1, eff. September 1, 2007.

Sec. 775.205. EFFECT OF ADOPTION OF AGREEMENT AND APPROVAL OF EXCLUSION.

(a) After adoption and approval under Section 775.204, the district's tax on the property in the excluded territory continues until all agreed compensation has been paid in full.

(b) The district shall apply the compensation received under this section toward the payment of the obligations described by Subsection (c).

(c) The agreement must provide for the excluded territory to compensate the district in an amount equal to the excluded territory's pro rata share of the outstanding and unpaid bonds, warrants, or other direct and indirect obligations, including loans and lease-purchase agreements and written funding assistance agreements of the district and any not-for-profit fire departments and ambulance agencies or associations, for the financing and payment for firefighting, emergency medical service and emergency rescue equipment, fire and ambulance stations, or similar long-term capital assets to serve the district.

(d) The excluded territory's pro rata share is the unpaid principal balances of the outstanding loans and other obligations enumerated by Subsection (c) multiplied by a fraction, the numerator of which is the taxable value of the property in the excluded territory and the denominator of which is

the taxable value of the entire district, including the excluded territory. The taxable value calculated under this subsection for property in the excluded territory, including as part of the entire district, does not include any special appraisal or exemptions for the property.

(e) The agreement to compensate the district does not include the following expenses incurred by the district after the boundaries change:

- (1) expenses for district operations and maintenance; and
- (2) expenses for district services.

(f) The agreement to compensate the district is required regardless of whether the loans and other obligations are subject to non-appropriation by the district or termination by either party before payment in full of the unpaid principal balance.

Added by Acts 2007, 80th Leg., R.S., Ch. [828](#), Sec. 1, eff. September 1, 2007.

Sec. 775.206. NO EFFECT ON OUTSTANDING OBLIGATIONS. A change in boundaries under this subchapter does not diminish or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or other district obligations.

Added by Acts 2007, 80th Leg., R.S., Ch. [828](#), Sec. 1, eff. September 1, 2007.

SUBCHAPTER I. DIVISION OF DISTRICT

Sec. 775.221. AUTHORITY TO DIVIDE DISTRICT. The board of a district located wholly in one county with a population of 20,000 or less may create a new district by disannexing territory from the existing district and ordering a new district to be created in the disannexed territory in the manner provided by this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. [1134](#), Sec. 1, eff. June 19, 2009.

Sec. 775.222. PETITION FOR DIVISION; NOTICE OF HEARING. (a) Before the existing district may be divided, the district's board must receive a petition for division signed by at least seven percent of the district's qualified voters or at least 100 of the district's qualified voters, whichever is the lesser number.

(b) A petition for division must include:

- (1) the name of the new district to be created; and
- (2) a description of the territory proposed to be the new district's territory.

(c) On receipt of a petition in the proper form, the board shall set a

place, date, and time for a hearing to consider the petition.

(d) The board shall issue a notice of the hearing that includes:

- (1) the name of the proposed district;
- (2) a description of the proposed district's boundaries; and
- (3) the place, date, and time of the hearing on the petition.

(e) The board shall publish the notice in a newspaper of general circulation in the district once a week for two consecutive weeks. The first publication must occur not later than the 21st day before the date on which the hearing will be held.

Added by Acts 2009, 81st Leg., R.S., Ch. [1134](#), Sec. 1, eff. June 19, 2009.

Sec. 775.223. HEARING ON DIVISION OF DISTRICT. (a) At the hearing on the petition for division of the existing district, the board shall consider the petition and each issue relating to the division of the district.

(b) Any interested person may appear before the board to support or oppose the division.

(c) If the board finds that the petition contains the number of signatures required under Section 775.222(a), the board shall approve the petition not later than the 10th day after the date of the hearing.

Added by Acts 2009, 81st Leg., R.S., Ch. [1134](#), Sec. 1, eff. June 19, 2009.

Sec. 775.224. APPEAL. A resident of the district or an owner of real or personal property located in the district may appeal the board's decision on the division of the district by filing an appeal in the district court in the county in which a district is located only on the basis that the board incorrectly tabulated the number of signatures on the petition.

Added by Acts 2009, 81st Leg., R.S., Ch. [1134](#), Sec. 1, eff. June 19, 2009.

Sec. 775.225. ELECTION TO CONFIRM DIVISION. (a) On granting a petition to divide the district, the board shall order an election to be held in the territory of the proposed new district to confirm the division of the existing district.

(b) Notice of the election shall be given in the same manner as the notice of hearing under Section 775.222.

(c) The election shall be held on the first authorized uniform election date prescribed by the Election Code that allows sufficient time to comply with the requirements of law.

(d) The ballot shall be printed to provide for voting for or against the proposition: "Dividing the _____ Emergency Services District to create a new

emergency services district."

(e) If a majority of voters voting at the election vote to divide the district, the board shall order the division.

(f) If a majority of those voting at the election vote against dividing the existing district, the board may not order another election on the issue before the first anniversary of the date of the canvass of the election.

(g) The existing district and the new district each shall pay a pro rata share of the cost of an election held under this section, based on the assessed value of real property in each district subject to ad valorem taxation.

Added by Acts 2009, 81st Leg., R.S., Ch. [1134](#), Sec. 1, eff. June 19, 2009.

Sec. 775.226. DIVISION ORDER. A board order to divide a district must:

(1) disannex the land of the new district from the existing district contingent on the approval of the creation of the new district at the election held under this subchapter;

(2) create the new district in accordance with this chapter;

(3) name the new district; and

(4) include the metes and bounds description of the territory of the new district and the existing district after disannexation.

Added by Acts 2009, 81st Leg., R.S., Ch. [1134](#), Sec. 1, eff. June 19, 2009.

Sec. 775.227. ADMINISTRATION OF DISTRICTS AFTER DIVISION. (a) The existing board continues in existence to govern the territory of the existing district after disannexation.

(b) If the new district is located wholly in one county, the commissioners court shall appoint a board in the manner described by Section 775.034 not later than the 14th day after the date of the board order dividing the district.

Added by Acts 2009, 81st Leg., R.S., Ch. [1134](#), Sec. 1, eff. June 19, 2009.

Sec. 775.228. TAXATION FOR OUTSTANDING BONDED DEBT. The disannexation of territory from a district under this subchapter does not diminish or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or other obligations of that district. Property disannexed under this subchapter is not released from its pro rata share of any of the district's bonded indebtedness on the date of the disannexation, and the district may continue to tax property in the disannexed territory until that debt is paid as if the territory had not been disannexed.

Added by Acts 2009, 81st Leg., R.S., Ch. [1134](#), Sec. 1, eff. June 19, 2009.

Sec. 775.229. FURTHER DIVISION PROHIBITED. Once a district has been divided under this subchapter, neither the existing district nor the new district may be divided under this subchapter.

Added by Acts 2009, 81st Leg., R.S., Ch. [1134](#), Sec. 1, eff. June 19, 2009.

SUBCHAPTER J. SURPLUS AND SALVAGE PROPERTY

Sec. 775.251. SALE AND DISPOSITION OF SURPLUS OR SALVAGE PROPERTY. (a)
In this section:

(1) "Salvage property" means personal property, other than wastepaper, that because of use, time, or accident is so damaged, used, or consumed that it has no value for the purpose for which it was originally intended.

(2) "Surplus property" means personal property that is in excess of the needs of its owner, that is not required for the owner's foreseeable needs, and that possesses some usefulness for the purpose for which it was intended or for some other purpose.

(3) "Volunteer fire department" means an association that:

(A) operates firefighting equipment;

(B) is organized primarily to provide and actively provides firefighting services;

(C) does not pay its members compensation other than nominal compensation; and

(D) does not distribute any of its income to its members, officers, or governing body, other than for reimbursement of expenses.

(b) Notwithstanding other law, a district may sell surplus firefighting equipment, including equipment described by Sections 419.040 and 419.041, Government Code, to any volunteer fire department or district in this state for fair market value if the equipment:

(1) met the National Fire Protection Association Standards at the original time of purchase; and

(2) at the time of the sale:

(A) meets the National Fire Protection Association Standards in effect at the original time of purchase; or

(B) meets the National Fire Protection Association Standards in effect.

(c) A district may contract to supply surplus property to any volunteer fire department or district in this state at fair market value.

(d) A district may sell salvage property to any person in this state for fair market value. If a district is unable to sell the property for fair market value, the district may destroy or otherwise dispose of the property as worthless.

(e) The district may determine the fair market value of surplus and salvage property sold under Subsections (b), (c), and (d).

Redesignated from Health and Safety Code, Subchapter I, Chapter 775 by Acts 2011, 82nd Leg., R.S., Ch. [91](#), Sec. 27.001(31), eff. September 1, 2011.