

HEALTH & SAFETY CODE
CHAPTER 776. EMERGENCY SERVICES DISTRICTS IN COUNTIES OF 125,000 OR
LESS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 776.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of emergency 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. 776.002. 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. 776.003. AUTHORIZATION. In a county with a population of 125,000 or less, 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 property and to conserve natural and human resources.

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

SUBCHAPTER B. CREATION OF DISTRICT

Sec. 776.011. PETITION FOR CREATION OF DISTRICT LOCATED WHOLLY IN ONE COUNTY. (a) To create a district located wholly in one county, a petition signed by at least 100 qualified voters who own taxable real property in the proposed district must be filed with the county judge of that county. 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. 776.012. PETITION FOR CREATION OF DISTRICT LOCATED IN MORE THAN ONE COUNTY. (a) To create a district that contains territory located in more than one county, a petition must be filed with the county judge of each county in which the proposed district will be located. The petition must be 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 in a county, the petition must be signed by a majority of those voters in that county.

(b) The name of the district proposed by the petition must be "_____ Emergency Services District."

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

Sec. 776.013. CONTENTS OF PETITION. The petition for the creation of a district must show:

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

(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 Section 776.021;

(6) the mailing address of each petitioner; and

(7) 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. 5, eff. June 16, 2001.

Sec. 776.014. CREATION OF DISTRICT THAT INCLUDES MUNICIPAL TERRITORY. (a) When creation of a district that contains territory within a municipality's limits or extraterritorial jurisdiction is proposed, a written request to include that territory in the district must be presented to the municipality's governing body. Except as provided by Subsection (c), that territory may not be included in the district unless the municipality's governing body in writing approves the request for inclusion not later than the

60th day after the date on which the request is received.

(b) If the municipality's governing body does not approve the request for inclusion within the period prescribed by Subsection (a), a majority of the qualified voters and the owners of at least 50 percent of the territory that is in the municipality's limits or extraterritorial jurisdiction and that is to be included in the district may petition the governing body to make emergency services available to their territory. 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.

(c) The refusal or failure of the municipality's governing body to act on the petition requesting emergency services within six months after the date on which the petition is received 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, a request for inclusion of that territory must be presented to the municipality's governing body in the same manner provided by this section for territory within the limits or extraterritorial jurisdiction of a municipality.

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

(f) A governing body's consent under this section expires six months after the date on which the consent is given.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., 1st C.S., ch. 32, Sec. 1, eff. Sept. 1, 1989.

Sec. 776.015. FILING OF PETITION AND NOTICE OF HEARING. (a) The county judge may receive a petition for creation of a district if the petition is in proper form and shall file it 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 issue a 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 and functions 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 the person's opinion 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.

(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. Amended by Acts 1989, 71st Leg., 1st C.S., ch. 32, Sec. 2, eff. Sept. 1, 1989.

Sec. 776.016. HEARING. (a) At the time and place set for the

hearing or at a later date set at that time, 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 and may issue incidental orders it considers proper. The commissioners court may adjourn the hearing as necessary.

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

Sec. 776.017. PETITION APPROVAL; DENIAL. (a) If after the hearing the commissioners court finds that the proposed district is feasible, will benefit the territory in the district, will secure the public safety, welfare, and convenience, and will aid in conserving the real property or natural resources in the proposed district, the commissioners court shall grant the petition and fix the district's boundaries.

(b) 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.

Sec. 776.018. CONSIDERATION OF EFFECT OF MUNICIPAL PARTICIPATION. (a) If the area of the proposed district encompasses the territory of any municipality, including the area within the extraterritorial jurisdiction of the municipality, the commissioners court of the county in which the municipal territory or jurisdiction is located, in making a determination under Section 776.017, shall also determine whether those findings would be the same as to the remaining portion of the proposed district, excluding any or all of the territory of the municipalities in the event any one or more of the municipalities should fail to cast a majority vote in favor of the district and the tax.

(b) This finding shall be made as to each municipality whose territory is proposed to be included within the area of the proposed district.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., 1st C.S., ch. 32, Sec. 3, eff. Sept. 1, 1989.

Sec. 776.019. ELECTION. (a) On the granting of a petition, the commissioners court shall order an election to confirm the district's creation and authorize the levy of a tax not to exceed the rate allowed by Section 48-e, Article III, Texas Constitution.

(b) 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.

(c) 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.

(d) 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.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., 1st C.S., ch. 32, Sec. 4, eff. Sept. 1, 1989; Acts 2001, 77th Leg., ch. 1140, Sec. 9, eff. Sept. 1, 2001.

Sec. 776.020. ELECTION RESULT AND COMMISSIONERS COURT ORDER. (a) If a majority of the votes cast in the election favor confirmation, the district is created.

(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 confirmation of the creation of the district 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 776.017 were favorable to the district's creation.

(c) If a majority of those voting at the election vote against creation of the district, the commissioners court may not order another election before the first anniversary of the date of the official canvass of the most recent election concerning creation of the district.

(d) When a district is created, the commissioners court of each county in which the district is located shall enter an order in

its minutes that reads substantially as follows:

Whereas, at an election held on the _____ day of _____, ____, 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.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., 1st C.S., ch. 32, Sec. 5, eff. Sept. 1, 1989.

Sec. 776.021. OVERLAPPING DISTRICTS. (a) If the territory in a district created under this chapter overlaps with the boundaries of another district created under this chapter or a district operating under Chapter 775, the most recently created district may not provide services in the overlapping territory that duplicate the services provided by the other district.

(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 confirming its creation was held. If the elections confirming 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 required by Section 776.016 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. 6, eff. June 16, 2001; Acts 2003, 78th Leg., ch. 1204, Sec. 1.008, eff. Sept. 1, 2003.

SUBCHAPTER C. ORGANIZATION, POWERS, AND DUTIES

Sec. 776.031. DISTRICT POWERS. (a) A district is a political subdivision of the state. To perform the functions of the district, a district may carry out this chapter and:

(1) acquire, hold, lease, manage, occupy, and sell real and personal property or an interest in property including real property, improvements, and fixtures necessary to house, repair, and maintain emergency services vehicles and related equipment;

(2) appoint and employ necessary officers, agents, and employees;

(3) sue and be sued;

(4) impose and collect taxes as prescribed by this chapter;

(5) accept and receive donations;

(6) lease, own, maintain, and operate emergency services vehicles and other necessary or proper emergency services equipment and machinery to provide emergency services, including emergency ambulance service; and

(7) enter into and perform necessary contracts, including a contract with another district, municipality, or another entity:

(A) to make fire-fighting facilities, fire extinguishment services, or emergency rescue and ambulance services available to the district; or

(B) for reciprocal operation of services and facilities if the contracting parties find that reciprocal operation would be mutually beneficial and not detrimental to the

parties to the contract.

(b) A district may be created to provide limited services specified at the time of the district's creation.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., 1st C.S., ch. 32, Sec. 6, eff. Sept. 1, 1989.

Sec. 776.032. 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 776.0751.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 4, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 14, Sec. 277, eff. Sept. 1, 1991; Acts 2003, 78th Leg., ch. 1204, Sec. 1.009, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 558, Sec. 2, eff. Sept. 1, 2005.

Sec. 776.033. 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 commissioners to serve as the district's governing body. Except as prescribed by Subsection (b), a commissioner serves a two-year term.

(b) After the votes have been canvassed and the commissioners court enters the order creating the district, the commissioners court shall appoint the initial emergency commissioners to serve until January 1 of the year following the year of the district election. On January 1, the court shall designate three of those commissioners to serve two-year terms and two commissioners to serve one-year terms.

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

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

(e) 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.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 235, Sec. 12, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 930, Sec. 10, eff. Sept. 1, 2003.

Sec. 776.034. 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 commissioners elected as prescribed by this section. Except as provided by Subsection (g), an emergency commissioner serves a two-year term.

(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 in November, other than the date of the general election for state and county officers, to conduct an election to elect the initial emergency commissioners.

(c) To be eligible as a candidate for emergency 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 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 intends to run for emergency 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 commissioners' terms of office begin on January 1 of the year following the year of the election. The two commissioners who received the fewest votes serve one-year terms. The other commissioners serve two-year terms.

(h) The general election for commissioner shall be held annually on an authorized election date as provided by Chapter 41, Election Code.

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

Sec. 776.035. 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) file reports as required by the state fire marshal, the commissioner of health, and other authorized persons;

(4) file a written report not later than February 1 of each year with the commissioners court regarding the district's administration for the preceding calendar year and the district's financial condition; and

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

(b) The board may require inspections to be made in the district relating to the causes and prevention of fires, medical emergencies, or other disasters affecting human life or property.

(c) The board may promote educational programs it considers necessary to achieve the purposes of this chapter.

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., 1st C.S., ch. 32, Sec. 7, eff. Sept. 1, 1989.

Sec. 776.036. OFFICERS OF BOARD. (a) The emergency 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 shall 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. 776.037. COMPENSATION; CONFLICT OF INTEREST. (a) Emergency commissioners serve without compensation but may be reimbursed for reasonable and necessary expenses incurred in performing official duties.

(b) Except as a resident or property owner in the district, an emergency commissioner may not have an interest in a contract or transaction to which the district is a party and under which the commissioner may receive money or other things of value as consideration.

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

SUBCHAPTER D. CHANGE IN BOUNDARIES OR DISSOLUTION OF DISTRICT

Sec. 776.051. 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 for a hearing on the petition. The hearing must 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 issue a 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) Not later than the 16th day before the date on which the hearing will be held, 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; and

(2) 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 is 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 modification or 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 applicable provisions of this chapter, except that the board president shall conduct the election and certify the results to the county judge of each county in the district.

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

Sec. 776.052. REMOVAL OF CERTAIN TERRITORY BY GOVERNING BODY OF MUNICIPALITY. (a) If territory in a municipality's limits or extraterritorial jurisdiction is included in a district, the municipality's governing body may remove that territory from the district if:

(1) the municipality agrees to provide emergency protection to the territory as prescribed by Section 776.014; or

(2) the territory is designated an industrial district under Section 42.044, Local Government Code.

(b) To remove territory, the governing body of the municipality must notify the secretary of the board in writing that the territory is excluded from the district's territory.

(c) If a municipality that is not in the district completes all other procedures necessary to annex territory that is included in a district and if the municipality intends to provide emergency services to the territory by the use of municipal personnel or by some method other than by use of the district, the governing body of 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 removed from the district and shall cease to provide further services to the residents of that territory.

(d) If a municipality removes territory from a district under Subsection (a) or (c), the municipality shall compensate the district in an amount equal to the removed territory's pro rata share of the district's bonded and other indebtedness as computed according to the formula in Subsection (e). The district shall

apply compensation received from a municipality under this subsection exclusively to the payment of the removed territory's pro rata share of the district's bonded and other indebtedness.

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

(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 (d) was for the purchase of the real or personal property that the municipality purchases under this subsection, the fair market value of that property for the purpose of this subsection is reduced by a percentage equal to the disannexed territory's pro rata share under Subsection (d).

(g) 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 about the municipality's intent to remove district territory; or

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

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 235, Sec. 13, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 907, Sec. 3, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 930, Sec. 11, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 728, Sec. 9.006, eff. Sept. 1, 2005.

Sec. 776.0521. ARBITRATION REGARDING REMOVED TERRITORY. (a) The municipality and the district shall negotiate an agreement on the amount of compensation required under Section 776.052. 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 776.052.

(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. 14, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 907, Sec. 4, eff. Sept. 1, 2003.

Sec. 776.053. 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 100 qualified voters who own taxable real property in the district or a majority of those voters, whichever is less.

(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 issue a notice of the hearing that includes:

- (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. 776.054. 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. 776.055. APPEAL. A person in the district or an owner of real or personal property located in the district may appeal the board's decision on dissolution of the district. The person or owner must file the appeal in a district court in a county in which the district is located.

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

Sec. 776.056. 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.

(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 within the boundaries of the old district may not be held before the first anniversary of the date of 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. 776.057. 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 debts, property, and other assets of the district until all assets have been disposed

of and all district debts have been satisfied.

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

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

(1) determine the amount of debt owed by the district in excess of the district's assets; 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 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 amount of 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 pay that amount to the county tax assessor-collector.

(g) After the district has paid all its debts and has disposed of all its assets as prescribed by this section, the board shall file with the commissioners court of each county in which the district is located a written report setting forth a summary of the board's actions in dissolving the district. Not later than the 10th day after 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 commissioner is discharged from liability under the emergency commissioner's bond on entry of the dissolution order under Subsection (g).

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

Sec. 776.058. TRANSFER OF TERRITORY BETWEEN DISTRICTS. (a) After a hearing, a district may make mutually agreeable changes in boundaries with another district, or a district created under Chapter 775, 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. 10, eff. Sept. 1, 2001.

SUBCHAPTER E. FINANCES AND BONDS

Sec. 776.071. 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 or that may be paid from current revenues for the year.

(b) This section does not apply to Sections 776.072, 776.076, 776.077, 776.078, and 776.082.

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

Sec. 776.072. 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 its depository, except that the board:

(1) may deposit funds pledged to pay bonds or notes with a bank 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 some 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. 776.073. 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 unavailable, the assistant treasurer may sign for the treasurer. If the president is 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.

Sec. 776.074. COMPETITIVE BIDS. (a) Except as provided by Subsection (i), the board must submit to competitive bids an expenditure of more than \$25,000 for:

(1) one item or service; or

(2) more than one of the same or a similar type of items or services 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 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; or

(4) an emergency expenditure.

(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 accordance with Subchapter B, Chapter 271, Local

Government Code, except as provided by this section. Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 757, Sec. 4, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 220, Sec. 1, eff. Sept. 1, 1999.

Sec. 776.075. 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 they 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.

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

Acts 1989, 71st Leg., ch. 678, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., 1st C.S., ch. 40, Sec. 4, eff. Sept. 1, 1989.

Sec. 776.0751. 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 776.0752. The district may impose the tax at a rate of one-half percent, one percent, one and one-half percent, or two 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) 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.

(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 district would exceed two percent at any location in 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. 5, eff. Sept. 1, 1989.

Sec. 776.0752. 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. 5, eff. Sept. 1, 1989.

Sec. 776.0753. 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. 5, eff. Sept. 1, 1989.

Sec. 776.0755. ELECTION TO INCREASE TAX RATE. (a) A board may order an election to increase the maximum tax rate of the district to any rate at or below the rate allowed by Section 48-e, Article III, Texas Constitution. 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.

Added by Acts 2001, 77th Leg., ch. 1140, Sec. 12, eff. Sept. 1, 2001.

Sec. 776.076. BONDS AND NOTES AUTHORIZED. (a) The board may issue bonds and notes as prescribed by this chapter to perform any of its powers. Before the board may issue bonds or notes, 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.

(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(6), 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 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 of, interest on, and 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, together with any other pledged resources, will be at least sufficient to provide for:

(1) all payments of principal of, interest on, and 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 776.075 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. 13, 23(6), eff. Sept. 1, 2001.

Sec. 776.077. 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 called 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. 776.078. BOND ANTICIPATION NOTES. (a) A district at any time may issue bond anticipation notes 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 at any 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. 776.082. 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 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 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.

Added by Acts 2001, 77th Leg., ch. 1140, Sec. 14, eff. Sept. 1, 2001.

Sec. 776.083. ANNUAL REPORT. (a) On or before January 1 of each year, a district shall file with the Office of Rural Community 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 Office of Rural Community Affairs may not charge a fee for filing the report.

(c) The Office of Rural Community 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 2003, 78th Leg., ch. 235, Sec. 15, eff. Sept. 1, 2003.