

HEALTH & SAFETY CODE

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.

(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.

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 2.4 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 1.4 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.

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 2.4 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.

Sec. 775.018. ELECTION. (a) Except as provided by Subsection (b), 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) If a proposed district is located wholly in a county with a population of more than 2.4 million, the commissioners court shall order an election to confirm the district's creation and authorize the imposition of an ad valorem tax not to exceed three cents on each \$100 of the taxable value of property taxable by the district. For the purposes of this subsection, the population of the county is determined according to the most recent federal decennial census available at the time the petition is filed.

(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.

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.

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 or a district created under Chapter 776, 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.

(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.

(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.

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. 775.025. EXCLUSION OF CERTAIN TERRITORY SUBJECT TO AD VALOREM 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 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 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.

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 the proper consecutive number inserted.

(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.

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 2.4 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.

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 Fire Training 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 Fire Training 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.

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. 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.

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 two-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 on January 1 of the year following the election. The two commissioners who received the fewest votes serve one-year terms. The other emergency services commissioners serve two-year terms.

(h) The general election for commissioner shall be held annually 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.

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) give a written report not later than February 1 of each year to 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 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) Subsection (a)(4) does not apply to the board of a district located wholly in one county.

(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.

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. 775.040. 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. (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.

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 V.T.C.A., Health & Safety Code Sec. 775.041 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(80), eff. Sept. 1, 2001.

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, or a district created under Chapter 776, 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.

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.

(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.

Sec. 775.0741. AD VALOREM TAX IN DISTRICT LOCATED WHOLLY IN POPULOUS COUNTY. (a) This section applies only to a district located wholly in a county with a population of more than 2.4 million.

(b) 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.

(c) The tax may not exceed three cents on each \$100 of the taxable value of property taxable by the district. If the district was originally a rural fire prevention district or is created in territory that overlaps with the boundaries of a district created under this chapter before September 1, 2003, the tax may not exceed six cents on each \$100 of the taxable value of property taxable by the district.

(d) In setting and certifying the tax rate, the board is subject to Sections 775.074(b) through (e).

Added by Acts 1991, 72nd Leg., ch. 14, Sec. 276, eff. Sept. 1, 1991.

Amended by Acts 1999, 76th Leg., ch. 496, Sec. 12, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1204, Sec. 1.006, eff. Sept. 1, 2003.

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) This section does not apply to a district created under Section 775.018(b).

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.

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) 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. 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.

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. 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.

(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.

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 LOCATED WHOLLY IN ONE COUNTY. (a) In a district located wholly in one county, the county auditor shall have access to the books, records, officials, and assets of the district.

(b) A district located wholly in one county shall prepare and file with the commissioners court of the county 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.

(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.

(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.

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.

Sec. 775.083. 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 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.

Sec. 775.084. 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 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; 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 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.

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.

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.

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.