

The Office of Rural Community Affairs does not take any position on the need for the creation of a political subdivision such as an Emergency Services District (ESD). ORCA's role is to serve as a resource and not an advocate. The decision to create an ESD is a local decision. In addition, a community should not rely exclusively on the following information if it decides to create an ESD.

Petition Process for Creating an Emergency Services District as stated in Health & Safety Code 775

The information provided in this document is a step-by-step process taken directly from the statute(s) related to the petition process for creating an ESD. This information should not take the place of reading, referencing, becoming familiar with or following the whole 775 Health & Safety Code or any other statute referenced within or pertinent to the 775 Health & Safety Code petition process or the creation of an ESD.

Creation of a district:

Proposed district located in one county

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.

Proposed district located in more than one county

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.

CREATING THE PETITION

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;

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For Districts only one county:

NOTE: 775:011 (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.

For Districts to be created in more than one county:

NOTE: 775: 012 (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.

(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;

NOTE: Under Article III, Section 48-e, of the Texas Constitution Emergency Services Districts, such a district may provide emergency medical services, emergency ambulance services, rural fire prevention and control services, or other emergency services authorized by the Legislature.

(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.

Check list of information to submit to the county Judge:

- A petition containing all of the information listed in Contents of Petition Section 775.013 listed above.
- A map of the proposed district including a metes and bounds or other sufficient legal description of the district boundaries.
- A written agreement signed by at least two petitioners when submitted to the county judge.
- NOTE: Before filing the petition you will need to gain clearance from the U. S. Department Of Justice Pre-Clearance. You can write the Department of Justice at the following address: Assistant Attorney General, Chief, Voting Section, Civil Rights Division, Room 7254 – NWB U.S. Department of Justice, 950 Pennsylvania Ave., NW, Washington, D.C. 20530.

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You can also look the information up on the web at the following US Department of Justice website http://www.usdoj.gov/crt/voting/sec_5/notices.htm

The excerpt below is taken directly from the website linked above under the heading: [Introduction to Section 5 Preclearance](#)

**U.S. Department of Justice
Civil Rights Division
Voting Section
About Section 5 of the Voting Rights Act**

Introduction to Section 5 Preclearance

Section 5, one of the original provisions of the Voting Rights Act of 1965, is codified at [42 U.S.C. 1973c](#). In 1970, 1975 and 1982, Congress readopted and broadened the coverage of Section 5, based upon a continued need for preclearance of new voting procedures. Although the voting protections of the Fifteenth Amendment and Section 2 of the Voting Rights Act are permanent, Section 5 [remains in effect](#) through 2007.

Under Section 5, any change with respect to voting in a covered jurisdiction -- or any political subunit within it -- cannot legally be enforced unless and until the jurisdiction first obtains preclearance. Section 5 provides that preclearance may be obtained only from the United States District Court for the District of Columbia, or from the United States Attorney General. Preclearance requires proof that the proposed voting change does not deny or abridge the right to vote on account of race, color, or membership in a language minority group. If the jurisdiction is unable to prove the absence of such discrimination, the District Court denies preclearance, or in the case of administrative submissions, the Attorney General objects to the change, and it remains legally unenforceable.

- Petition signature pages of at least 100 qualified voters that own taxable real property in the proposed district. According to the Election Code Sec. 277.002 Validity of Petition Signatures:
 - (a) For a petition signature to be valid, a petition must:
 - (1) contain in addition to the signature:
 - (A) the signer's printed name;
 - (B) the signer's:
 - (i) date of birth and residence address; or
 - (ii) voter registration number and, if the territory from which signatures must be obtained is situated in more than one county, the county of registration; and
 - (C) the date of signing; and
 - (2) comply with any other applicable requirements prescribed by law.
 - (b) The signature is the only information that is required to appear on the petition in the signer's own handwriting.
 - (c) The use of ditto marks or abbreviations does not invalidate a signature if the required information is reasonably ascertainable.
 - (d) The omission of the state from the signer's residence address does not invalidate a signature unless the political subdivision from which the signature is obtained is situated in more than one state.

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- (e) The omission of the zip code from the address does not invalidate a signature.
- (f) A petition signature is invalid if the signer signed the petition earlier than the 180th day before the date the petition is filed.

NOTE: Election Code Sec. 277.002 (e) A petition signature is invalid if the signer signed the petition earlier than the 180th day before the date the petition is filed.

What happens after the petition is filed with the county judge: Section 775.015

§ 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.

NOTE: Refer to the Section 775.015 for the rest of the section for the duties of the County Clerk and the Sheriff pertaining to posting the notice of the hearing.

Hearing 775.016

- (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.

Petition Approval or Denial

As stated in 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.

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- (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.

NOTE: If the petition is granted by the commissioner's court, the court shall order an election.