

CHAPTER 195

S.B. No. 1229

AN ACT

relating to the administration of certain districts providing fire prevention and emergency services.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 775.036, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) The board of a district located wholly in one county shall include in the report required under Subsection (a)(4):

- (1) the number and type of emergency responses made within and outside the district;*
- (2) a listing of all debt incurred by the district; and*
- (3) any other financial matter required by order of the commissioners court.*

SECTION 2. Subchapter E, Chapter 775, Health and Safety Code, is amended by adding Section 775.082 to read as follows:

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 the 120th day after the last day of the district's fiscal 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.

SECTION 3. Section 794.035, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) The board of a district located wholly in one county shall include in the report required under Subsection (a)(4):

- (1) the number and type of emergency responses made within and outside the district;*
- (2) a listing of all debt incurred by the district; and*
- (3) any other financial matter required by order of the commissioners court.*

SECTION 4. Subchapter E, Chapter 794, Health and Safety Code, is amended by adding Section 794.082 to read as follows:

Sec. 794.082. 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 the 120th day after the last day of the district's fiscal year an audit report of the district's fiscal accounts and records. The audit shall be performed and 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.

SECTION 5. Chapter 794, Health and Safety Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. CONVERSION TO EMERGENCY SERVICES DISTRICT

Sec. 794.100. **CONVERSION AUTHORIZED.** A district may be converted to an emergency services district if:

(1) the board receives a petition for conversion from the qualified voters in the district; and

(2) the conversion is approved by a majority of the qualified voters of the district who vote at an election called and held for that purpose.

Sec. 794.101. **CONTENTS OF PETITION.** (a) The petition prescribed by Section 794.100 must:

(1) state the name of the proposed emergency services district;

(2) describe the existing district's boundaries by metes and bounds or other sufficient legal description; and

(3) be signed by at least 100 qualified voters in the existing district or, if there are fewer than 100 of those voters, 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.

Sec. 794.102. **ORDER OF ELECTION.** (a) Not later than the 30th day after the date the petition is presented to the board, the board shall order an election on the question of converting the district.

(b) The election shall be held not later than the 60th day after the date on which the election is ordered.

(c) Section 41.001(a), Election Code, does not apply to an election ordered under this section.

Sec. 794.103. **BALLOT PROPOSITION.** The ballot for an election ordered under Section 794.102 shall be printed to permit voting for or against the proposition: "The conversion of the _____ Rural Fire Prevention District from a district operating under Chapter 794, Health and Safety Code, to a district operating under Chapter 775, Health and Safety Code."

Sec. 794.104. **EFFECTIVE DATE OF CONVERSION.** If a majority of the qualified voters participating in the election vote in favor of the proposition, the conversion becomes effective on the 30th day after the date on which the election results are declared.

Sec. 794.105. **DISTRICT RESPONSIBILITIES.** If a district is converted to an emergency services district, the emergency services district assumes all obligations and outstanding indebtedness of the district.

SECTION 6. Section 775.056, Health and Safety Code, is repealed.

SECTION 7. The legislature finds that:

(1) Chapter 673, Acts of the 70th Legislature, Regular Session, 1987, was adopted and approved, effective January 1, 1988;

(2) that Act, implementing Article III, Section 48-e, of the Texas Constitution, relates to the creation and operation of emergency services districts; Section 33 of that Act provides for the conversion of a rural fire prevention district to an emergency services district;

(3) the intent of the legislature in adopting Section 33 of that Act was that, if a majority of the voters in a rural fire prevention district voted to convert the district to an emergency services district, the boundaries of the emergency services district would be coextensive with the boundaries of the fire prevention district, and the territory within the boundaries of the emergency services district would be coextensive with the territory within the boundaries of the fire prevention district;

(4) in certain counties in this state, valid elections were conducted to convert certain rural fire prevention districts to emergency services districts, in which elections a majority of the participating voters voted in favor of the conversion; however, the boundaries of those emergency services districts are not coextensive with the boundaries of the fire prevention districts, and the territory within the boundaries of the emergency services districts is not coextensive with the territory that was within the boundaries of the fire prevention districts;

(5) the act of establishing boundaries of the emergency services districts that are not coextensive with the boundaries of the rural fire prevention district and the act of excluding from the emergency services districts territory that was within the boundaries of the fire prevention districts were inconsistent with Section 33 of that Act, contrary to the intent of the legislature, and invalid; and

(6) the health, safety, and welfare of persons and property in those counties creates an emergency that requires immediate action by the legislature.

SECTION 8. On and after the effective date of this Act:

(1) the boundaries of an emergency services district that was converted from a rural fire prevention district following an election held for that purpose are coextensive with the boundaries of the fire prevention district;

(2) the territory within the boundaries of an emergency services district that was converted from a rural fire prevention district following an election held for that purpose is coextensive with the territory within the boundaries of the fire prevention district; and

(3) each act or attempted act of an emergency services district taken before the effective date of this Act is validated in all respects and applies to territory within the boundaries of the district as if it had been within the district when the act or attempted act was taken.

SECTION 9. Section 8 of this Act does not apply to or affect a matter that on the effective date of this Act is involved in litigation in a court of competent jurisdiction in this state.

SECTION 10. (a) This Act takes effect September 1, 1993.

(b) To the extent that this Act requires an annual audit of an emergency services district or a rural fire prevention district, an audit shall be conducted beginning with the first fiscal year of the district that ends on or after September 1, 1993.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 21, 1993: Yeas 30, Nays 0; the Senate concurred in House amendments on May 11, 1993, by a viva-voce vote; passed the House, with amendments, on May 7, 1993, by a non-record vote.

Approved May 19, 1993.

Effective Sept. 1, 1993.