

CHAPTER 837

H.B. No. 1226

AN ACT

relating to the creation and establishment of special districts to provide emergency services in counties of 125,000 persons or less.

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

SECTION 1. This Act is and may be cited as "The Emergency Services District Act of 1987."

SECTION 2. The purpose of this Act is to allow the local jurisdictions of the state, within certain population brackets, to create emergency services districts to provide emergency medical services and/or emergency ambulance services and/or rural fire control services.

SECTION 3. Title 44, Revised Statutes, is amended by adding Article 2351a-9 to read as follows:

Art. 2351a-9. EMERGENCY SERVICES DISTRICTS; COUNTIES WITH POPULATION OF 125,000 OR LESS

Sec. 1. Emergency services districts may be organized, pursuant to Article III, Section 48-e, of the Texas Constitution, for the protection of life and property and for the preservation of natural and human resources as in this article provided.

Sec. 2. (a) When it is proposed to create an emergency services district under the provisions of this article wholly within one county, there shall be presented to the county judge of that county a petition signed by not less than 100 of the qualified

electors who own taxable real property within the proposed district, or in the event there are less than 100 such electors, then by a majority of such electors.

(b) The county judge of each county shall have jurisdiction to receive and act on the petition if it shows:

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

(2) the name of the proposed district, which shall be "_____ County Emergency Services District No. _____," filling in the name of the county and the proper consecutive number;

(3) designation of the boundaries of, and enumeration of the functions of, the proposed district by metes and bounds, or other sufficient legal description;

(4) that none of the land encompassed within said district is included within any other emergency services district; and

(5) the mailing address of each petitioner.

(c) Said petition shall in addition contain the signed agreement of at least two of the petitioners therein, obligating themselves to pay the costs incidental to the formation of the proposed district not to exceed \$150, which shall include, among any other necessary and incidental expenses, the cost of publication of notices and election costs.

Sec. 3. (a) When it is proposed to create an emergency services district pursuant to the provisions of this article that will encompass territory not solely within one county, there shall be presented to the county judge of each county wherein such emergency services district is sought to be established a petition signed by not less than 100 of the qualified electors who own taxable real property within the proposed district and also in the county where such county judge presides, or in the event there are less than 100 such electors within that area sought to be made a part of said district within such county, then by a majority of such electors residing therein.

(b) The county judge of each county wherein such district is sought to be established shall have jurisdiction to receive and act on the petition if it shows:

(1) that the district is to be created and operated pursuant to the provisions of Article III, Section 48-e, of the Texas Constitution;

(2) the name of the proposed district, which shall be "_____ Emergency Services District";

(3) designation of the boundaries of, and enumeration of the functions of, the proposed district by metes and bounds, or other sufficient legal description;

(4) that none of the land encompassed within said district is now included within any other emergency services district; and

(5) the mailing address of each petitioner residing in the county wherein the county judge presides.

(c) Said petition shall in addition contain the signed agreement of at least two of the petitioners therein, which two shall reside in the county wherein the county judge presides, obligating themselves to pay the costs incidental to the formation of the proposed district not to exceed \$150, which shall include, among any other necessary and incidental expenses, the cost of publication of notices and election costs.

Sec. 4. If the petition is in proper form, the county judge shall file same with the county clerk. The commissioners court shall at its next regular or special session set the place, day, and hour when it will hear and consider the petition.

Sec. 5. (a) The county clerk shall issue notices of such hearing, which shall state that such district is proposed and shall further state:

(1) that the district is to be established and operated pursuant to Article III, Section 48-e, of the Texas Constitution;

(2) the name of the proposed district;

(3) *the designation of the boundaries of, and enumeration of the functions of, said district as stated in the petition therefor;*

(4) *the place, day, and hour of hearing on the petition; and*

(5) *that notification will be made to all persons who may have an interest therein and that they are invited to attend said hearing and present their grounds, if any, for or against the formation of said district.*

(b) *Said notice shall be prepared in multiple copies, one of which shall be retained by the clerk, and sufficient additional copies as may be necessary delivered to the sheriff.*

(c) *The sheriff shall post one copy at the courthouse door at least 20 days prior to the date of hearing, and have the notice published in the proposed district once a week for two consecutive weeks, the first publication thereof to be made at least 20 days prior to the date of hearing.*

(d) *The return of each officer executing such notice shall be endorsed or attached to a copy of the same, and show the execution of the same, specifying the dates of posting and publication, and shall be accompanied by a printed copy of such publication.*

Sec. 6. At the time and place set for the hearing of the petition, or such subsequent date as may then be fixed, the commissioners court shall proceed to hear such petition and all issues in respect to the creation of such proposed district, and any person interested may appear before the court in person or by attorney and contend for or contest the creation of such district, and offer testimony pertinent to any issue thereon. Such court shall have exclusive jurisdiction to determine all issues in respect to the creation of such district, may adjourn the hearing from day to day and from time to time as the facts may require, and shall have power to make all incidental orders deemed proper in respect to the matters before it.

Sec. 7. If it shall appear on hearing by the court that the organization of a district as prayed for is feasible and practicable, would benefit the land included therein, and will be conclusive to the public safety, welfare, and convenience, and in aid in the conservation of the real property or natural resources within said district, the court shall so find and grant the petition and fix the boundaries thereof; otherwise it shall deny the petition.

Sec. 8. (a) Upon granting of the petition, the commissioners court shall call an election to confirm the organization and authorize the levy of a tax, not to exceed 10 cents on the \$100 valuation. If it appears on the face of the petition that the proposed district is to encompass more than one county or portions thereof, then the commissioners court shall not call an election until such time as the commissioners court of any other county or such district is proposed shall have also granted the petition. When the foregoing has been accomplished, such election shall be held not less than 30 nor more than 60 days after the order calling the same; and notice of such election shall be given in the same mode and manner as hereinabove required for hearing on the petition to form the district. The notice shall contain the proposition submitted, the classification of qualified electors who are authorized to vote, and the time and place for holding the election. Such time for holding the election if the district be multicounty shall be as near as practical to the time that the commissioners courts in the other counties have agreed to hold the election.

(b) *Except as modified by this article, the general laws relating to elections shall govern the election required by this article.*

(c) *The election to confirm the district and to authorize the levy of the tax shall be submitted as a single proposition to the qualified electors residing therein.*

Sec. 9. (a) If the area of the proposed district encompasses the territory of any incorporated city, town, or village, including the area within the extraterritorial jurisdiction of the city, town, or village, the commissioners court, if such city, town, or village lies within its county, in making the determinations required in Section 7 of this article, shall also determine whether those findings would be the same as to the remaining portion of the proposed district, including any or all of the territory of

such incorporated municipalities in the event any one or more of such incorporated municipalities should fail to cast a majority vote against the district and the tax.

(b) This finding shall be made as to each particular city, town, or village whose territory is proposed to be included within the area of the proposed district.

(c) No district hereafter created shall include the area within the corporate or extraterritorial jurisdiction of any incorporated city, town, or village, unless the majority of the qualified electors residing in that area and participating in the election called by the commissioners court to confirm the district and levy the tax voted against both the creation of the district and the levy of the tax.

(d) Should a majority of the voters residing in the corporate or extraterritorial jurisdiction of a municipality and participating in the election vote against creation of the district or levy of the tax, the area shall not be included within the district, but its exclusion shall not affect the creation of the district embracing the remainder of the proposed territory if the findings of the commissioners courts made as required in Section 7 and in this section of this article are favorable to the creation of the district, as thus restricted. Should any nonconsenting city, town, or village ever annex territory into such proposed emergency services district, the board of emergency commissioners shall, after due notice, immediately de-annex such area from its district and shall cease to provide any further services to the residents of that area.

Sec. 10. (a) When it is proposed to create an emergency services district in an area that includes territory within the corporate limits or extraterritorial jurisdiction of a city, a written request to be excluded from the district shall be presented to the governing body of the city. Except as provided by Subsection (c) of this section, the city or area within its extraterritorial jurisdiction may not be excluded from the district unless the governing body give its written dissent not later than the 60th day after the date on which the request for exclusion is received.

(b) If the governing body does not dissent to the inclusion in the time provided by Subsection (a) of this section, a majority of the qualified voters and the owners of 50 percent or more of the land in the corporate or extraterritorial jurisdiction area of the city to be included in the district may petition the governing body to make emergency services available to that area. The petition must be submitted to the governing body not later than the 30th day after the 60th day following the date on which the written request is received in Subsection (a) of this section.

(c) If the governing body refuses or fails to act on the petition requesting emergency services within six months from the date on which the petition is received, the refusal or failure to act constitutes consent by the governing body for the district to be created in accordance with the other sections of this article, including the area that is the subject of the petition.

(d) If the proposed emergency services district is to include an area designated by a city as an industrial district under Section 5, Municipal Annexation Act (Article 970a, Vernon's Texas Civil Statutes), dissent to include the industrial district in the emergency services district must be obtained from the governing body in the same manner provided by this section for including areas within the corporate limits or extraterritorial jurisdiction of a city.

(e) If the governing body consents under this section to allow an area within its corporate limits or extraterritorial jurisdiction or in an industrial district to be included in the district, the area may be included in the proposed district in the same manner as other areas pursuant to this article.

(f) Consent by the governing body obtained pursuant to this section to initiate proceedings to create an emergency services district under Section 9 of this article expires six months from the date on which the consent is given.

Sec. 11. (a) If a majority of those voting at such election, as provided by Section 2 of this article, fail to reject the confirmation of the district, it shall thenceforth be deemed an organized emergency services district pursuant to this article; and the commissioners courts of the several counties wherein such district is created shall enter orders accordingly in their minutes in the following substantial form:

Whereas, at an election duly and regularly held on the ____ day of _____, A.D. 19____, within that portion of _____ County, State of Texas, described as: (insert description unless the district is countywide); there was submitted to the qualified electors thereof the question of whether the above described territory shall be formed into an emergency services district pursuant to the laws of this state; and

Whereas, at such election ____ votes were cast in favor of formation of said district and ____ votes were cast against such formation; and

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

Now, therefore, the County Commissioners Court of _____ County, State of Texas, does hereby find, declare, and order that the tract hereinbefore described has been duly and legally formed into an emergency services district (or a portion thereof) in the name of "_____" pursuant to the provisions of Article III, Section 48-e, of the Texas Constitution, and with the powers vested in such district conferred by law.

(b) If a majority of those voting at the election vote against confirmation of the district, the commissioners court may not order another election to confirm the district.

Sec. 12. (a) If the territory within the boundaries of two or more emergency services districts overlaps, the commissioners court of the county in which the most recently created district is located by order shall exclude from that district the territory that overlaps the preexisting district.

(b) For purposes of this section, a district is created on the date of the election approving its creation. If the elections approving the establishment of two or more districts are held on the same date, the most recently established district is the district for which the hearing required by Section 6 of this article was most recently held.

(c) The fact that a district is created with boundaries that overlap boundaries of any other district does not affect the validity of either district established pursuant to this article.

(d) Provided that with respect to any business entity that operates and provides its own emergency services within a district established pursuant to this article that (1) receives the appropriate certification from the Commission on Fire Protection Personnel Standards and Education and the Texas State Board of Medical Examiners, and (2) owns or operates fire-fighting, medical, or ambulance equipment and apparatus equivalent to a Class I emergency services district, metropolitan fire prevention system, or better, as defined by the State Board of Insurance, on the effective date hereof, that entity shall not be subject to (1) the ad valorem tax authorized by this article for the real or personal property of such entity within said district, and (2) any of the other powers of the district as set forth in this article.

Sec. 13. Such emergency services districts are hereby declared to be political subdivisions of the state, and shall have full authority to carry out the objects of their creation, and to that end are authorized to acquire, purchase, hold, lease, manage, occupy, and sell real and personal property or any interest therein; to enter into and to perform any and all necessary contracts; to appoint and employ the necessary officers, agents, and employees; to sue and be sued; to levy and enforce the collection of taxes in the manner and subject to the limitations herein provided against the lands and other property within the district for the district revenues; to accept and receive donations; and to do any and all lawful acts required and expedient to carry out the purposes of this article.

Sec. 14. Any emergency services district organized pursuant to the provisions of this article shall have further authority:

(1) to lease, own, maintain, operate, and provide emergency services and all other necessary or proper apparatus, instrumentalities, machinery, and equipment for the prevention and extinguishment of fires in the district as authorized in this article;

(2) to lease, own, and maintain real property, and improvements and fixtures thereon, suitable and convenient for housing, repairing, and caring for fire-fighting equipment;

(3) to enter into contracts with any others, including incorporated cities or towns or other districts whereby fire-fighting facilities and fire extinguishment services and/or emergency rescue and ambulance services may be available to the district, upon such terms as the governing body of the district shall determine. The contract may provide for reciprocal operation of services and facilities if the contracting parties find that such operation would be mutually beneficial, and not detrimental, to the district;

(4) to lease, own, maintain, operate, and provide emergency rescue equipment and all other necessary or proper apparatus, instrumentalities, machinery, and equipment for the prevention of loss of life from fire or other hazards that might result in serious injuries to persons;

(5) to lease, own, maintain, operate, and provide emergency ambulance service and all other necessary and proper equipment therewith for the prevention of loss of life from fire and other hazards that might result in serious injuries to persons;

(6) to lease, own, maintain, operate, and provide emergency medical equipment and all other necessary and proper apparatus, instrumentalities, and machinery for the prevention of loss of life or serious injury;

(7) to cause inspections to be made within the district pertinent to the causes and prevention of fires or other disasters affecting human life or property therein, and may promote such educational programs as it may deem proper to more fully effect the purposes of this article; and

(8) to do and perform all things in its discretion proper and necessary to fully carry out the intent of this article.

Sec. 15. (a) In this section, "expenditure" means the purchase of:

- (1) one item or service; or
- (2) more than one of the same or a similar type of items or services within one fiscal year.

(b) Except as provided by Subsection (h) of this section, an expenditure authorized by Section 13 of this article that exceeds \$10,000 must be submitted to competitive bids.

(c) The board of emergency commissioners of the district shall request bids on items to be purchased or leased or services to be performed. The board of emergency commissioners shall notify suppliers, vendors, or providers of the item or service required and inform them of the bidding procedures. The board of emergency commissioners is not required to inform more than 10 suppliers, vendors, or providers of the intended purchase, and may inform fewer than 10 suppliers, vendors, or providers if 10 suppliers, vendors, or providers are not available or known to the board of emergency commissioners. This subsection does not prevent more than 10 suppliers, vendors, or providers from submitting a bid.

(d) The 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.

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

(f) The board of emergency commissioners may reject any and all bids. Contracts covered by this section shall be awarded to the lowest responsible bidder, but a contract may not be awarded to a bidder who is not the lowest bidder unless prior to the award each lower bidder is given notice of the proposed award and an opportunity

to appear before the board of emergency commissioners 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 article does not apply:

- (1) to the purchase or lease of real property;
- (2) to an item or service that can be obtained from only one source, as determined by the commissioners of the district; or
- (3) in cases of emergency.

Sec. 16. Section 15 of this article applies to an expenditure of emergency services district tax revenues by any party or entity, including a volunteer fire department, for the purchase of services, vehicles, equipment, or goods.

Sec. 17. Except as provided in Sections 18 through 24 of this article, no indebtedness shall be contracted in any one year in excess of funds then on hand or which may be satisfied out of current revenues for the year. The board of emergency commissioners shall annually levy and cause to be assessed and collected a tax upon all properties, real and personal, situated within the district and subject to district taxation, in an amount not to exceed 10 cents on the \$100 valuation for the support of the district, and for the purposes authorized by this article. Such tax levy shall be certified to the county tax assessor-collector, who shall be the assessor-collector for the district.

Sec. 18. (a) To carry out any one or more powers of an emergency services district and on approval by a majority vote of the commissioners court of each county in which all or part of the district is located, the board of emergency commissioners of the district 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 any of the revenues, income, or receipts of the district; or
- (3) a combination of these taxes, revenues, income, and receipts.

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

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

(d) The bonds, notes, and any interest coupons are investment securities pursuant to Chapter 8, Business & Commerce Code.

(e) The bonds and notes may be:

- (1) issued registrable as to principal alone or as to both principal and interest;
- (2) made redeemable before maturity;
- (3) issued in the form, denominations, and manner, and under the terms, conditions, and details provided by the resolution; and
- (4) sold in the manner, at the price, and under the terms, conditions, and details provided by the resolution.

(f) The bonds and notes bear interest at rates not to exceed the maximum rate allowed by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes).

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

- (1) paying interest on the bonds or notes during the period of the acquisition or construction of any facilities to be provided through the issuance of the bonds or notes;
- (2) paying expenses of operation and maintenance of the facilities;

(3) creating a reserve fund for the payment of the principal of and interest on the bonds or notes; and

(4) creating any other funds.

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

(i) If the bonds or notes are issued payable by a pledge of revenues, income, or receipts from fees, rentals, rates, and 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, or payments shall be established and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds or notes, and, to the extent required by the resolution authorizing, or the trust indenture securing, the issuance of the bonds or notes, to provide for the payment of expenses in connection with the bonds or notes and operation, maintenance, and other expenses in connection with the facilities.

(j) If the bonds or notes are payable wholly from ad valorem taxes, the board of emergency commissioners shall levy a tax at the time of the authorization of the bonds or notes 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.

(k) If the bonds or notes are payable from both ad valorem taxes and from revenues, income, or receipts of the district, the board of emergency commissioners, at the time of the authorization of the bonds or notes, shall levy a tax sufficient to pay the principal of and interest on the bonds and notes and to create and maintain any reserve funds.

(l) The rate of tax actually to be collected for any year shall be established taking into consideration the money that will be available for payment of the principal of and interest on the bonds or notes and for the creation of any reserve funds to the extent and in the manner permitted by the resolution authorizing, or the trust indenture securing, the bonds or notes.

Sec. 19. (a) Bonds and notes secured in whole or in part by taxes may not be authorized by the district until approved by a majority vote of the qualified electors of the district at an election called for that purpose.

(b) The board of emergency commissioners may order an election, and the order calling the election shall state the nature and the date of the election, the hours during which the polls will be open, the location of the polling places, the amount of bonds or notes to be authorized, and the maximum maturity of the bonds or notes.

(c) The board of emergency commissioners shall give notice of the election by publishing a copy of the order calling the election at least once in a newspaper with general circulation in the district. The notice must be published at least 30 days before the date set for the election.

(d) 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 proposition: "The issuance of (bonds or notes) and the levy of taxes for payment of the (bonds or notes)." At any election to authorize bonds or notes payable from both ad valorem taxes and revenues, the ballots must be printed to provide for voting for or against the proposition: "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)."

(e) The board of emergency commissioners shall canvass the returns and declare the results of the election. If a majority of the votes cast at the election favor the issuance of the bonds or notes, the bonds or notes may be issued by the board of emergency commissioners, but if a majority of the votes cast at the election do not favor issuance of the bonds or notes, the bonds or notes may not be issued.

Sec. 20. (a) An emergency services district may issue bond anticipation notes from time to time to carry out any one or more of its powers.

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

(c) The district may from time to time authorize the issuance of bonds for the purpose of providing proceeds to pay the principal of and interest on bond anticipation notes. The bonds shall be secured by a pledge of all or part of the ad valorem taxes or revenues, income, or receipts of the district and may be issued on a parity with or subordinate to outstanding bonds of the district.

(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 for the purposes of receiving the approval of the attorney general or registration by the comptroller of public accounts, that the ad valorem taxes or revenues, income, or principal of and interest on the notes.

Sec. 21. (a) The bonds or notes issued pursuant to this article may be refunded or refinanced by the issuance of refunding bonds for the purpose and under the terms, conditions, and details determined by the board of emergency commissioners of the district.

(b) All pertinent and appropriate provisions of this article are applicable to the refunding bonds, and the refunding bonds shall be issued in the manner provided in this article for other bonds authorized pursuant to this article.

(c) Refunding bonds may be sold and delivered in amounts necessary to pay the principal of, interest on, and redemption date.

(d) The refunding bonds may be issued in exchange for the bonds being refunded, and the comptroller of public accounts shall register the refunding bonds and deliver them to the holder or holders of the bonds being refunded, as provided by the resolution authorizing the refunding bonds. The exchange may be made in one delivery or in several installment deliveries.

(e) The bonds and notes issued by the district may be refunded in the manner provided by any other applicable law of this state.

Sec. 22. (a) The bonds, notes, and bond anticipation notes issued pursuant to this article and the appropriate proceedings authorizing their issuance must be submitted to the attorney general for examination.

(b) If the bonds, notes, or bond anticipation notes recite that they are secured by a pledge of revenues of any contract, a copy of the contract and the proceedings relating to the contract may be submitted to the attorney general.

(c) If the attorney general finds that the bonds, notes, or bond anticipation notes are authorized as provided by law, and that the contract, if submitted, is made as provided by law, he shall approve the bonds, notes, or bond anticipation notes and the contract, if submitted.

(d) On approval, the bonds, notes, or bond anticipation notes shall be registered by the comptroller of public accounts.

(e) After approval and registration, the bonds, notes, or bond anticipation notes and the contract are incontestable in any court or other forum for any reason and are valid and binding obligations in accordance with their terms for all purposes.

Sec. 23. (a) The board of emergency commissioners shall designate one or more banks to serve as depositories for the funds of the district.

(b) The funds of the district shall be deposited in a depository bank, except that:

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

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

(c) *To the extent that the funds in a depository bank or a trustee bank are not insured by the Federal Deposit Insurance Corporation, the funds must be secured in the manner provided by law for the security of county funds. The resolution or trust indenture, or both, 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 United States government.*

Sec. 24. (a) The bonds and notes of a district are legal and authorized investments for banks, savings banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas.

(b) The bonds and notes are eligible to secure the deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and the bonds and notes are legal and sufficient security for the deposits to the extent of their value, and if in coupon form, when accompanied by all unmatured coupons.

Sec. 25. (a) The board of emergency commissioners, who shall be appointed by the commissioners court, shall be the governing body of the districts established pursuant to the provisions of this article. They shall serve for a term of two years and until their successors are appointed and qualified.

(b) Upon the canvass of the election returns and entering of the order establishing the district (provided in Section 11 of this article) the commissioners court shall name five commissioners to serve until January 1 of the next year. On that date, the court shall designate three of such commissioners to serve for a term of two years and two commissioners to serve for one year. Annually on January 1 thereafter, the court shall appoint a successor to each commissioner whose term has expired. Vacancies on the board shall be filled by the commissioners court for their unexpired term.

(c) Said five commissioners shall choose from their number a president, vice-president, secretary, treasurer, and assistant treasurer who shall have and perform, respectively, the duties usually incumbent upon their said offices. The office of secretary and treasurer may be vested in the same person.

(d) The treasurer shall enter into and file with the county clerk his bond conditioned upon the faithful performance of the duties of his office. The sufficiency and amount of the bonds shall be determined by the county judge before it may be filed.

Sec. 26. (a) The board of emergency commissioners of a multicounty emergency services district shall consist of five members, who will be the governing body of the districts established pursuant to the provisions of this article. They shall serve for a term of two years and until their successors are elected and have taken office.

(b) The county judges of each county where such emergency services district lies in any emergency services district which is multicounty shall mutually establish a day convenient to them in the month of November to hold an election for the purposes of electing the board of emergency commissioners of the district. Any person who is a resident of the district and has attained the age of 18 years shall be eligible to run as emergency commissioner. He shall give notice to the county clerk of each county wherein the district lies of his intention to run for office. Such notice shall give his name, age, and address and state that he is serving notice of his intent to run as emergency commissioner of the emergency services district. Such notice shall be sworn to before the county clerk can receive it. Upon receipt of such notice the county clerk shall cause such candidate's name to be printed upon the ballots suitable to the county clerk for an election of this character. The county clerks of the counties wherein such multicounty district lies shall mutually appoint an election judge to certify the winners of the result of such election. After the election is held each of the county clerks or one of their deputies wherein the district lies shall prepare a statement of cost under oath of the election. Such statement shall be tendered to the newly elected constituted board of the emergency services district. It shall be the duty of the board of emergency commissioners to order its proper official to reimburse each county for the cost expended by it for the election.

(c) *The term of the board of emergency commissioners shall commence on January 1 and run for two years. Then and thereafter elections of the board shall be held in the month of November on the year after the election of the first board at a day to be agreed upon by the county judges wherein the district lies.*

(d) *Two of the members of the first board of emergency commissioners shall have initial terms of one year. In November of the year of taking office another election shall be provided for these two offices. Then and thereafter there shall be one election every two years for these two offices. The two commissioners that shall run for office in the next year shall be the two who received the lowest number of votes in the first election of the board.*

(e) *Each of said emergency commissioners shall take the official oath required by members of the legislature of this State before entering upon duty. The oath may be administered by a notary public or any other person authorized to administer an oath.*

(f) *Said emergency commissioners shall choose from their number a president, vice-president, secretary, treasurer, and assistant treasurer who shall have and perform, respectively, the duties usually incumbent upon their said offices. The offices of secretary and treasurer may be vested in the same person.*

(g) *The treasurer shall enter into and file with the county clerk of the largest county in population according to the last preceding federal census wherein the district lies his bond conditioned upon the faithful performance of the duties of his office. The sufficiency and amount of the bond shall be determined by the county judge of that county before it may be filed.*

Sec. 27. (a) The board of emergency commissioners shall administer all the affairs of said district in accordance with the provisions of this article; shall hold regular monthly meetings, and such other meetings as deemed advisable; and shall keep proper minutes and records of all their acts and proceedings. A majority of said board shall constitute a quorum.

(b) *No emergency commissioner shall receive any compensation for his services, but when on official business of the district may be compensated for reasonable and necessary expenses. All money of the district shall be disbursed 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. No payments of more than \$2,000 shall be paid from tax money unless a sworn itemized account covering the same has been presented to and approved by the board.*

(c) *The board shall not later than February 1 of each year render in writing to the commissioners court of the county an accounting of its administration for the preceding calendar year and of the financial condition of the district.*

(d) *The board shall further render such reports as may be required from time to time by the state fire marshal and the commissioner of the Texas Department of Health and other authorized party or agency.*

(e) *No emergency services commissioner shall become interested in any contract or transaction in which said district is a party whereby he may receive any money consideration or other thing of value, other than as a resident or property owner of the district.*

Sec. 28. (a) Qualified electors who own taxable real property in a defined area of territory not included in a district may file a petition requesting inclusion with the secretary of the board of emergency commissioners. The petition shall be signed by 50 such electors or a majority of such voters, whichever number is less.

(b) *The board by order shall set the time of the hearing on the petition to include the territory in the district. The hearing shall be held not less than 30 days from the date of the order.*

(c) *The secretary of the board shall issue notice of the time and place of the hearing, and the notice shall describe the territory proposed to be annexed.*

(d) *The secretary shall post copies of the notice in three public places in the district and one copy in a public place in the territory proposed to be annexed. The notices shall be posted for at least 15 days before the day of the hearing.*

(e) *The notice shall be published one time in a newspaper with general circulation in the county. The notice shall be published at least 15 days before the day of the hearing.*

(f) *If the board finds after the hearing that the addition would be feasible and practical and would be of benefit to the district, it may add the territory to the district by resolution entered in its minutes. The board does not have to include all the territory described in the petition if it finds that a modification or change is necessary or desirable.*

(g) *Annexation of the territory is not final until ratified by a majority vote of the qualified electors at a separate election held in the district and by a majority vote of the qualified electors at a separate election held in the territory proposed to be added.*

(h) *If the district has outstanding debts or taxes, the same election shall determine also whether or not the territory to be added will assume its proportion of the debts or taxes if the land is added to the district.*

(i) *The ballots shall be printed to provide for voting for or against the following propositions:*

(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 such district.”*

(j) *The notice of the election, the manner and time of giving the notice, the manner of holding the election, and qualifications of the voters shall be governed by other provisions of this article, so far as applicable, except that the president of the board of emergency commissioners shall conduct the election and certify the results to the county judge or, if the district is a multicounty district, to the county judge of each county in the district.*

Sec. 29. (a) The governing body of a city that has an area within its corporate or extraterritorial jurisdiction included within an emergency services district may, on agreeing to provide emergency services to the area as provided by Section 10 of this article, or if the area is designated an industrial district under Section 5, Municipal Annexation Act (Article 970a, Vernon’s Texas Civil Statutes), notify the secretary of the board of emergency commissioners in writing that the area is excluded from the district’s territory.

(b) On receipt of the notice pursuant to Subsection (a) hereof, the board shall cease to provide further service to the area, exclude the area by order from the district, and redefine the district’s boundaries.

Sec. 30. The provisions of this article and proceedings hereunder shall be liberally construed with a view to effect their objects. If any section or provision of this article shall be adjudged to be invalid or unconstitutional, such adjudications shall not affect the validity of the article as a whole, or any section, provision, or part thereof not adjudged to be invalid or unconstitutional.

Sec. 31. The order of any commissioners court by which an emergency services district has been or has sought to be established, wholly within one county, are hereby in all things validated, ratified, and confirmed, and such district shall be hereafter deemed to have been established and in existence as of the date of the entry of the order by the commissioners court that declared such emergency services district to be in existence; provided, however, that this article shall not apply to validate the organization or creation of such district unless each of the following steps have also been taken:

(1) *that the commissioners court has entered a finding that the court has investigated the benefits to be derived from the creation of the district and that all of the*

properties and persons within the territorial confines of the district will be benefited by the creation or existence of such district with the powers authorized pursuant to this law and pursuant to Article III, Section 48-e, of the Texas Constitution;

(2) the order establishing the district has heretofore been filed in the deed records of the county, which order or supplement thereto shows the area of the district;

(3) the commissioners court has heretofore appointed emergency commissioners for the governing of the emergency services district; and

(4) the proposition for the establishment of the district, levying a tax, or both, has been submitted to the electorate and a majority of those participating in such election voted in favor of the district, the tax, or both, such election having been called by the commissioners court.

Sec. 32. In those districts validated and declared to be and to have been established pursuant to the provisions of Section 31 of this article, the district shall have the right to levy and collect the rate of tax of not to exceed the rate of tax voted at the election required pursuant to the provisions of Section 31; provided, however, that if the election sought to authorize more than a tax of 10 cents per \$100 valuation contrary to the provisions of Article III, Section 48-e, of the Texas Constitution, the provisions of this section shall not be effective.

Sec. 33. All governmental proceedings of the districts (which are validated by the provisions of Section 31 of this article) are hereby in all things validated, ratified, and confirmed.

Sec. 34. (a) When it is proposed to dissolve an emergency services district established pursuant to this article, a petition shall be presented to the board of emergency commissioners for the district signed by not less than 100 of the qualified electors who own taxable real property within the district. If there are less than 100 such electors, a majority of those qualified electors who own taxable real property in the district must sign the petition.

(b) If the petition is in proper form, the board of emergency commissioners shall set the day, place, and hour when it will hear and consider the petition.

(c) The board of emergency commissioners shall issue notices of the hearing which shall 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 published notice must appear at least 20 days before the date of the hearing.

Sec. 35. (a) The board of emergency commissioners shall hear the petition and all issues concerning the dissolution of the district. Any person interested may appear before the board and oppose or support the proposed dissolution. The board shall grant or deny the petition.

(b) Any person or owner of real or personal property situated within the district may appeal the decision of the board of emergency commissioners to a district court in one of the counties in which the district is located.

Sec. 36. (a) On granting the petition, the board shall call an election to confirm the dissolution of the district.

(b) The election shall be held not less than 30 days nor more than 60 days after the date of the board's decision on the petition.

(c) Notice of the election shall be given in the same manner as required by Section 34 of this article. The notice shall include:

- (1) the proposition to be submitted to the voters;*
- (2) the classification of voters who are authorized to vote; and*

(3) *the time and place for holding the election.*

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

(e) *The presiding judge of each voting place shall supervise the counting of all votes cast and shall certify the results to the board of emergency commissioners within 10 days after the date of the election. A copy of the results shall be filed with the county clerk in any county in which the district is located and shall become a public record.*

(f) *If the majority of the qualified electors voting in the election vote to dissolve the district, the board of emergency commissioners shall declare the result and proceed with dissolution.*

(g) *If the proposition to dissolve the district fails to carry at the election, the board of emergency commissioners may not order another election for the same purpose within one year after the result is announced.*

(h) *After the dissolution of an emergency services district, no election may be held to establish a new emergency services district within the boundaries of the previous district for a period of not less than one year.*

Sec. 37. (a) The board of emergency commissioners shall continue to control and administer the property, debts, and assets of the district until all funds have been disposed of and all debts of the district have been paid or settled.

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

(c) After issuing the dissolution order, the board of emergency commissioners shall:

(1) determine the debt, if any, owed by the district; and

(2) levy and collect a tax on the property included in the tax roll of the district in proportion of the debt to the value of the property.

(d) Each taxpayer may pay the tax at once, and the board of emergency commissioners shall have suit instituted, if necessary, to enforce payment of taxes and to foreclose liens to secure the payment of taxes due the district.

(e) When all outstanding debts and obligations of the district are paid, the board of emergency commissioners shall order the secretary of the district to return all unused tax money to the taxpayers of the district on a pro rata basis. A taxpayer may request that his share of surplus tax money be credited to his county taxes. The board shall direct the secretary to transmit any funds so requested to the county tax assessor-collector.

(f) After all debts have been paid and all assets and funds have been disposed of as provided in this article, the board of emergency commissioners shall file a written report with the commissioners court of each county in which all or part of the district is located setting forth a summary of the actions taken by the board of emergency commissioners in the dissolution of the district. Within 10 days after receiving the report and after determining that the requirements of this article have been fulfilled, each of the commissioners courts shall enter an order finding the emergency services district dissolved, and on entry of the order, the emergency commissioners shall be discharged from liability under their bonds, and the district shall be officially dissolved.

Sec. 38. This article applies only to counties having a population of 125,000 inhabitants or less according to the last preceding federal census.

Sec. 39. The functions performed by an emergency services district are severable, and any emergency services district may be established with fewer than the full range of functions that such district would be empowered to perform pursuant to the provisions of this article. At the time of the establishment of a limited-powers

emergency services district, it must be specified that the district has limited powers and, further, those powers must be enumerated.

SECTION 4. This Act takes effect only if the constitutional amendment proposed by S.J.R. No. 27, 70th Legislature, Regular Session, 1987, is approved by the voters.

SECTION 5. 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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on May 15, 1987, by the following vote: Yeas 144, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1226 on May 30, 1987, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1226 on June 1, 1987, by a non-record vote. Passed by the Senate, with amendments, on May 27, 1987, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1226 on June 1, 1987, by the following vote: Yeas 29, Nays 2.

Approved June 19, 1987.

Effective upon adoption of S.J.R. No. 27.