

By: Lucio

S.B. No. 1108

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COMMITTEE SUBSTITUTE FOR S.B. No. 1108

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A BILL TO BE ENTITLED
AN ACT

relating to the creation of regional emergency communication districts; authorizing a fee.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 772, Health and Safety Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. REGIONAL EMERGENCY COMMUNICATION DISTRICTS: STATE PLANNING REGIONS WITH 9-1-1 POPULATION SERVED LESS THAN 1.5 MILLION

Sec. 772.601. SHORT TITLE. This subchapter may be cited as the Regional Emergency Communication Districts Act.

Sec. 772.602. DEFINITIONS. In this subchapter:

(1) "9-1-1 region" means the portion of a state planning region established under Chapter 391, Local Government Code, composed of counties and municipalities that on September 1, 2015, exclusively received 9-1-1 system services provided by a 9-1-1 system operated through a regional planning commission.

(2) "Board" means the board of managers of a district.

(3) "District" means a regional emergency communication district created under this subchapter.

(4) "Regional planning commission" means a commission or council of governments created under Chapter 391, Local Government Code, for a designated region.

Sec. 772.603. APPLICATION OF SUBCHAPTER. (a) This subchapter applies to a 9-1-1 region:

(1) in which the total population served by the 9-1-1 system operated through a regional planning commission was less than 1.5 million on September 1, 2015; and

(2) in which the governing bodies of each participating county and municipality in the 9-1-1 region adopt a resolution under Section 772.604 to participate in the district.

(b) This subchapter does not affect:

(1) a public agency or group of public agencies acting jointly that provided 9-1-1 service before September 1, 1987, or that had voted or contracted before that date to provide that service;

(2) a district created under Subchapter B, C, D, F, or G; or

(3) the distribution of funds under Section 771.072.

Sec. 772.604. CREATION OF DISTRICT. (a) A district is created when the governing bodies of each participating county and municipality in a 9-1-1 region adopt a resolution approving the district's creation. The district's creation is effective on the

date the last resolution is adopted by a participating county or municipality.

(b) The district shall file with the county clerk of each county in which the district is located a certificate declaring the creation of the district.

Sec. 772.605. POLITICAL SUBDIVISION; DISTRICT POWERS.

(a) A district is a political subdivision of this state created to carry out essential governmental functions.

(b) A district may exercise all powers necessary to carry out the purposes and provisions of this subchapter.

(c) A district created under this subchapter may enter into an interlocal agreement with an emergency communication district established under Subchapter B, C, D, F, or G to promote enhanced public safety and increased fiscal and service efficiencies.

Sec. 772.606. TERRITORY OF DISTRICT. The territory of a district:

(1) consists of the territory of each participating county or municipality located in a 9-1-1 region; and

(2) does not include any land that is located in the territory of an emergency communication district authorized under Subchapter B, C, D, F, or G.

Sec. 772.607. BOARD OF MANAGERS. (a) A district is governed by a board of managers.

(b) A district's initial board is composed of members who are appointed by the governing bodies of each participating county and municipality. At least two-thirds of the initial board members must be elected officials of the participating counties and municipalities.

(c) The initial board appointed under Subsection (b) shall establish the size of the board and the qualifications of board members.

Sec. 772.608. POWERS AND DUTIES OF BOARD. (a) The board shall name, control, and manage the district.

(b) The board shall approve, adopt, and amend an annual budget.

(c) The board may adopt orders, rules, bylaws, policies, and procedures governing the operations of the board and the district.

Sec. 772.609. DIRECTOR OF DISTRICT; STAFF; FISCAL AND ADMINISTRATIVE AGENT. (a) The regional planning commission for the 9-1-1 region in which the district is established shall serve as the fiscal and administrative agent for the district.

(b) The executive director of the regional planning commission for the 9-1-1 region may serve as director of the district.

(c) The director is responsible for:

(1) performing all duties required by the board;

(2) ensuring that board policies and procedures are implemented for the purposes of this subchapter;

(3) preparing an annual budget; and

(4) employing and assigning employees of the regional planning commission to perform duties under this subchapter in accordance with the district's approved annual budget.

(d) The director may use district money to compensate an employee assigned duties under this subchapter.

(e) The director and an employee assigned duties under this subchapter are employees of the regional planning commission for all purposes.

Sec. 772.610. AUDIT AND REPORTING REQUIREMENTS. The district shall prepare an annual report that includes:

- (1) the amount and source of funds received by the district;
- (2) the amount and source of funds spent by the district; and
- (3) the results of an audit of the district's affairs prepared by an independent certified public accountant in compliance with the district's policies and procedures.

Sec. 772.611. PROVISION OF 9-1-1 SERVICE. (a) A district shall provide 9-1-1 service to each participating county or municipality through one or a combination of the following methods and features or equivalent state-of-the-art technology:

- (1) the transfer method;
- (2) the relay method;
- (3) the dispatch method;
- (4) automatic number identification;
- (5) automatic location identification; or
- (6) selective routing.

(b) The district shall design, implement, and operate a 9-1-1 system for each participating county and municipality in the district.

(c) For each individual telephone subscriber in the district, 9-1-1 service is mandatory and is not an optional service under any definition of terms relating to telephone service.

Sec. 772.612. LIABILITY. The liability protection provided by Section 771.053 applies to services provided under this subchapter.

Sec. 772.613. PRIMARY EMERGENCY TELEPHONE NUMBER. The digits 9-1-1 are the primary emergency telephone number in a district. A public safety agency whose services are available through a 9-1-1 system:

- (1) may maintain a separate number for an emergency telephone call; and
- (2) shall maintain a separate number for a nonemergency telephone call.

Sec. 772.614. TRANSMITTING REQUESTS FOR EMERGENCY AID.

(a) A 9-1-1 system established under this subchapter must be capable of transmitting requests for firefighting, law enforcement, ambulance, and medical services to a public safety agency that provides the requested service at the location from which the call originates. A 9-1-1 system may provide for transmitting requests for other emergency services, including poison control, suicide prevention, and civil defense.

(b) A public safety answering point may transmit emergency response requests to private safety entities with the board's approval.

(c) With the consent of a participating county or municipality, a privately owned automatic intrusion alarm or other privately owned automatic alerting device may be installed to cause the number 9-1-1 to be dialed to gain access to emergency services.

Sec. 772.615. 9-1-1 EMERGENCY SERVICE FEE. (a) The board may impose a 9-1-1 emergency service fee on service users in the district.

(b) The fee may be imposed only on the base rate charge or the charge's equivalent, excluding charges for coin-operated telephone equipment. The fee may not be imposed on:

(1) more than 100 local exchange access lines or the lines' equivalent for a single business entity at a single location, unless the lines are used by residents of the location; or

(2) any line that the Commission on State Emergency Communications has excluded from the definition of a local exchange access line or equivalent local exchange access line under Section 771.063.

(c) If a business service user provides residential facilities, each line that terminates at a residential unit and is a communication link equivalent to a residential local exchange access line shall be charged the 9-1-1 emergency service fee. The fee must have uniform application throughout the district and be imposed in each participating county or municipality in the district.

(d) The amount of the fee may not exceed 50 cents per month for each line.

(e) The board shall set the amount of the fee each year as part of the annual budget. The board shall notify each service supplier of a change in the amount of the fee not later than the 91st day before the date the change takes effect.

(f) In imposing the fee, the board shall attempt to match the district's revenues to the district's operating expenditures, including the current and planned expenditures for the purchase, installation, and maintenance of 9-1-1 emergency services in accordance with the district's approved annual budget and operating policies.

Sec. 772.616. COLLECTION OF FEE. (a) A service supplier or a business service user that provides residential facilities and owns or leases a publicly or privately owned telephone switch used to provide telephone service to facility residents shall collect the fees imposed on a customer under Section 772.615.

(b) Not later than the 30th day after the last day of the month in which the fees are collected, the service supplier or business service user shall deliver the fees to the district in the manner determined by the district. The district may establish an alternative date for payment of fees under this section, provided that the required payment date is not earlier than the 30th day after the last day of the report period in which the fees are collected. The service supplier or business service user shall file with each payment to the district a receipt in the form prescribed by the district.

(c) Both a service supplier and a business service user under Subsection (a) shall maintain records of the amount of fees the service supplier or business service user collects until at least the second anniversary of the date of collection. The board may require, at the board's expense, an annual audit of the service supplier's or business service user's books and records with respect to the collection and remittance of the fees.

(d) A business service user that does not collect and remit the 9-1-1 emergency service fee as required is subject to a civil cause of action under Subsection (g). A sworn affidavit by the district specifying the unremitted fees is prima facie evidence that the fees were not remitted and of the amount of the unremitted fees.

(e) A service supplier may retain an administrative fee of two percent of the amount of fees the service supplier collects

under this section.

(f) A service supplier is not required to take any legal action to enforce the collection of the 9-1-1 emergency service fee. The service supplier shall provide the district with an annual certificate of delinquency that includes the amount of all delinquent fees and the name and address of each nonpaying service user. The certificate of delinquency is prima facie evidence that a fee included in the certificate is delinquent and of the amount of the delinquent fee. A service user account is considered delinquent if the fee is not paid to the service supplier before the 31st day after the payment due date stated on the user's bill from the service supplier.

(g) The district may file legal proceedings against a service user to collect fees not paid by the service user and may establish internal collection procedures and recover the cost of collection from the nonpaying service user. If the district prevails in a legal proceeding filed under this subsection, the court shall award costs, attorney's fees, and interest to be paid by the nonpaying service user. A delinquent fee accrues interest at the legal rate beginning on the date the payment becomes due.

Sec. 772.617. DISTRICT DEPOSITORY. The board shall select a depository for the district in the manner provided by law.

Sec. 772.618. ALLOWABLE EXPENSES. A district's allowable operating expenses include all costs attributable to designing a 9-1-1 system and all equipment and personnel necessary to establish and maintain a public safety answering point and other related operations that the board considers necessary.

Sec. 772.619. NUMBER AND LOCATION IDENTIFICATION. (a) As part of 9-1-1 service, a service supplier shall furnish, for each call, the telephone number of the subscriber and the address associated with the number.

(b) A business service user that provides residential facilities and owns or leases a publicly or privately owned telephone switch used to provide telephone service to facility residents shall provide to those residential end users the same level of 9-1-1 service that a service supplier is required to provide under Subsection (a) to other residential end users in the district.

(c) Information furnished under this section is confidential and is not available for public inspection.

(d) A service supplier or business service user under Subsection (b) may not be held liable to a person who uses a 9-1-1 system created under this subchapter for the release to the district of the information specified in Subsections (a) and (b).

Sec. 772.620. PUBLIC REVIEW. (a) Periodically, the board shall solicit public comments and hold a public review hearing on the continuation of the district and the 9-1-1 emergency service fee. The first hearing shall be held on or before the third anniversary of the date of the district's creation. Subsequent hearings shall be held on or before the third anniversary of the date each resolution required by Subsection (c) is adopted.

(b) The board shall publish notice of the time and place of a hearing once a week for two consecutive weeks in a daily newspaper of general circulation published in the district. The first notice must be published not later than the 16th day before the date set for the hearing.

(c) After the hearing, the board shall adopt a resolution on the continuation or dissolution of the district and the 9-1-1 emergency service fee.

Sec. 772.621. DISSOLUTION PROCEDURES. (a) If a district is dissolved, 9-1-1 service must be discontinued in compliance with the district's policies and bylaws and must be administered in accordance with Chapter 771.

(b) The regional planning commission for the district's 9-1-1 region shall assume the district's assets, provide 9-1-1 service, and pay the district's debts. If the district's assets are insufficient to retire all existing debts of the district on the date of dissolution, the regional planning commission shall continue to impose the 9-1-1 emergency service fee in compliance with Section 772.615, and each service supplier shall continue to collect the fee for the regional planning commission. Proceeds from the imposition of the fee by the regional planning commission after dissolution of the district may be used only to retire the outstanding debts of the district.

(c) The regional planning commission shall retire the district's debts to the extent practicable according to the terms of the instruments creating the debts and the terms of the resolutions authorizing creation of the debts.

(d) The governing body of the regional planning commission for the district's 9-1-1 region may adopt rules necessary to administer this section.

Sec. 772.622. TRANSFER OF ASSETS. If a district is established under this subchapter, the regional planning commission for the 9-1-1 region in which the district is established may transfer to the district any land, buildings, improvements, equipment, and other assets acquired by the regional planning commission in relation to the provision of 9-1-1 service in accordance with Chapter 771.

SECTION 2. Section 771.001(3), Health and Safety Code, is amended to read as follows:

(3) "Emergency communication district" means:

(A) a public agency or group of public agencies acting jointly that provided 9-1-1 service before September 1, 1987, or that had voted or contracted before that date to provide that service; or

(B) a district created under Subchapter B, C, D, F, ~~(or)~~ G, or H, Chapter 772.

SECTION 3. This Act takes effect September 1, 2015.

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