

- SUBJECT:** Allowing board members of emergency service districts to serve four years
- COMMITTEE:** County Affairs — favorable, without amendment
- VOTE:** 6 ayes — Coleman, Bolton, Castro, J. Davis, Marquez, W. Smith
0 nays
3 absent — Morrison, Berman, Sheffield
- WITNESSES:** For — Don Grogg; Dale Terry; (*Registered, but did not testify*: Cliff Avery, Ken Campbell, State Association of Fire and Emergency Districts; Fred Bobbe, Harris County ESD 6; Howard Katz, Harris Count ESD 46)
Against — None
- BACKGROUND:** Texas Constitution, Art. 3, sec. 48-e authorizes the Legislature to create emergency services districts (ESDs), which are governed by Health and Safety Code, ch. 775. Each emergency services district is led by a board of commissioners whose members serve two-year terms. Members are appointed or elected depending on the area covered by the service district.

The two-year term limit for all emergency services commissioners is required by Tex. Const., Art. 16, sec. 3, which generally limits the term of all offices to two years unless the Constitution specifies otherwise.
- DIGEST:** HJR 85 would amend Art. 16, sec. 30(c) of the Texas Constitution to authorize the Legislature to allow members of the governing board of an emergency services district to serve terms of up to four years rather than the current maximum two-year term.

The proposal would be presented to the voters at an election on Tuesday, November 3, 2009. The ballot proposal would read: “The constitutional amendment to provide that elected members of the governing boards of emergency services districts may serve terms not to exceed four years.”
- SUPPORTERS SAY:** By authorizing the Legislature to increase the maximum term for emergency services district board members from two years to four years,

HJR 85 would promote stability and continuity on ESD boards and allow board members more time to acquire experience and provide emergency services to their communities. The two-year term limit on appointive offices was established in the 19th century to limit the authority of the government, but it soon became apparent that longer terms were necessary under certain circumstances to allow board members to learn fully the duties of their positions and provide experienced leadership. The Texas Constitution has been amended several times to allow the Legislature to set four-year terms for the board members of certain governmental entities, notably hospital districts, whose duties sometimes relate to and overlap with emergency services districts. Ultimately, the time spent by district board members running for election and re-election every two years is time taken away from serving their communities.

The election of emergency services commissioners every two years has sometimes led to the politicization of an essentially nonpartisan office. Board member elections typically have low voter turnout rates, which potentially could allow a well-funded “nonpartisan” candidate who nevertheless touted veiled partisan political positions to influence unduly the outcome of an election. HJR 85 would help shield members of the governing board of an emergency services district from improper political influence and ensure that they would be selected on the basis of their credentials and experience rather than political acumen.

OPPONENTS
SAY:

HJR 85 would diminish public oversight over the members of the governing boards of emergency services districts. Emergency service districts have great powers and responsibilities, including the authority to levy taxes. The power to tax should come only with the condition of accountability through direct election by voters every two years, just as with members of the Texas House of Representatives. Voters should be able to exercise the same level of local control over board members of emergency services districts as they currently do with other elected officials.

The argument that elections of emergency services commissioners leads to politicization is misplaced, because these elections are nonpartisan in nature. Candidates who inject inappropriate partisan politics into nonpartisan elections risk having such tactics backfire due to voter resentment. The current system provides adequate protection against improper political interference.

NOTES:

HB 2529 by Harless, the enabling legislation, which would increase the term of elected emergency services commissioners in Harris County from two to four years, with elections held every two years for staggered terms, contingent on adoption and voter approval of HJR 85, passed the House on April 30 on the Local, Consent, and Resolutions Calendar and has been referred to the Senate Intergovernmental Relations Committee.