

BILL ANALYSIS

Senate Research Center
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H.B. 1619
By: Orr et al. (Patrick)
Intergovernmental Relations
5/17/2011
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1619 amends current law relating to emergency services districts.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 775, Health and Safety Code, by adding Section 775.0365, as follows:

Sec. 775.0365. BOARD TRAINING. (a) Requires an emergency services commissioner to complete at least six hours of continuing education relating to the performance of the duties of an emergency services commissioner at least once in a two-year period.

(b) Requires that continuing education instruction required by Subsection (a) be certified by an institution of higher education as defined by Section 61.003 (Definitions), Education Code.

(c) Authorizes an emergency services commissioner, for purposes of Subsection (a), to carry forward from one two-year period to the next two-year period not more than three continuing education hours that the commissioner completes in excess of the required six hours.

(d) Provides that, for purposes of removal under Section 775.0422 or 775.0423, "incompetency" includes the failure of an emergency services commissioner to comply with Subsection (a).

SECTION 2. Amends the heading to Section 775.0422, Health and Safety Code, to read as follows:

Sec. 775.0422. REMOVAL OF APPOINTED BOARD MEMBER BY COMMISSIONERS COURT.

SECTION 3. Amends Section 775.0422, Health and Safety Code, by amending Subsections (a), (b), and (c) and adding Subsections (a-1) and (b-1), as follows:

(a) Provides that this section does not apply to an emergency services district (district) unless the commissioners court of the county in which the district is located adopts this section by resolution.

(a-1) Creates this subsection from existing Subsection (a). Makes no further changes.

(b) Authorizes the commissioners court of the county in which a district is located, by an order adopted by a majority vote after a hearing, to remove a board of emergency

services commissioners (board) member for incompetency, as defined by Section 87.011 (Definitions), Local Government Code; official misconduct, as defined by Section 87.011, Local Government Code; or misconduct, as defined by Section 178.001 (Definitions), Local Government Code. Deletes existing text authorizing the commissioners court of the county in which a district is located, by an order adopted by a majority vote after a hearing, to remove one or more board members if the board failed to give the report required by Section 775.036(a)(4) (relating to requiring the board to give a written report to the commissioners court regarding the district's budget, tax rate, and debt service for the preceding fiscal year by February 1) to the commissioners court before the 91st day after the date on which the report was due under that section.

(b-1) Provides that Section 551.0745 (Personnel Matters Affecting County Advisory Body; Closed Meeting), Government Code, applies to a deliberation regarding a removal of a board member in the same manner as that section applies to a deliberation regarding a dismissal of a member of an advisory body.

(c) Requires a commissioners court seeking removal under this section, not later than the 30th day before the date on which the hearing is held, to: notify the board members that it is considering that action; and provide the board member with an opportunity to show cause why the board member should not be removed. Deletes existing text requiring each commissioners court seeking removal under this section, before the 60th day after the date on which the report was due, to notify the board members that it is considering that action.

SECTION 4. Amends Subchapter C, Chapter 775, Health and Safety Code, by adding Section 775.0423, as follows:

Sec. 775.0423. **REMOVAL OF ELECTED BOARD MEMBER.** (a) Provides that this section applies only to a board member who: is elected, or is appointed to fill a vacancy in an elected board member position.

(b) Authorizes a board member to be removed using the procedures provided by Chapter 87 (Removal of County Officers from Office; Filling of Vacancies), Local Government Code, for: incompetency, as defined by Section 87.011, Local Government Code; official misconduct, as defined by Section 87.011, Local Government Code; intoxication, as described by Section 87.013, Local Government Code; or misconduct, as defined by Section 178.001, Local Government Code.

(c) Provides that the validity of a board action is not affected because it is taken when a ground for removal of a board member exists.

SECTION 5. Amends Section 775.074, Health and Safety Code, by adding Subsection (d-1), to prohibit the board from setting the tax rate for a fiscal year before the date the board adopts a budget for that fiscal year.

SECTION 6. Amends Section 775.082, Health and Safety Code, by adding Subsection (e-1), to provide that when a district located wholly in one county fails to complete and file the audit report by September 1 of each year and a county auditor is not ordered to prepare the report, the president and treasurer of the board are removed from the board and requires the commissioners court to fill the vacancies as provided by Section 775.034 (Appointment of Board in District Located Wholly in One County).

SECTION 7. Amends Subchapter C, Chapter 776, Health and Safety Code, by adding Sections 776.0355 and 776.0356, as follows:

Sec. 776.0355. **BOARD TRAINING.** (a) Requires an emergency services commissioner to complete at least six hours of continuing education relating to the performance of the duties of an emergency services commissioner at least once in a two-year period.

(b) Requires that continuing education instruction required by Subsection (a) be certified by an institution of higher education as defined by Section 61.003, Education Code.

(c) Authorizes an emergency services commissioner, for purposes of Subsection (a), to carry forward from one two-year period to the next two-year period not more than three continuing education hours that the commissioner completes in excess of the required six hours.

(d) Provides that, for purposes of removal under Section 776.0356, "incompetency" includes the failure of an emergency services commissioner to comply with Subsection (a).

Sec. 776.0356. REMOVAL OF BOARD MEMBER BY COMMISSIONERS COURT.

(a) Provides that this section does not apply to a district unless the commissioners court of the county in which the district is located adopts this section by resolution.

(b) Authorizes the commissioners court of the county in which a district is located, by an order adopted by a majority vote after a hearing, to remove a board member for incompetency, as defined by Section 87.011, Local Government Code; official misconduct, as defined by Section 87.011, Local Government Code; or misconduct, as defined by Section 178.001, Local Government Code.

(c) Provides that Section 551.0745, Government Code, applies to a deliberation regarding a removal of a board member in the same manner as that section applies to a deliberation regarding a dismissal of a member of an advisory body.

(d) Requires a commissioners court seeking removal under this section, not later than the 30th day before the date on which a hearing is held, to notify the board members that it is considering that action; and provide the board member with an opportunity to show cause why the board member should not be removed.

(e) Provides that the validity of a board action is not affected because it is taken when a ground for removal of a board member exists.

SECTION 8. Amends Section 776.075, Health and Safety Code, by adding Subsection (d-1), to prohibit the board from setting the tax rate for a fiscal year before the date the board adopts a budget for that fiscal year.

SECTION 9. Effective date: September 1, 2011.