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S.B. No. 628

A BILL TO BE ENTITLED

AN ACT

relating to the creation of regional emergency communications districts; authorizing the issuance of bonds; 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 G to read as follows:

SUBCHAPTER G. REGIONAL EMERGENCY COMMUNICATIONS DISTRICTS: STATE PLANNING REGION WITH POPULATION OVER 1.5 MILLION

Sec. 772.501. SHORT TITLE. This subchapter may be cited as the Regional Emergency Communications District Act.

Sec. 772.502. DEFINITIONS. In this subchapter:

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

(2) "District" means a regional emergency communications district created under this subchapter.

(3) "Participating jurisdiction" means a county or principal municipality that adopts a resolution to participate in a district created under this subchapter.

(4) "Principal municipality" means the municipality with the largest population in a region.

(5) "Region" means a state planning region established under Chapter 391, Local Government Code.

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

1 Sec. 772.503. APPLICATION OF SUBCHAPTER. This subchapter
2 applies to a region:

3 (1) with a population of more than 1.5 million;

4 (2) composed of counties and municipalities that
5 operate a 9-1-1 system solely through a regional planning
6 commission; and

7 (3) in which the governing bodies of each county and
8 the principal municipality in the region adopt a resolution under
9 Section 772.504 to participate in the district.

10 Sec. 772.504. CREATION OF DISTRICT. (a) A district is
11 created when the governing bodies of each county and the principal
12 municipality in a region adopt a resolution approving the
13 district's creation and the county's or municipality's
14 participation in the district. The district's creation is
15 effective on the date the last county or municipal governing body in
16 the region adopts the resolution.

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

20 Sec. 772.505. POLITICAL SUBDIVISION; DISTRICT POWERS.
21 (a) A district is a political subdivision of this state created to
22 carry out essential governmental functions.

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

26 Sec. 772.506. TERRITORY OF DISTRICT. (a) The territory of
27 a district consists of:

1 (1) the territory of the region in which the district
2 is established; and

3 (2) for each municipality partially located in the
4 region, the territory of that municipality located in another
5 region.

6 (b) If a municipality in the district annexes territory that
7 is outside the boundaries of the district, the annexed territory
8 becomes part of the district.

9 Sec. 772.507. BOARD. (a) A district is governed by a board
10 of managers composed of the members of the governing body of the
11 regional planning commission for the region in which the district
12 is established. Service on the board by a member of the governing
13 body is an additional duty of the member's office or employment.

14 (b) A board member serves without compensation. The
15 district shall pay all reasonable expenses necessarily incurred by
16 the board member in performing the board's functions under this
17 subchapter.

18 (c) A majority of the voting members of the board
19 constitutes a quorum.

20 Sec. 772.508. POWERS AND DUTIES OF BOARD. (a) The board
21 shall name, control, and manage the district.

22 (b) The board may adopt orders, rules, and policies
23 governing the operations of the board and the district.

24 (c) The board may contract with any person to carry out the
25 purposes of this subchapter.

26 (d) The board shall determine the nature and sources of
27 funding for the district. The board may accept grants or other

1 funding from the federal or state government, a county, a
2 municipality, or a private person.

3 (e) The board may sue in the district's name.

4 Sec. 772.509. ADVISORY COMMITTEE. (a) The board shall
5 appoint an advisory committee consisting of representatives of the
6 participating jurisdictions. The advisory committee shall review,
7 advise, and provide recommendations to the board on district
8 issues, including equipment, training, budget, and general
9 operational issues.

10 (b) An advisory committee member must have the training and
11 experience necessary to perform the duties assigned by the board.

12 (c) Chapter 2110, Government Code, does not apply to the
13 advisory committee.

14 Sec. 772.510. DIRECTOR OF DISTRICT; STAFF. (a) The
15 executive director of the regional planning commission in the
16 district's region serves as director of the district.

17 (b) The director shall:

18 (1) perform all duties required by the board;

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

21 (3) assign employees of the regional planning
22 commission to perform duties under this subchapter as necessary to
23 carry out the district's operations.

24 (c) The director may use district money to compensate an
25 employee assigned duties under this subchapter and the director.

26 (d) The director and an employee assigned duties under this
27 subchapter are employees of the regional planning commission for

1 all purposes.

2 Sec. 772.511. BUDGET; ANNUAL REPORT; AUDIT. (a) The
3 director shall prepare, under the direction of the board, an annual
4 budget for the district. The budget and any revision of the budget
5 must be approved by the board.

6 (b) As soon as practicable after the end of each district
7 fiscal year, the director shall prepare and present to the board a
8 written report of all money received by the district and how the
9 money was spent during the preceding fiscal year. The report must
10 show, in detail, the operations of the district for the period
11 covered by the report.

12 (c) The board annually shall have an independent financial
13 audit made of the district.

14 Sec. 772.512. PROVISION OF 9-1-1 SERVICE. (a) A district
15 shall provide 9-1-1 service to each participating jurisdiction
16 through one or a combination of the following methods and features
17 or equivalent state-of-the-art technology:

- 18 (1) the transfer method;
- 19 (2) the relay method;
- 20 (3) the dispatch method;
- 21 (4) automatic number identification;
- 22 (5) automatic location identification; or
- 23 (6) selective routing.

24 (b) The district shall recommend minimum standards for a
25 9-1-1 system. The 9-1-1 system must be computerized.

26 (c) For each individual telephone subscriber in the
27 district, 9-1-1 service is mandatory and is not an optional service

under any definition of terms relating to telephone service.

Sec. 772.513. LIABILITY. A service supplier involved in providing 9-1-1 service, a manufacturer of equipment used in providing 9-1-1 service, or an officer or employee of a service supplier involved in providing 9-1-1 service may not be held liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

Sec. 772.514. 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. 772.515. 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.

1 (c) With the consent of a participating jurisdiction, a
2 privately owned automatic intrusion alarm or other privately owned
3 automatic alerting device may be installed to cause the number
4 9-1-1 to be dialed to gain access to emergency services.

5 Sec. 772.516. 9-1-1 EMERGENCY SERVICE FEE. (a) The board
6 may impose a 9-1-1 emergency service fee on service users in the
7 district.

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

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

14 (2) any line that the Commission on State Emergency
15 Communications has excluded from the definition of a local exchange
16 access line or equivalent local exchange access line under Section
17 771.063.

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

24 (d) The rate of the fee may not exceed six percent of the
25 monthly base rate the principal service supplier in the
26 participating jurisdiction charges a service user.

27 (e) The board shall set the amount of the fee each year as

1 part of the annual budget. The board shall notify each service
2 supplier of a change in the amount of the fee not later than the 91st
3 day before the date the change takes effect.

4 (f) In imposing the fee, the board shall attempt to match
5 the district's revenues to the district's operating expenditures
6 and to provide reasonable reserves for contingencies and for the
7 purchase and installation of 9-1-1 emergency service equipment. If
8 the revenue received from the fee exceeds the amount of money needed
9 to fund the district, the board by resolution shall reduce the rate
10 of the fee to an amount adequate to fund the district as required by
11 this subsection or suspend the imposition of the fee. If the board
12 suspends the imposition of the fee, the board by resolution may
13 reinstitute the fee if money received by the district is not
14 adequate to fund the district.

15 (g) For a county or municipality whose governing body at a
16 later date votes to receive 9-1-1 service from the district, the fee
17 is imposed beginning on the date specified by the board. The board
18 may charge the incoming county or municipality an additional amount
19 of money to cover the initial cost of providing 9-1-1 service to
20 that county or municipality. The fee authorized to be charged in a
21 district applies to new territory added to the district under
22 Section 772.506(b) when the territory becomes part of the district.

23 Sec. 772.517. COLLECTION OF FEE. (a) Each billed service
24 user is liable for the fee imposed under Section 772.516 until the
25 fee is paid to the service supplier. The fee must be added to and
26 stated separately in the service user's bill from the service
27 supplier. The service supplier shall collect the fee at the same

time as the service charge to the service user in accordance with the service supplier's regular billing practice. 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 9-1-1 emergency service fee and transmit the fees monthly to the district.

(b) The amount collected by a service supplier from the fee is due quarterly. The service supplier shall remit the amount collected in a calendar quarter to the district not later than the 60th day after the last day of the calendar quarter. With each payment, the service supplier shall file a return in a form prescribed by the board.

(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 legal proceedings are filed by the district, the court may 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. 772.518. DISTRICT DEPOSITORY. (a) The board shall select a depository for the district in the manner provided by law for the selection of a county depository.

(b) A depository selected by the board is the district's depository until the second anniversary of the date of selection and until a successor depository is selected and qualified.

1 Sec. 772.519. ALLOWABLE EXPENSES. A district's allowable
2 operating expenses include all costs attributable to designing a
3 9-1-1 system and all equipment and personnel necessary to establish
4 and operate a public safety answering point and other related
5 operations that the board considers necessary.

6 Sec. 772.520. NUMBER AND LOCATION IDENTIFICATION. (a) As
7 part of computerized 9-1-1 service, a service supplier shall
8 furnish, for each call, the telephone number of the subscriber and
9 the address associated with the number.

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

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

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

23 Sec. 772.521. PUBLIC REVIEW. (a) Periodically, the board
24 shall solicit public comments and hold a public review hearing on
25 the continuation of the district and the 9-1-1 emergency service
26 fee. The first hearing shall be held on or before the third
27 anniversary of the date of the district's creation. Subsequent

1 hearings shall be held on or before the third anniversary of the
2 date each resolution required by Subsection (c) is adopted.

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

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

11 Sec. 772.522. DISSOLUTION PROCEDURES. (a) If a district
12 is dissolved, 9-1-1 service must be discontinued. The regional
13 planning commission for the district's region shall assume the
14 district's assets, provide 9-1-1 service, and pay the district's
15 debts. If the district's assets are insufficient to retire all
16 existing debts of the district on the date of dissolution, the
17 regional planning commission shall continue to impose the 9-1-1
18 emergency service fee, and each service supplier shall continue to
19 collect the fee for the regional planning commission. Proceeds
20 from the imposition of the fee by the regional planning commission
21 after dissolution of the district may be used only to retire the
22 outstanding debts of the district.

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

27 (c) The governing body of the regional planning commission

1 for the district's region may adopt rules necessary to administer
2 this section.

3 Sec. 772.523. ISSUANCE OF BONDS. The board may issue bonds
4 in the name of the district to finance:

5 (1) the acquisition by any method of facilities,
6 equipment, or supplies necessary for the district to provide 9-1-1
7 service to each participating jurisdiction; or

8 (2) the installation of equipment necessary for the
9 district to provide 9-1-1 service to each participating
10 jurisdiction.

11 Sec. 772.524. REPAYMENT OF BONDS. The board may provide for
12 the payment of principal of and interest on district bonds by
13 pledging all or part of the district's revenues from the 9-1-1
14 emergency service fee or from other sources.

15 Sec. 772.525. ADDITIONAL SECURITY FOR BONDS. (a) District
16 bonds may be additionally secured by a deed of trust or mortgage
17 lien on all or part of the district's physical properties and rights
18 appurtenant to the properties, vesting in the trustee power to sell
19 the properties for payment of the indebtedness, power to operate
20 the properties, and any other power necessary for the further
21 security of the bonds.

22 (b) The bond trust indenture, regardless of the existence of
23 a deed of trust or mortgage lien on the properties, may:

24 (1) contain provisions prescribed by the board for the
25 security of the bonds and the preservation of the trust estate; and

26 (2) make provisions for:

27 (A) amendment or modification; and

1 (B) investment of district funds.

2 (c) A purchaser under a sale under the deed of trust or
3 mortgage lien is the absolute owner of the properties and rights
4 purchased and may maintain and operate the properties.

5 Sec. 772.526. FORM OF BONDS. (a) A district may issue
6 bonds in various series or issues.

7 (b) Bonds may mature serially or otherwise not more than 25
8 years after the bonds' date of issuance. Bonds shall bear interest
9 at any rate permitted by state law.

10 (c) A district's bonds and interest coupons:

11 (1) are investment securities under Chapter 8,
12 Business & Commerce Code;

13 (2) may be issued registrable as to principal or to
14 both principal and interest; and

15 (3) may be made redeemable before maturity or contain
16 a mandatory redemption provision at the option of the district.

17 (d) A district may issue bonds in the form, denomination,
18 and manner and under the terms and conditions provided by the board
19 in the resolution authorizing the bonds' issuance. The bonds must
20 be signed and executed as provided by the board in the resolution.

21 Sec. 772.527. PROVISIONS OF BONDS. (a) In this section,
22 "resolution" means a board resolution authorizing the issuance of
23 bonds, including refunding bonds.

24 (b) In a resolution, the board may:

25 (1) provide for the flow of funds and the
26 establishment and maintenance of an interest and sinking fund,
27 reserve fund, or other fund; and

1 (2) make additional covenants with respect to the
2 bonds, the pledged revenues, and the operation and maintenance of
3 any facilities the revenue of which is pledged.

4 (c) A resolution may:

5 (1) prohibit the further issuance of bonds or other
6 obligations payable from the pledged revenue; or

7 (2) reserve the right to issue additional bonds to be
8 secured by a pledge of and payable from the revenue on a parity with
9 or subordinate to the lien and pledge in support of the bonds being
10 issued.

11 (d) A resolution may contain other provisions and covenants
12 determined by the board.

13 (e) The board may adopt and have executed any other
14 proceedings or instruments necessary or convenient for issuance of
15 bonds.

16 Sec. 772.528. APPROVAL AND REGISTRATION OF BONDS.

17 (a) Bonds issued by a district must be submitted to the attorney
18 general for examination.

19 (b) If the attorney general finds that the bonds have been
20 authorized in accordance with law, the attorney general shall
21 approve the bonds. On approval by the attorney general, the
22 comptroller shall register the bonds.

23 (c) After approval and registration, the bonds are
24 incontestable in any court or other forum for any reason and are
25 valid and binding obligations in accordance with the bonds' terms
26 for all purposes.

27 Sec. 772.529. REFUNDING BONDS. (a) A district may issue

1 bonds to refund all or any part of the district's outstanding bonds,
2 including matured and unpaid interest coupons.

3 (b) Refunding bonds shall mature serially or otherwise, as
4 determined by the board, not more than 25 years after the bonds'
5 date of issuance. Bonds shall bear interest at any rate permitted
6 by state law.

7 (c) Refunding bonds may be payable from the same source as
8 the bonds being refunded or from other sources.

9 (d) Refunding bonds must be approved by the attorney general
10 in the same manner as the district's other bonds. The comptroller
11 shall register the refunding bonds on the surrender and
12 cancellation of the bonds being refunded.

13 (e) A resolution authorizing the issuance of refunding
14 bonds may provide that the bonds be sold and the proceeds deposited
15 in a place at which the bonds being refunded are payable, in which
16 case the refunding bonds may be issued before the cancellation of
17 the bonds being refunded. If refunding bonds are issued before
18 cancellation of the other bonds, an amount sufficient to pay the
19 principal of the bonds being refunded and interest on those bonds
20 accruing to the bonds' maturity dates or option dates, if the bonds
21 have been duly called for payment before maturity according to the
22 bonds' terms, must be deposited in the place at which the bonds
23 being refunded are payable. The comptroller shall register the
24 refunding bonds without the surrender and cancellation of the bonds
25 being refunded.

26 (f) A refunding may be accomplished in one or more
27 installment deliveries. Refunding bonds and the bonds' interest

coupons are investment securities under Chapter 8, Business & Commerce Code.

(g) Instead of the method set forth in Subsections (a)-(f), a district may refund bonds, notes, or other obligations as provided by the general laws of this state.

Sec. 772.530. BONDS AS INVESTMENTS AND SECURITY FOR DEPOSITS. (a) District bonds are legal and authorized investments for:

- (1) a bank;
- (2) a savings bank;
- (3) a credit union;
- (4) a trust company;
- (5) a savings and loan association;
- (6) an insurance company;
- (7) a fiduciary;
- (8) a trustee;
- (9) a guardian; and
- (10) a sinking fund of a municipality, county, school district, special district, and other political subdivision of this state and other public funds of this state and state agencies, including the permanent school fund.

(b) District bonds may secure deposits of public funds of the state or a municipality, county, school district, or other political subdivision of this state. The bonds are lawful and sufficient security for deposits to the extent of the bonds' value if accompanied by all unmatured coupons.

(c) District bonds are authorized investments under Chapter

1 2256, Government Code.

2 Sec. 772.531. EXEMPTION FROM TAXATION. A bond issued by the
3 district under this subchapter, any transaction relating to the
4 bond, and profits made in the sale or redemption of the bond are
5 exempt from taxation by the state or by any municipality, county,
6 special district, or other political subdivision of this state.

7 Sec. 772.532. TRANSFER OF ASSETS. If a regional emergency
8 communications district is established under this subchapter, the
9 regional planning commission for the region in which the district
10 is established may transfer to the district any land, buildings,
11 improvements, equipment, and other assets acquired by the regional
12 planning commission in relation to the provision of 9-1-1 service.

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

15 (3) "Emergency communication district" means:

16 (A) a public agency or group of public agencies
17 acting jointly that provided 9-1-1 service before September 1,
18 1987, or that had voted or contracted before that date to provide
19 that service; or

20 (B) a district created under Subchapter B, C, D,
21 ~~[or]~~ F, or G, Chapter 772.

22 SECTION 3. This Act takes effect September 1, 2013.